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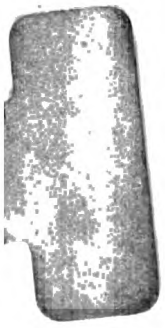
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MICHIGAN COMPILED LAWS

1970

COMPILED AND ARRANGED UNDER AUTHORITY OF PUBLIC ACT 193 OF 1970

STATE OF MICHIGAN

VOLUME II

COMPILED AND PUBLISHED BY THE
MICHIGAN LEGISLATIVE COUNCIL

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v. 2

CERTIFICATE OF THE LEGISLATIVE COUNCIL

We, the undersigned members of the Legislative Council directed by law to provide for the compilation without alteration of all the general laws in force in this state, hereby certify that the Council caused to be compiled the general laws of the state of Michigan enacted through December 31, 1970 and upon having examined and compared the compilation, further certify that the following, consisting of 6 volumes including index, meets the requirements of Act 193 of the Public Acts of 1970.

Dated: December 15, 1971

Lansing, Michigan

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ABBREVIATIONS

Add.	— Added.
Am.	— Amended.
Art.	— Article.
C.L.	— Compiled Laws.
C.R.	— Concurrent Resolution.
Ch. or Chap.	— Chapter.
Const.	— Constitution of 1963.
Eff.	— Effective.
How.	— Howells' Annotated Statutes (1882, 1890).
Imd. Eff.	— Immediate Effect.
J.R.	— Joint Resolution.
P.	— Page.
P.A.	— Public Act.
Pt.	— Part.
Renum.	— Renumbered.
Rep.	— Repealed.
R.S.	— Revised Statutes.
Sec.	— Act section number.
Stat.	— United States Statutes at large.
Subd.	— Subdivision.
Sup.	— Superseded.
§	— Compilers section symbol.

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TABLE OF CONTENTS

VOLUME I

PRELIMINARY CHAPTERS

Chapter		Pages
I	Magna Carta	I-VIII
II	Declaration of Independence	IX-XI
III	The Constitution of the United States of America	XII-XXXI
	Index	XXXII-XLVII
IV	Authentication of Records	XLVIII
V	Government of the Northwest Territory	XLIX-LV
VI	Government of Michigan Territory	LVI-LVII
VII	Admission of Michigan to the Union	LVIII-LXIII
VIII	Constitution of Michigan of 1835	LXIV-LXXIX
IX	Constitution of Michigan of 1850	LXXX-CXII
X	Constitution of Michigan of 1908	CXIII-CLXI

1	Constitution of Michigan of 1963	1-50
	Preamble	5
	Art. 1 Declaration of Rights	5
	Art. 2 Elections	8
	Art. 3 General Government	10
	Art. 4 Legislative Branch	11
	Art. 5 Executive Branch	20
	Art. 6 Judicial Branch	25
	Art. 7 Local Government	30
	Art. 8 Education	35
	Art. 9 Finance and Taxation	37
	Art. 10 Property	42
	Art. 11 Public Officers and Employment	43
	Art. 12 Amendment and Revision	45
	Schedule and Temporary Provisions	47
	Index	51

Statutes

Chapter		Sections
2	State	2.1–2.341
3	Federal and Interstate Relations	3.1–3.802
4	Legislature	4.1–4.765
5	Emergency Appropriations	5.1–5.5
6	Impeachments	6.1–6.16
8	Statutes	8.1–8.101
10	Governor	10.2–10.111
11	Secretary of State	11.4–11.134
12	State Treasurer	12.7–12.101
13	Auditor General	13.17–13.62
14	Attorney General	14.28–14.266
15	Public Officers and Employees	15.1–15.330
16	Executive Organization	16.1–16.705
17	State Administrative Board	17.1–17.501
18	Department of Administration	18.1–18.261
19	Board of State Auditors	19.44–19.182
21	Budget and State Accounts	21.1–21.311
24	Printing and State Documents	24.1–24.315
26	Supreme Court Reports	26.1–26.51
28	Michigan State Police	28.1–28.616

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TABLE OF CONTENTS

Chapter		Sections
29	Fire Prevention	29.1–29.391
30	Civilian Defense	30.1–30.326
31	Succession to Office	31.1–31.115
32	Military Establishment	32.1–32.851
33	Naval Militia	33.1–33.38
35	Veterans and Members of Armed Forces	35.1–35.993
36	Michigan Veterans' Facility	36.1–36.61
37	Civil Rights	37.1–37.101
38	Civil Service and Retirement	38.1–38.1131
41	Townships	41.1–41.991
42	Charter Townships	42.1–42.34
43	Fences and Fence Viewers	43.1–43.24
45	Counties	45.1–45.521
46	Boards of Supervisors	46.1–46.416
47	County Auditors	47.1–47.130
48	County Treasurers	48.35–48.142
49	Prosecuting Attorneys	49.11–49.160
50	County Clerks	50.61–50.131
51	Sheriffs	51.68–51.367
52	Coroners	52.86–52.216
53	Register of Deeds	53.89–53.151
54	Surveyors	54.95–54.252
55	Notaries Public	55.101–55.251
61–75	Villages	
61	Incorporation	61.1–61.15
62	Officers	62.1–62.15
63	Elections	63.1–63.13
64	Duties of Officers	64.1–64.21
65	Village Council	65.1–65.7
66	Ordinances	66.1–66.14
67	Powers of Council	67.1–67.64
68	Improvements and Assessments	68.1–68.22
69	Finance and Taxation	69.1–69.26
70	Fires and Fire Department	70.1–70.12
71	Water Works	71.1–71.11
72	Lighting	72.1–72.9
73	Appropriation of Private Property	73.1–73.36
74	Miscellaneous	74.1–74.22
75	Elections for Borrowing Money and Issuing Bonds; Issuance of Bonds and Levy of a Tax to Pay Principal and Interest Thereof	75.1–75.12
78	Villages	78.1–78.28
79	Villages, Supplemental Chapter	79.1–79.62
81–113	Fourth Class Cities	
81	Incorporation	81.1–81.18
82	Changes of Boundaries	82.1–82.2
83	Wards	83.1–83.4
84	Electors and Registration	84.1–84.8
85	Officers	85.1–85.19
86	Elections	86.1–86.16
87	Duties and Compensation of Officers	87.1–87.39
88	The City Council	88.1–88.20
89	Ordinances	89.1–89.7
90	Enforcement of Ordinances	90.1–90.18
91	General Powers of City Corporations	91.1–91.9
92	Police	92.1–92.6
93	City Prison	93.1–93.2
94	Public Health	94.1–94.8
95	Cemeteries	95.1–95.9
96	Pounds	96.1–96.2
97	Harbors, Wharves and Harbormasters	97.1–97.6
98	Ferries	98.1
99	Markets	99.1–99.2
100	Public Buildings, Grounds and Parks	100.1–100.3
101	Sewers, Drains and Water-courses	101.1–101.18
102	Streets and Public Grounds	102.1–102.14

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TABLE OF CONTENTS

Chapter		Sections
103	Sidewalks	103.1–103.5
104	Cost of Improvements—Special Assessments	104.1–104.30
105	Appropriation of Private Property	105.1–105.29
106	Water-Works	106.1–106.11
107	Lighting	107.1–107.10
108	Board of Public Works	108.1–108.14
109	Fire Department	109.1–109.12
110	Finance and Taxation	110.1–110.29
111	Assessment and Collection of Taxes	111.1–111.20
112	Education (Repealed)	112.1–112.20
113	Miscellaneous	113.1–113.20
115	Fourth Class Cities, Supplemental Chapter	115.1–115.26
117	Home Rule Cities	117.1–117.38
119	Metropolitan Districts	119.1–119.61
120	Port Districts	120.1–120.56
121	Charter Water Authorities	121.1–121.29
123	Local Governmental Affairs	123.1–123.1020
124	Municipalities, Particular Powers	124.1–124.536

VOLUME II

125	Planning, Housing and Zoning	125.1–125.1512
128	Cemeteries	128.1–128.164
129	Public Funds	129.1–129.211
131–138	Municipal Finance Act	
131	Definitions	131.1–131.3
132	Municipal Finance Commission	132.1–132.4
133	General	133.1–133.8
134	Tax Anticipation Notes	134.1–134.8
135	Bonds	135.1–135.10
136	Refunding Bonds and Certificates of Indebtedness	136.1–136.17
137	Tax Levies, Debt Retirement and Sinking Fund	137.1–137.3
138	Repeal	138.1–138.2
141	Municipal Financing	141.1–141.837
145–167	Michigan Election Law of 1925 (Repealed)	145.1–167.6
168	Michigan Election Law of 1954	168.1–168.992
171–199	Michigan Election Law of 1925 (Repealed)	171.1–199.1
200	Miscellaneous Election Acts	200.1–200.307
201	Vacancies in Office	201.1–201.108
205	Taxation - Revenue Department	205.1–205.607
206	Taxation - Income Tax Act of 1967	206.1–206.499
207	Taxation - Other Specific Taxes	207.1–207.513
209	Taxation - Assessment and Equalization, State	209.1–209.154
211	Taxation - Real and Personal Property	211.1–211.754
213	Condemnation	213.1–213.391
220–244	General Highway Law	
220	General Purpose of Act	220.1
221	Laying Out, Altering and Discontinuing Highways	221.1–221.30
222	Taxes for Highway Purposes (Repealed)	222.1–222.19
224	County Road Law	224.1–224.31
225	State Reward for Roads	225.1–225.17
226	For the Security of Persons and Property on the Highways (Repealed)	226.1–226.6
229	Opening of Private Roads and Temporary Highways	229.1–229.11
230	Penalties and Forfeitures	230.1–230.9
231	Shade Trees in Highways (Repealed)	231.1–231.4
232	General Duties of Commissioners and Overseers (Repealed)	232.1–232.6
233	Miscellaneous Provisions	233.1–233.15
234	Highway Taxes and the Assessment Thereof (Repealed)	234.1–234.18
235	Drains	235.1–235.8a
236	Powers and Duties of Boards of Supervisors (Repealed)	236.1–236.11
238	Highway Orders (Repealed)	238.1–238.4
239	Culverts, or Cattle-Passes and Hedges	239.1–239.6
240	State Roads (Repealed)	240.1–240.5
241	Sidewalks (Repealed)	241.1–241.13

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TABLE OF CONTENTS

Chapter		Sections
242	Recovery of Damages (Repealed)	242.1–242.8
243	Law of the Road (Repealed)	243.1–243.9
244	Noxious Weeds (Repealed)	244.1–244.10
247	Highways—Supplemental Chapter	247.1–247.861
249	Highways—Federal Aid Roads	249.1–249.34
250	Highways—State Trunk Line	250.1–250.365
252	Highways—Super-highways	252.1–252.262
253	Highways—Grade Crossings	253.1–253.91
254	Highways—Bridges	254.1–254.372
255	Highways—Ferries	255.1–255.53
256	Highways—Motor Vehicles	256.1–256.563
257	Motor Vehicles	257.1–257.1518
259	Aviation	
	Declaration of Intent	259.1
	Definitions	259.2–259.25
	Aeronautics Department, Creation, Membership, Funds	259.26–259.36
	General Powers and Duties of Aeronautics Commission and Director of Aeronautics	259.51–259.54
	Regulation of Aircraft, Airmen, Airports and Air Instruction	259.76–259.90
	Acquisition and Operation of State Airports	259.101–259.107
	Acquisition and Operation of Airports, Landing Fields and Other Aeronautical Facilities by Political Subdivisions of the State	259.126–259.136
	Approach Protection for Airports, Landing Fields and Other Aeronautical Facilities	259.151–259.156
	Penal Provisions—Jurisdiction of Crimes, Torts, Contracts	259.176–259.184
	Miscellaneous Provisions	259.201–259.255
	Aeronautical Planning Fund	259.401–259.402
	Airport Zoning Act	259.431–259.464
	Tall Structure Act	259.481–259.493
	Aviation Matching Funds	259.501–259.596
	Lansing Airport, Lease of Lands	259.601–259.617
	Community Airports	259.621–259.631
	Federal Surplus Property	259.651
	Uniform Aircraft Financial Responsibility Act	259.671–259.693
	Aviation Matching Funds	259.751–259.775
	Model Rockets	259.781–259.789
	Airport Authorities	259.801–259.823
261–278B	General Drain Law of 1923 (Repealed)	261.1–278.1333
279	Drains, Supplemental Chapter	279.1–279.246
280	Drain Code of 1956	280.1–280.623
281	Lakes and Rivers	281.1–281.1199
282	Soil Conservation Districts	282.1–282.16
285	Agriculture—State Department	285.1–285.203

VOLUME III

286	Agriculture—Agricultural Industry	286.1–286.716
287	Agriculture—Animal Industry	287.2–287.582
288	Agriculture—Dairy Industry	288.1–288.406
289	Agriculture—Pure Foods and Standards	289.2–289.727
290	Agriculture—Weights, Measures and Standards	290.1–290.671
291	State Fairs	291.1–291.115
295	State Weather Service	295.1–295.22
299	Conservation—State Department	299.1–299.201
300	Conservation—Fish and Game	300.1–300.201
301–308	Conservation—Fishing, Sportsmen Law	
301	Definitions	301.1–301.11
302	Fishing Devices	302.1–302.6
303	Open Seasons	303.1–303.10
304	Minnows	304.1–304.5
305	Licenses and Permits	305.1–305.13
306	Repeals	306.2–306.3
307	Conservation—Fishing, Miscellaneous	307.1–307.253
308	Conservation—Fishing, Commercial	308.1–308.205

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TABLE OF CONTENTS

Chapter		Sections
311–315	Conservation—Game Law of 1929	
311	Definitions	311.1–311.11
312	General Hunting Regulations	312.1–312.14
313	Fur-Bearing Animals	313.1–313.6
314	Licenses and Permits	314.6–314.43
315	Saving Clauses and Repeals	315.1–315.2
317	Conservation—Game, Miscellaneous	317.1–317.405
318	Conservation—State Parks	318.3–318.387
319	Conservation—Oil, Gas and Minerals	319.1–319.394
320	Conservation—Forests	320.1–320.420
321	Conservation—Geological and Other Surveys	321.1–321.154
322	Conservation—State Lands	322.1–322.715
323	Water Resources	323.1–323.412
325	Health—State Department	325.1–325.813
326	Health—Vital Statistics	326.1–326.62
327	Health—Local Health Boards	327.1–327.315
328	Health—Unclaimed Bodies, Dissection, Autopsies	328.1–328.289
329	Health—Communicable Diseases	329.1–329.526
330	Health—Mental Disease Institutions	330.1–330.666
331	Health—Hospitals	331.1–331.660
332	Health—Tuberculosis Sanitoria	332.1–332.304
335	Health—Drugs	335.1–335.231
336	Air Pollution	336.1–336.36
338	Professions and Occupations	338.1–338.1665
340	Education—School Code of 1955	340.1–340.984
341–386	Education—The School Code (Repealed)	341.1–386.12
388	Education—School Aid and Miscellaneous	388.1–388.1086
389	Education—Community Colleges	389.1–389.303
390	Education—Universities and Colleges	390.1–390.1101
393	Education—Deaf and Blind	393.1–393.420
395	Education—Vocational Training	395.1–395.307
397	Libraries	397.1–397.527
399	Historical Commission	399.1–399.212

VOLUME IV

400	Social Welfare	400.1–400.514
401–403	The Poor Law	
401	Support of Poor by Private Persons	401.1–401.21
402	Support and Relief by the Public	402.1–402.45
403	Relief and Support in Counties Other Than County of Settlement (Repealed)	403.1–403.8
404	The Poor Law—Supplemental Chapter	404.1–404.205
408	Labor—Department of Labor	408.1–408.868
409	Labor—Juvenile Employment	409.1–409.30
411–417	Labor—Workmen's Compensation (Repealed)	411.1–417.61
418	Labor—Workmen's Compensation of 1969	418.101–418.899
419	Labor—Workmen's Compensation—Supplemental Chapter	419.1–419.301
421	Labor—Unemployment Compensation	421.1–421.501
423	Labor—Mediation—Public Employment—Fair Employment Practices	423.1–423.311
425	Mines—Labor Conditions; Inspections; Surveys	425.1–425.205
426	Forest Products	426.1–426.174
427	Hotels and Boarding Houses	427.1–427.207
429	Brands and Labels	429.1–429.311
430	Names and Emblems	430.1–430.203
431	Racing; Boxing and Exhibitions	431.1–431.257
433	Animals, Birds and Bounties	433.1–433.304
434	Lost and Unclaimed Property	434.1–434.174
435	Sundays and Holidays	435.1–435.254
436	Liquor	436.1–436.205
438	Money and Interest	438.1–438.154
439	Uniform Negotiable Instruments Law (Repealed)	439.1–439.191
440	Uniform Commercial Code	440.1–440.9994

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TABLE OF CONTENTS

Chapter		Sections
441	Simplification of Fiduciary Security Transfers	441.1–441.112
442	Conduct of Closing Out and Other Sales	442.1–442.325
443	Uniform Warehouse Receipts Act	443.1–443.58
444	Warehousemen and Warehouse Receipts	444.1–444.109
445	Fair Trade and Business	445.1–445.1431
446	Auctioneers, Pawnbrokers and Vendors	446.16–446.306
447	Foreign Trade	447.1–447.123
449	Partnerships	449.1–449.373
450	Corporations	450.1–450.728
451	Corporation and Securities Commission	451.1–451.818
453	Agricultural Associations	453.1–453.461
454	Trade and Labor Associations	454.1–454.205
455	Summer Resort and Park Associations	455.1–455.313
456	Cemetery Associations	456.1–456.543
457	Fraternal Associations	457.1–457.708
458	Ecclesiastical Corporations	458.1–458.536
460	Public Utilities	460.1–460.652
462	Railroad Regulation	462.2–462.50
463–467	Railroad, Bridge and Tunnel Companies	
463	Organization	463.1–463.4
464	Corporate Powers and Duties of Directors	464.1–464.50
465	Taxation	465.1–465.5
466	Police Regulations	466.1–466.25
467	Miscellaneous Provisions	467.1–467.36
	Cable Railway	467.101–467.103
	Liability as Common Carrier	467.151–467.152
	Ownership and Operation of Vessels	467.201–467.202
	Motor Vehicle and Aerial Transportation	467.251
	Investments and Activities of Railroad Corporations	467.301–467.302
468	Railroad Rates, Financing and Regulation	468.1–468.453
469	Railroad Property, Equipment and Services	469.1–469.601
470	Railroad Employees	470.1–470.153
471	Union Depot Companies	471.1–471.47
472	Street Railways	472.1–472.102
473	Consolidated Public Utility Companies	473.1–473.91
475–479	Motor Carriers	
475	General Definitions and Purpose	475.1–475.3
476	Common Motor Carriers	476.1–476.14
477	Contract Motor Carriers	477.1–477.12
478	Fees	478.1–478.6
479	Policy of State, Exemptions, Limitations, General Regulations and Procedure; Penalties; Miscellaneous	479.1–479.20
	Commercial Zone Registration	479.41–479.49
480	Truck Drivers	480.1–480.19
482	Bills of Lading	482.1–482.56
483	Oil, Gas and Brine Lines	483.1–483.228
484	Telephone, Telegraph and Radio	484.1–484.332
485	Canal, Harbor and River Improvement Companies	485.1–485.303
486	Water and Power Companies	486.1–486.571
487	Financial Institutions	487.1–487.916
489	Savings and Loan Associations	489.1–489.899
490	Credit Unions	490.1–490.65
491	Cooperative Savings Associations (Repealed)	491.1–491.21
492	Finance Companies	492.1–492.151
493	Small Loans	493.1–493.26
494	Investment Companies and Tontines (Repealed)	494.1–494.109

VOLUME V

500	Insurance Code of 1956	500.100–500.8302
501–548	Insurance Code (Repealed)	501.1–548.107
550	Insurance Code—Supplemental Chapter; State Insurance	550.1–550.805
551	Marriage	551.1–551.344

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TABLE OF CONTENTS

Chapter		Sections
552	Divorce	552.1–552.459
554	Real and Personal Property	554.1–554.461
555	Uses and Trusts	555.1–555.485
556	Powers	556.1–556.133
557	Property of Husband and Wife	557.1–557.255
558	Estates in Dower	558.1–558.92
559	Condominiums	559.1–559.31
560	Subdivision Control Act of 1967	560.1–560.293
561	Burnt Records	561.1–561.16
564	Fair Housing Act of 1968	564.101–564.704
565	Conveyances of Real Property	565.1–565.703
566	Fraudulent Conveyances and Contracts	566.1–566.552
567	Escheated Estates	567.1–567.206
570	Liens	570.1–570.512
600	Revised Judicature Act of 1961	600.101–600.9930
600–681	Judicature Act (Repealed)	600.1, 600.2, 601.1–681.3
691	Judicature Act—Supplemental Chapter	691.2–691.1511
692	Judicature Act—Supplemental Chapter (Repealed)	692.1–692.861
701–713	Probate Code	
701	Organization, Jurisdiction, Powers and Duties of Probate Courts	701.1–701.18a
	Jurisdiction and Powers	701.19–701.25
	Records	701.26–701.30
	Testimony	701.31
	Notices	701.32–701.35
	Appeals	701.36–701.52
	Convention	701.53–701.54
	Execution of Petitions	701.55
702	Decedents' Estates	
	Wills and the Probate Thereof	702.1–702.44a
	Settlement of Contests	702.45–702.49
	Intestate Estates	702.50–702.54
	Provisions Relative to Testate and Intestate Estates	702.55–702.67
	Allowances to Widow and Children	702.68
	Widow's Election	702.69–702.74a
	Determination of Heirs	702.75–702.79
	Descent, Distribution and Partition of Estates	
	Descent of Real Property	702.80–702.86
	Advancements	702.87–702.92
	Distribution of Personal Property	702.93–702.94
	Priority of Charges and Assignment of Residue	702.95–702.97
	Partition and Distribution	702.98–702.113a
	Settlement of Death and Survival Actions—Distribution of Proceeds	702.114–702.115
	Certificate of Survivorship	702.116–702.117
703	Guardians and Wards	703.1–703.34
704	General Provisions Concerning Fiduciaries	704.1–704.2
	Bonds of Fiduciaries	704.3–704.26a
	Non-Residents	704.27
	Letters of Authority	704.28–704.32
	Compensation of Fiduciaries	704.33–704.34
	Liability of Fiduciaries	704.35
	Continuation of Business	704.36
	Investments by Fiduciaries	704.37
	Accounting	704.38–704.43
	Judicial Settlement of Account	704.44–704.47
	Removal, Resignation or Death of Fiduciary	704.48–704.54a
	Payment to the County Treasurer	704.55–704.55a
	Discharge of Fiduciary	704.56–704.60
705	Estates of Disappeared Persons	705.1–705.34
706	Testamentary Trustee or Guardian	706.1–706.6
707	Collection of Assets	707.1–707.20
708	Claims	708.1–708.24
	Contingent Claims	708.25–708.37
	Small Estates	708.38–708.41

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TABLE OF CONTENTS

Chapter		Sections
709	Sale, Mortgage or Lease of Property	
	Sale of Personal Property	709.1
	Sale, Mortgage or Lease of Real Estate	709.1a–709.43
	Mortgaging Estates of Deceased Persons and Persons Under Guardianship	709.44–709.48a
	Specific Performance of Contracts of Deceased Persons and Persons under Disability	709.49–709.58
	Sale of Homesteads for Payment of Debts, and Expenses of Administering Estates	709.59–709.62
710	Adoption and Change of Names of Minors	710.1–710.14
711	Change of Name of Adult or Minor	711.1–711.2
712A	Juveniles and Juvenile Division	712A.1–712A.28
713	Miscellaneous and Repeals	713.1–713.6
720	Probate Code—Supplemental Chapter	720.1–720.660
722	Children	722.1–722.762
725	Municipal Courts of Record	725.1–725.301
726	Recorder's Court (Detroit)	726.1–726.49
727	Superior Court (Grand Rapids) (Repealed)	727.1–727.38
728	Common Pleas Court	728.1–728.30
729	Police Courts	729.1–729.217
730	Justice Courts in Cities	730.1–730.575
750	The Penal Code	750.1–750.568
752	The Penal Code—Supplemental Chapter	752.4–752.906
760–776	Code of Criminal Procedure	
760	Title and Construction	760.1–760.2
761	Definitions	761.1
762	Courts	762.1–762.16
763	Rights of Persons Accused	763.1–763.6
764	Arrest	764.1–764.28
765	Bail	765.1–765.31
766	Examination of Offenders	766.1–766.22
767	Grand Juries, Indictments, Informations and Proceedings Before Trial	767.1–767.95
768	Trials	768.1–768.35
769	Judgment and Sentence	769.1–769.28
770	New Trials, Writs of Error and Bills of Exceptions	770.1–770.15
771	Probation	771.1–771.24
772	Proceedings to Prevent Crime	772.1–772.15
773	Proceedings for the Discovery of Crime	773.1–773.23
774	Jurisdiction and Procedure of Justices' Courts in Criminal Cases	774.1–774.48
775	Fees	775.1–775.21
776	Miscellaneous Provisions	776.1–776.20
780	Code of Criminal Procedure—Supplemental Chapter	780.1–780.705
791	Corrections—State Department	791.1–791.283
798	Corrections—Supplemental Chapter	798.1–798.422
800	Corrections—Prisons	800.1–800.407
801	Corrections—Jails and Workhouses	801.1–801.258
802	Corrections—Houses of Correction	802.1–802.205
803	Corrections—Youth Training and Rehabilitation	803.11–803.333
804	Corrections—Girls' Training School	804.10–804.151
830	Appropriations, Building Programs	830.1–830.424

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CHAPTER 125. PLANNING, HOUSING AND ZONING

ECONOMIC DEVELOPMENT
Act 302 of 1947

125.1-125.8 Repealed.

REGIONAL PLANNING
Act 281 of 1945

125.11 Regional planning; definitions.
125.12 Regional planning commissions; creation.
125.13 Regional planning commissions; limit of jurisdiction.
125.14 Regional planning commissions; compensation; expenses.
125.15 Regional planning commissions; chairman; rules of procedure; records.
125.16 Regional planning commissions; director and employees.
125.17 Aid from governmental agencies.
125.18 Appointment of advisory committees or councils.
125.19 Regional planning commissions; functions; reports.
125.20 Access to records and information.
125.21 Local subdivisions; adoption of plans of regional commission.
125.22 Local subdivisions; allocation of funds.
125.23 Gifts, grants.
125.24 Transfer of functions to regional council of government; vote required; grants-in-aid.
125.25 Research studies and plans; review by office of planning coordination.

MUNICIPAL PLANNING
Act 285 of 1931

125.31 Municipal planning; definitions; municipality to include cities, villages, townships.
125.32 Municipal planning commission; creation; existing plan commission.
125.33 Municipal planning commission; members; appointment, compensation, term, removal, vacancies.
125.34 Municipal planning commission; chairman, meetings, rules, records.
125.35 Municipal planning commission; employees, contracts for services, expenditures.
125.36 Municipal planning commission; adoption of master plan, contents, amendment.
125.37 Municipal planning commission; surveys for basis, purpose.
125.38 Municipal planning commission; adoption of part or whole of plan; public hearing, notice.
125.39 Municipal planning commission; public works; powers of council; failure to act; program.
125.40 Municipal planning commission; rescission of action by legislative body; procedure.
125.41 Municipal planning commission; publicity and education, gifts, cooperation from public officials.
125.42 Municipal planning commission; succession to zoning commission.
125.43 Municipal planning commission; necessity of approval of plats; street system.
125.44 Municipal planning commission; regulations governing subdivision of land; bond to secure improvement; publication of regulations.
125.45 Municipal planning commission; approval or disapproval of plats, procedure, effect.

CERTIFICATION OF CITY AND VILLAGE PLATS
Act 222 of 1943

125.51 Municipal planning commission; authorization to certify plats; estimate of time period for land acquisitions.
125.52 Adoption by legislative body; notice before consideration; modifications; disapproval; failure to report within 30 days deemed approval.
125.53 Amendments or modifications; notice of consideration; approval.
125.54 Building permits, granting; public hearing.
125.55 Outside lines shown by appropriate symbols on maps.

BLIGHTED AREA REHABILITATION
Act 344 of 1945

125.71 Rehabilitation of blighted areas.
125.72 Rehabilitation of blighted areas; definitions.
125.73 Power of municipality.
125.74 Rehabilitation of blighted areas; definitions; plans.
Conditions to exercise powers.
Master plan.
Development plan.
District areas; citizen councils; consultation; records.
Coordinating council on community redevelopment.
Development plan; adoption; contents; hearing.
Public hearing; notice; record.
Approval by citizens' district council.
125.74a Racial segregation in housing; consultation and assistance of state civil rights commission.
125.75 Rehabilitation of blighted areas; acquisition of property, condemnation; dispossession.
125.75a Rehabilitation of blighted areas; urban renewal plat.
125.76 Acquisition of property; jurisdiction of public agencies.
125.77 Repealed.
125.77a Municipal bonds; payable from income, terms, interest.
125.77b Municipal general obligation bonds; approval, maximum issue, time of sale; usefulness of improvements.
Issuance and sale; resolution; designation; approval; maximum.
Other laws not applicable.
Estimated period of usefulness.
125.77c Tax revenues.
125.78 Loans and grants; acceptance, federal assistance, conditions; labor wages and standards.
125.79 Modification of plan; hearing.
125.80 Work done in accordance with plan.
125.81 Designation of administrative agency.

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125.82 Action by ordinance or resolution; validation of prior actions.
125.83 Powers deemed additional.
125.84 Urban renewal projects.
Projects initiated prior to June 22, 1968.
Businesses exceed residences.
Citizens' district council as neighborhood advisory council.
Hearing, notice.
Boundaries, revision.
Citizens' district council vacancies.
Time provisions, directory only.
Validation of citizens' district councils.

REGIONAL PLANNING COMMISSIONS

Act 188 of 1951

125.91-125.94 Repealed.

COUNTY PLANNING

Act 282 of 1945

125.101 County planning commission; creation; existing commissions.
125.102 County planning commission; members, appointment, terms, vacancies, compensation, expenses.
125.102a County planning commission in certain counties; transfer to jurisdiction of county board of auditors.
125.103 County planning commission; officers; director; information, meetings, records.
125.104 Development plans; duties of commission; coordinating agency.
125.104a County planning commission as metropolitan county planning commission; duties.
125.105 Development plans; adoption of plan; review; adoption by municipality.
125.106 Promoting public interest; conferences; consultation with officials.
125.107 Advisory committees or councils.

STATE AID, POST-WAR PLANNING

Act 57 of 1944 (1st Ex. Ses.)

125.151 Appropriation for post-war activities; disbursement.
125.152 Post-war appropriation; county roads, bridges, other structures; apportionment.
125.153 Post-war appropriation; allocation for surveys and plans; review of applications by state planning commission.
125.154 Post-war appropriation; surveys and plans for highways, streets, public buildings, services; apportionment.
125.155 Post-war appropriation; joint projects; surveys and plans to state planning commission.
125.156 Post-war appropriation; allocations to county or road commissions by municipality.
125.157 Post-war appropriation; prior surveys entirely completed.
125.158 Post-war appropriation; certification of vouchers.
125.159 Uncommitted balance.
125.160 Rules relative to applications.

COUNTY ZONING

Act 183 of 1943

125.201 County zoning districts; establishment; provisions; erosion, setback lines.
125.202 County zoning districts; resolution; notice; petition.
125.203 County zoning districts; basis for plan; purposes.
125.204 County zoning commission; members, qualifications, term, vacancies, removal.
125.205 County zoning commission; annual meetings; notice; officers, election.
125.206 County zoning commission; compensation, expenses.
125.207 County zoning commission; zone plan; basis; administration and enforcement.
125.208 County zoning commission; information and counsel.
125.209 County zoning commission; tentative zoning plan, hearing, notice.
125.210 County zoning commission; board of supervisors, vote on adoption of zoning ordinance.
125.211 Zoning ordinance; approval by department of economic development.
125.212 Zoning ordinance; referendum, petition, filing.
125.213 Zoning ordinance; report and recommendations to board of supervisors.
125.214 Zoning ordinance; amendment.
125.215 Interim zoning ordinance; approval, publication, duration.
125.216 Existing buildings, dwellings, and land uses.
125.217 Repealed.
125.218 County board of appeals; appointment, term, per diem, removal, quorum.
125.219 County board of appeals; meetings; open to public; record of proceedings.
125.220 County board of appeals; duties.
125.221 County board of appeals; appeals.
125.222 County board of appeals; restraining order.
125.223 County board of appeals; hearing; appeal to circuit court.
125.224 Nuisance per se; abatement.
125.225 Assessment of taxes.
125.226 Prior act; applicability.
125.227 Prior ordinance effective until new ordinance adopted.
125.228 Provisions not applicable.
125.229 Act controlling.
125.231 County rural zoning enabling act; short title.
125.232 Act repealed.

COUNTY BUILDING REQUIREMENTS

Act 62 of 1943

125.251 Minimum construction requirements of dwellings; division of districts outside cities and villages; uniformity.
125.252 Resolution; notice; petition; adoption of ordinance.
125.253 Adoption of parts of standard codes; copy for public inspection.
125.254 Administration and enforcement.
125.255 Referendum.
125.256 Act self-executing; certain provisions inapplicable.

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125.257 Certain conflicting requirements superseded.
125.258 Ordinances adopted under prior acts to remain in force.

TOWNSHIP ZONING

Act 184 of 1943

125.271 Township zoning districts; establishment; provisions.
125.272 Township zoning districts; resolution, notice, petition, vote.
125.273 Township zoning districts; basis for plan; purposes.
125.274 Township zoning board; appointment, terms, vacancies, removal.
125.275 Township zoning board; annual meetings; notice; officers, election.
125.276 Township zoning board; compensation, expenses.
125.277 Township zoning board; zone plan; basis; administration and enforcement.
125.277a Township zoning board; planning expert, compensation.
125.278 Township zoning board; information and counsel furnished.
125.279 Township zoning board; tentative zoning plan, hearing, notice.
125.280 Township zoning; ordinance, approval; coordinating zoning committee.
125.281 Zoning ordinance; amendment, adoption, hearing, notice.
125.282 Zoning ordinance; referendum, petition, filing.
125.283 Zoning ordinance; report to township board.
125.284 Zoning ordinance; amendment procedure; conformance to court decree.
125.285 Zoning ordinance; interim ordinance, approval, publication, renewal.
125.286 Buildings, dwellings and land; existing uses, continuation.
125.288 Board of appeals; membership, expenses, removals.
125.289 Board of appeals; meetings, open to public, record of proceedings.
125.290 Board of appeals; duties.
125.291 Board of appeals; appeals.
125.292 Board of appeals; restraining order.
125.293 Board of appeals; hearing; appeal to circuit court.
125.294 Nuisance per se; abatement; enforcement.
125.295 Fees for building permits; additional taxes.
125.296 Prior ordinance effective until new ordinance adopted.
125.297 Townships not subject to act.
125.298 Ordinances controlling.
125.301 Township rural zoning act; short title.

ZONING REGULATIONS IN NEWLY INCORPORATED VILLAGES OR TERRITORY ATTACHED TO VILLAGES

Act 171 of 1958

125.311 Annexed property to village; continuation of zoning regulation.

TOWNSHIP PLANNING

Act 168 of 1959

125.321 Township planning commission; definitions.
125.322 Township planning commission; purpose of plans.
125.323 Township planning commission; creation; referendum; resolution, copies to secretary of state and county or regional planning commission.
125.324 Township planning commission; members, qualification, appointment, term, vacancies, compensation, budget; gifts; expenditures.
125.325 Township planning commission; officers, advisory committees; meetings, notice; director; rules; record; reports.
125.326 Basic plan; consultation with other planning commissions.
125.327 Basic plan; contents.
125.328 Basic plan; adoption procedure, approval by county planning commission.
125.329 Basic plan; hearing, publication of notice.
125.330 Basic plan; approval of public way, space, building or structure.
125.331 Zoning board; powers and duties; zoning ordinances and amendments, filing.
125.332 Approval of plats.
125.333 Inconsistent acts.

TOWNSHIP BUILDING REQUIREMENTS

Act 185 of 1943

125.351 Minimum construction requirements of dwellings and other structures in unincorporated portions of township; uniformity.
125.352 Resolution of township board; notice; petition; adoption of ordinance.
125.353 Adoption of standard building codes or parts thereof; copy for public inspection.
125.354 Administration and enforcement.
125.355 Referendum.
125.356 Prior ordinances to remain in force.
125.357 Conflicting requirements and provisions superseded.
125.358 Controlling provisions of ordinance.
125.359 Act repealed.

HOUSING AND ZONING LAWS

HOUSING LAW

Act 167 of 1917

Article I

GENERAL PROVISIONS

125.401 Housing law of Michigan; scope of act.
125.402 Housing law of Michigan; definitions.
125.402a Enforcing agency; definition.
125.403 Buildings converted or altered subject to act; change of class; technical violations by multiple dwellings.
125.404 Buildings hereafter erected; unlawful structure; investigation.
125.405 Repairing; rebuilding.
125.406 Moving of dwelling; permit.
125.407 Sewer connections and water supply.
125.408 Minimum requirements; law not to be modified.
125.409 State board of health; authority.

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125.410 Time for compliance.
125.410a Asylums, jails, institutions; construction.

Article II

DWELLINGS HEREAFTER ERECTED

Title I

LIGHT AND VENTILATION

125.411 Dwellings hereafter erected; height.
125.412 Rear yards; interior lots; front yards; hotels exempt.
125.413 Side yards.
125.414 Courts; minimum dimensions.
125.415 Courts open at the top.
125.416 Air intakes.
125.417 Angles in courts.
125.418 Minimum space between buildings; garages; garbage receptacles.
125.419 Dwellings hereafter erected; rooms, lighting and ventilation.
125.420 Windows in rooms.
125.421 Rooms; minimum size; built in cabinets and fixtures.
125.422 Rooms; minimum height.
125.423 Alcoves and alcove rooms.
125.424 Privacy; access to water-closets.
125.425 Water-closet compartments and bathrooms; lighting and ventilation.
125.426 Public halls in multiple dwellings; ventilation.
125.427 Public halls in multiple dwellings; windows.
125.428 Stair halls; minimum size of windows.
125.429 Outside porches; interfering with lighting.

Title II

SANITATION

125.430 Cellar rooms.
125.431 Basement rooms; use for living purposes.
125.432 Cellars; water-proofing and lighting.
125.433 Courts, areas and yards.
125.434 Water supply.
125.435 Water-closet accommodations.
125.436 Sewer connections.
125.437 Plumbing.

Title III

FIRE PROTECTION

125.438 Fire-proof dwellings; when required.
125.439 Means of egress; requirements in multiple dwellings.
125.440 Fire escapes; requirements in multiple dwellings; access.
125.441 Roof egress; scuttles and bulkheads in multiple dwellings; access.
125.442 Stairs; requirements in multiple dwellings.
125.443 Stairs and platforms in multiple dwellings.
125.444 Stair enclosures in multiple dwellings.
125.445 Public halls in multiple dwellings; requirements; exit doors.
125.446 Elevator shafts in multiple dwellings; openings; clothes chutes.
125.447 Basement entrance and cellar stairs in multiple dwellings.
125.448 Closet under stairs in multiple dwellings.
125.449 Storage space in multiple dwellings; construction; equipped with adequate fire equipment and sprinkler system; lighting system.
125.450 Wooden multiple dwellings; size permitted.
125.450a Fire protection.

Article III

ALTERATIONS

125.451 Remodeling of existing dwellings; size permitted; third floor.
125.452 New courts in existing dwellings.
125.453 Additional rooms and halls.
125.454 Lighting and ventilation of rooms and halls.
125.455 Multiple dwellings; roof stairs.
125.456 Multiple dwellings; bulkheads.
125.457 Multiple dwellings; stairways.
125.458 Multiple dwellings; dumb-waiters and elevators.
125.459 Water-closet accommodations.
125.460 Height of dwellings.
125.461 Other alterations.
125.462 Multiple dwellings; skylights.
125.463 Multiple dwellings; fire escapes.
125.464 Alcoves and alcove rooms.

Article IV

MAINTENANCE

125.465 Public halls in multiple dwellings; lighting; exit lights.
125.466 Water closets in cellars.
125.467 Water closet accommodations.
125.468 Basement and cellar rooms.
125.469 Joint use of kitchen by more than one family prohibited.
125.470 Water closets and sinks; floors under and around.
125.471 Repairs and drainage.
125.472 Water supply.
125.473 Catch-basins.
125.474 Cleanliness of dwellings.
125.475 Multiple dwellings; walls of courts.
125.476 Multiple dwellings; walls and ceilings of rooms.
125.477 Multiple dwellings; wallpaper.
125.478 Receptacles for ashes, garbage and rubbish; chutes prohibited.
125.479 Prohibited uses.
125.480 Storage of combustible materials.
125.481 Storage of combustible materials; openings between storage room and public hall.
125.482 Fire prevention and safety requirements.
125.483 Overcrowding; minimum space requirements.
125.484 Multiple dwellings; regulation; application; lodgers prohibited.
125.485 Health order; infected and uninhabitable dwellings to be vacated.
125.486 Health order; repairs to buildings, other structures.
125.487 Fire escape maintenance.
125.488 Scuttles, bulkheads, ladders and stairs in multiple dwellings.

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Article V
IMPROVEMENTS

125.489 Rooms; lighting and ventilation.
125.490 Multiple dwellings; public halls and stairs, lighting and ventilation.
125.491 Plumbing fixtures.
125.492 Privy vaults, school-sinks and water closets.
125.493 Protection of basements and cellars.
125.494 Shafts and courts; openings.
125.495 Egress; means above first floor.
125.496 Egress; other means.
125.497 Roof egress in multiple dwellings.

Article VI
REQUIREMENTS AND REMEDIES

125.498-125.519 Repealed.

Article VII
ENFORCEMENT

125.521 Construction or alteration; plans, statements, filing, contents, public records.
125.522 Examination of plans; approval; changes; certificate; expiration, revocation.
125.523 Administration of act; joint administration and enforcement agreement.
125.525 Registry of owners and premises.
125.526 Inspection; intervals; basis; inspectors; hours of inspection; fees.
125.527 Inspection; warrants for nonemergency situation; no warrant required in emergency.
125.528 Inspections; public policy; records; checklist of violations.
125.529 Certificate of compliance; issuance; inspection.
125.530 Certificate withheld; premises not to be occupied; conditions of issuance; suspension of rent payments, escrow; account for rent and possession.
125.531 Certificate; application; temporary certificates; fee.
125.532 Violations; recording; notice; order to correct, reasonable time; reinspection.
125.533 Compliance by owner and occupant.
125.534 Violations; failure to correct, court actions; injunction; service of complaint; decrees; removal or repair, lien.
125.535 Receiver; appointment, termination; purpose; powers; expenses.
125.536 Additional remedies; occupant's action; concurrent remedies.
125.537 Common law rights retained.
125.538 Dangerous building prohibited.
125.539 Dangerous building; definition.
125.540 Notice of unsafe or dangerous conditions; contents; hearing officer; service.
125.541 Hearing; testimony; determination to close proceedings or order building demolished or made safe, compliance, hearing, cost of compliance as lien, collection.
125.542 Appeals.
125.543 Adoption of housing law not required.

FUEL OIL
Act 319 of 1929

125.551 Fuel oil; adoption of act; scope of act restricted.
125.552 Fuel oil; definitions.
125.553 Installation permit; temporary tag; inspection; existing plants; fees.
125.554 Prohibited furnishing of fuel oil.
125.555 Flash point; tester; mixing; waste oil.
125.556 Scope of tests.
125.557 Oil burners; equipment.
125.558 Oil burners; automatic ignition.
125.559 Pipes; joints; valves; packing gland.
125.560 Electrical installations.
125.561 Dampers; ventilation; instructions, posting; extinguisher.
125.562 Oil storage tanks; construction, user; storage limit.
125.563 Oil storage tanks; fill pipe; vent pipe.
125.564 Oil storage; limitations.
125.565 Tanks located underground.
125.566 Installation of inside tanks.
125.567 Underground tanks incased.
125.568 Measuring devices.
125.569 Metal gauge.
125.570 Tanks; construction, testing; underwriter's label.
125.571 Required equipment; gravity, water pressure or suction burners.
125.572 Required equipment; burners connected with heating system.
125.573 Gases prohibited in gas pilot.
125.574 Scope of act restricted.
125.575 Violation of act; penalty.

CITY OR VILLAGE ZONING
Act 207 of 1921

125.581 Location of trades and buildings; use; regulation by local bodies.
125.582 Regulation of buildings; authority to zone.
125.583 Regulation of congested areas.
125.583a Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property.
125.584 City zoning ordinances; public hearing, notice; report of planning commission; amendment; vote required.
125.585 Board of appeals; appointment; duties, procedure.
Appeals, how taken.
Stay of proceedings; exception.
Hearing; notice; decision; per diem.
125.586 Conflicting laws; governing law.
125.587 Violation; abatement.
125.589 Declaration of necessity.
125.590 Review by circuit courts; appeals to supreme court; procedure.
125.591 Actions for review; proper and necessary parties, notice, failure to appear.

HOUSING COOPERATION LAW
Act 293 of 1937

125.601 Housing cooperation law; short title.
125.602 Declaration of necessity.
125.603 Housing cooperation law; definitions.
125.604 Cooperation in housing projects; powers.
125.605 Contract powers for payment for services.
125.606 Advances to housing authority.
125.607 Powers; procedure for exercising.
125.608 Supplemental nature of act.
125.610 Emergency clause.

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MUNICIPAL HOUSING FACILITIES
Act 18 of 1933 (Ex. Ses.)

125.651 Municipal housing facilities; definitions.
125.652 Cities, villages, townships, counties; housing facilities and conditions, powers.
125.653 Municipal housing commission; creation, referendum.
Rejection, effect.
Township commission, powers.
County commission, powers.
125.654 Municipal housing commission; membership, appointment, term, compensation, vacancies.
125.655 Municipal housing commission; meetings, rules, record, quorum, officers, employees.
125.656 Municipal housing commission; funds for operation.
125.657 Municipal housing commission; powers and duties.
125.658 Municipal housing commission; interest of members, officers, employees in contracts.
125.659 Municipal housing commission; report to governing body.
125.660 Municipal housing commission; proceedings under power of eminent domain.
125.661 Municipal housing commission; deeds, contracts, leases, purchases.
125.662 Municipal housing commission; control of project.
125.663 Claims against project; damages.
125.664 Claims against project; contractual.
125.665 Preliminary estimate of costs.
125.666 Enabling ordinances.
125.667 Revenue bonds, terms, tax exemption, negotiability.
125.668 Bondholder's lien; contributions contract.
125.669 Bondholder's lien upon revenue; enforcement.
125.670 Receiver; appointment; powers and duties.
125.671 Bonds; inapplicability of other laws.
125.672 Bonds; depository; segregation of funds.
125.674 Bonds; signatures.
125.675 Free services.
125.676 Additional bonds.
125.677 Rent schedule; policy of state, basis.
125.681 Income from sources other than operation; use.
125.683 Operating year.
125.684 Rents; supervision; state department of health.
125.685 Records, accounts; inspection.
125.687 Construction of act.
125.689 Authority conferred.
125.690 Declaration of necessity; liberal construction.
125.692 Slum clearance and housing projects as public purposes.
125.693 Immediate necessity.
125.694 Duties of operation and management; rentals and selection of tenants.
Receivers; freedom from restrictions.
125.694a Tenancy or contract right to occupy housing; termination; just cause.
125.694b Municipal housing commission; rules, adoption, promulgation, publication.
125.695 Minimum wages and maximum hours; contract provisions.
125.696 Additional powers; intent of act.
125.697 Promissory notes; authorization, interest rate; obligation of commission.
125.698 Bonds; powers of borrower.
125.699 Board of tenant affairs; creation.
125.700 Board of tenant affairs; members; size; composition; terms; qualifications; nomination.
125.701 Board of tenant affairs; members, meeting, rules of procedure, record, quorum, staff.
125.702 Board of tenant affairs; powers and duties.
125.703 Hearing and review; notice; petition; waiver; right to be represented by counsel.
125.704 Hearing and review; termination of right of occupation; action to regain possession of premises.
125.705 Application of act.
125.706 Cooperative action by borrowers; scope.
125.707 Cooperative financing arrangement; resolution; agent borrower.
125.708 Financing agreement; preparation, terms.
125.709 Special obligation notes or revenue bonds; authorization; issuance.
125.709a Bond authorizing ordinance; fiscal agent; contract.
125.709b Bond proceeds, use; bonds, execution, delivery.
125.709c Revenues, disposition, purpose; fiscal agent, duties.
125.709d Additional bonds; issuance, conditions.
125.709e Notice of sale of bonds; adoption, contents; ratification of sale.

DEFENSE HOUSING FACILITIES
Act 268 of 1941

125.711 Housing shortage; legislative finding.
125.712 Housing projects; powers of cities, villages and housing commission; unlawful to initiate after termination of World War II.
125.713 Housing projects; cooperation with federal projects; sale to United States.
125.714 State public bodies; authority to cooperate in housing projects.
125.715 Validation of existing bonds, notes, agreements.
125.716 Restrictions imposed by other acts inapplicable.
125.717 Defense housing facilities; definitions.
125.718 Act supplemental and not restrictive of other powers.

ACQUISITION AND MAINTENANCE OF HOUSING PROJECTS
Act 162 of 1953

125.731 Housing projects; acquisition and maintenance by municipality; operating agent; public function; inapplicable act; time limits.
125.732 Housing projects; payments in lieu of taxes.

TRAILER COACHES OUTSIDE LICENSED PARKS
Act 172 of 1958

125.741 Trailer coach permit; use outside park.
125.742 Trailer coach permit; application, contents; fee; renewals.
125.744 Trailer coach permit; sanitation, zoning, building, fire regulations.

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125.745 Violation of act; penalty.

TRAILER COACHES AND PARKS
Act 143 of 1939

125.751-125.769 Repealed.

REGISTRATION OF PERSONS IN CAMPS, TOURIST HOMES, CABINS, ETC.
Act 75 of 1952

125.781 Registration of persons in camps, tourist homes; definitions.
125.782 Register; contents.
125.783 Violation of act; misdemeanor.
125.784 Enactment under police power.

SERVICEMEN HOUSING PROJECTS
Act 14 of 1946 (Ex. Ses.)

125.871 Municipal housing projects for servicemen; authorization.
125.872 Authority exercised by resolution.

URBAN REDEVELOPMENT CORPORATIONS LAW
Act 250 of 1941

125.901 Urban redevelopment corporations law; short title.
125.902 Legislative findings; policy of state; purpose of act.
125.903 Urban redevelopment corporations law; definitions.
125.904 Development plans; contents, approval, requirements.
Contents.
Approvals required.
Planning commission approval; requirements.
Supervising agency approval; requirements.
Amendments.
Fees.
125.905 Supervising agency; appointment.
125.906 Redevelopment corporation; organization, articles; forfeiture of rights; name.
Existing corporations, conversion.
Forfeiture of rights.
Name, limitations on use.
125.907 Limitations imposed upon redevelopment corporations; limitations.
125.908 Corporation code; application to redevelopment corporations.
125.909 Consideration for issuance of stock, bond or debentures.
125.910 Determination of development cost; procedure.
125.911 Regulation of corporation by supervising agency.
125.912 Exemption from increase in assessed value; limitations.
125.913 Return on income debentures and stock; limitations.
125.914 Proceedings against redevelopment corporations; parties.
125.915 Real estate; transfer to redevelopment corporations.
125.916 Acquisition of real estate; methods; condemnation.
125.917 Condemnation; proceedings to institute; damages.
Institution of proceedings.
Assessment of compensation and damages.
125.917a Condemnation, law applicable.
125.918 Leasing of property of corporation; termination of tenancy.
125.919 Mortgages of corporation; provisions governing.
125.920 Sale or lease of real estate by a city to corporation.
125.921 Provisions of lease.
125.922 Construction of act.

NEIGHBORHOOD AREA IMPROVEMENTS
Act 208 of 1949

125.941 Neighborhood areas in municipalities; improvement, declared to be public use and public purpose.
125.942 Neighborhood areas in municipalities; definitions.
125.943 Neighborhood areas in municipalities; betterment plan.
Master plan of municipality, approval.
Plan of neighborhoods, approval.
Neighborhood betterment plan, approval.
Improvements.
Plats, streets, public utilities, pavement, parks, nonconforming uses; rehabilitation of blighted areas.
Relocation of families.
Hearing on adoption of area plan; notice, description.
125.944 Neighborhood areas in municipalities; acquisition of property; condemnation.
125.945 Neighborhood areas in municipalities; transfers to public agencies; excess land sold or exchanged; special assessment district.
125.946 Repealed.
125.946a Bonds payable from project revenue; terms, tax exemption, interest.
125.946b Neighborhood improvement bonds; municipal general obligation bonds, approval, maximum, time of sale, estimated period of usefulness.
125.946c Tax levy; special assessment.
125.947 Gifts, loans, grants from private or public sources; contracts for assistance.
125.948 Neighborhood areas in municipalities; modification of plan, hearing.
125.949 Neighborhood areas in municipalities; permits, withholding.
125.950 Neighborhood areas in municipalities; plans to be officially adopted; board of appeals; hearing, notice, publication.
125.951 Neighborhood areas in municipalities; actions to be by ordinance or resolution, procedure.
125.951a Neighborhood areas in municipalities; designation of administrative agency.
125.952 Powers granted.

HOUSING FOR PERSONS DISPLACED BY URBAN RENEWAL
Act 323 of 1966

125.961 Urban renewal; relocation of occupants by condemning unit.
125.962 Renewal of substandard residential area with new housing; relocation of residence.

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125.963 Neighborhood advisory council; consultations with local government agency; records.

ISSUANCE OF BONDS FOR SLUM CLEARANCE
Act 167 of 1952

125.971 Clearance of slum or blighted areas; issuance of bonds by cities, maximum, sale.

REDEVELOPMENT OF SHOPPING AREAS
Act 120 of 1961

125.981 Cities; redevelopment of principal shopping area; powers.
125.982 Financing.
125.983 Redevelopment project as public improvement.
125.984 Redevelopment of shopping area; single improvement.
125.985 Special assessments; bonds.
125.986 Special assessments; off-street parking lots.

TRAILER COACH PARK ACT OF 1959
Act 243 of 1959

125.1001 Mobile home parks; short title.
125.1002 Mobile home parks; definitions.
125.1005 Trailer coach parks; construction or alteration, permit.
125.1006 Trailer coach parks; application for permit, contents.
125.1007 Trailer coach parks; construction permit, application.
125.1008 Trailer coach parks; construction plans and specifications.
125.1009 Trailer coach parks; application and plans, examination by commissioner of health.
125.1010 Trailer coach parks; permit for construction; time, extension.
125.1011 Trailer coach parks; permits, transferability; prior permits.
125.1012 Trailer coach parks; permits, notice of issuance.
125.1013 Trailer coach parks; applications, deficiencies, notice, amendment.
125.1014 Construction or alteration of trailer coach park; affidavit of compliance.
125.1015 Trailer coach park construction; examination.
125.1016 Trailer coach park owner; compliance with local regulation.
125.1021 License for trailer coach park operation; renewal.
125.1022 Trailer coach parks; license, application, filing.
125.1023 License; fee.
125.1024 License fees, disposition.
124.1025 Issuance of license; conditions.
125.1026 Trailer coach parks; restricted license; application for new license.
125.1027 Trailer coach parks; conditions for renewal of license.
125.1028 Trailer coach parks; granting of license; bond.
125.1031 Trailer coach parks; approval of application; issuance of license, display, transfer.
125.1032 Trailer coach parks; expiration of license.
125.1033 Trailer coach parks; copies of license, distribution.
125.1034 Trailer coach parks; nonissuance of license, reasons.
125.1035 Trailer coach parks; location in more than one municipality.
125.1036 Repealed.
125.1041 Travel trailer parks; summer license; specific tax, collection, exception.
125.1042 Trailer coach parks; disbursement of tax revenue.
125.1043 Trailer coach parks; tax, remittance; reimbursement of licensee.
125.1051 Trailer coach parks; location, requirements.
125.1052 Trailer coach; restricted location.
125.1053 Trailer coach; space requirements.
125.1054 Trailer coach parks; roadway requirements.
125.1055 Trailer coach parks; water supply.
125.1056 Trailer coach parks; plumbing.
125.1057 Trailer coach parks; sewage and waste control.
125.1058 Trailer coach parks; sewers.
125.1059-125.1065 Repealed.
125.1066 Trailer coach parks; garbage and rubbish disposal.
125.1067 Trailer coach parks; electrical service.
125.1068 Trailer coach parks; fire extinguishers.
125.1071 Trailer coach parks; office; registration records.
125.1072 Trailer coach parks; responsibility and duty of management.
125.1073 Trailer coach parks; line fence.
125.1074 Trailer coach parks; prohibited practices.
125.1075 Trailer coach parks; streets and driveways.
125.1076 Trailer coach parks; night lighting.
125.1077 Trailer coach parks; attendant in charge.
125.1078 Trailer coach parks; animals at large prohibited.
125.1079 Trailer coach parks; communicable disease, report to health department.
125.1081 Trailer coach parks; inspection by health officer.
125.1082 Trailer coach parks; inspection by school authorities.
125.1083 Trailer coach parks; school age children, report to school district.
125.1085 Trailer coach parks; eviction, reasons.
125.1091 Exemptions.
125.1092 Repealed.
125.1093 Trailer coach parks; license revocation, procedure.
125.1094 Trailer coach parks; duties of health and peace officers.
125.1095 Trailer coach parks; injunctive relief.
125.1096 Trailer coach parks; violation of act, penalty.
125.1097 Trailer coach parks; act repealed.

ECONOMIC EXPANSION
Act 116 of 1963

125.1201 Economic expansion department; organization, subject to approval of governor.
125.1202 Executive director; deputy executive director; appointment.
125.1203 Economic development department; transfer of records, files, property.

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125.1204 Economic expansion program; activities.
125.1205 Economic expansion department; powers.
125.1206 Economic expansion department; acceptance of grants; transfer of records, files, property, and employees of department of administration.
125.1207 Economic expansion council; members, appointment, term, chairman, officers, quorum, committees, report, compensation, expenses.
125.1208 Repeal.

COUNTY OR REGIONAL ECONOMIC DEVELOPMENT COMMISSION

Act 46 of 1966

125.1231 County economic development commission; creation, membership.
125.1232 County economic development commission; rules and regulations; compensation.
125.1233 County economic development commission; appointment of employees.
125.1234 County economic development commission; expenses; provision by board of supervisors.
125.1235 Economic development and expansion program; activities.
125.1236 County economic development commission; additional powers and duties.
125.1237 Applications for state or federal grants; acceptance, expenditures.

INDUSTRIAL DEVELOPMENT REVENUE BOND ACT OF 1963

Act 62 of 1963

125.1251 Industrial development revenue bond act; short title.
125.1252 Industrial development revenue bond act of 1963; definitions.
125.1253 Municipalities; powers as to industrial sites and buildings.
125.1254 Municipalities; industrial building revenue bonds, terms.
125.1255 Resolution authorizing issuance of bonds; contents.
125.1256 Redemption of bonds.
125.1257 Default; receiver.
125.1258 Repealed.
125.1259 Additional bonds; new bonds.
125.1260 Cost of project.
125.1261 Taxation of lessee; liens; recovery.
125.1262 Referendum; intention to issue bonds.
125.1263 Issuance of bonds; approval of municipal finance commission necessary.
125.1264 Sale of bonds.
125.1265 Municipalities; powers as to industrial buildings and machinery.
125.1266 Construction of act; cumulative powers.
125.1267 Liberal construction of act.

ACCEPTANCE AND EXPENDITURE OF FEDERAL FUNDS

Act 122 of 1965

125.1281 Acceptance and expenditure of federal funds; matching funds.

UTILIZATION OF PUBLIC BUILDINGS BY PHYSICALLY HANDICAPPED

Act 1 of 1966

125.1351 Utilization of public buildings by physically handicapped; definitions.
125.1352 Alteration and construction, requirements, approval.
125.1353 Administration and enforcement of act.
125.1354 Rules and regulations; promulgation by state building division.
125.1355 Violation of act; penalty.
125.1356 Effective date.

STATE HOUSING DEVELOPMENT AUTHORITY

Act 346 of 1966

125.1401 State housing development; purpose; short title.

CHAPTER I

125.1411 Definitions.
125.1415 Repealed.
125.1415a Housing project; tax exemption; service charge for public services.
Service charge; amount; changes.
Duration of exemption.
Distribution of service charge.
Tax exemption not applicable; ordinance.
Service charge, amount; low income families.
Low income persons or families, defined.
No state reimbursement.
125.1417 Advisory and other services.

CHAPTER II

125.1421 State housing development authority; creation; membership; appointment; terms; expenses.
Quorum, votes, meetings.
Officers, agents, employees.
Relationship with social services department.
125.1422 Powers of authority.
Capacity to sue or be sued; seal; contracts; bylaws.
Housing needs studies.
Federal assistance.
Housing conditions, survey.
Fees and charges.
Community action.
Salvage of housing.
Research; demonstration projects.
Secured loans.
Standards for housing projects.
Gifts or grants.
Real or personal property.
Insurance.
Investments.
Rules.
Regulation of rents, profits and fees.
Protection of loans.
Approval of articles of incorporation.
Consultants.
Leased housing.
125.1423 Housing development fund; creation; payments into fund.
125.1424 Housing development fund; advances and grants.

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125.1424a Land acquisition and development fund; creation; source.
125.1424b Land acquisition and development fund; use; sale of property.
125.1425 Bonds and notes; issuance; status; approval.
125.1426 Notes and bonds; authorization; terms.
125.1427 Notes and bonds; resolution authorizing issuance, contents.
125.1428 Notes and bonds; validity and effect of pledge.
125.1429 Notes and bonds; personal liability of members of authority.
125.1430 Notes and bonds; purchase for cancellation.
125.1431 Notes and bonds; liability of state.
125.1432 Capital reserve fund; receipts, disbursements.
Bond issues as affected by capital reserve fund.
Limit of outstanding bonds and notes.
Maintenance of fund.
Valuation of securities in fund.
Interest rate on loans, changes.
125.1433 General reserve fund.
125.1434 Notes and bonds; pledge and agreement of state.
125.1435 Trustee; default.
Specific powers and duties of trustee.
125.1436 Trustee; additional powers.
124.1437 Venue.
125.1438 Notes and bonds; notice; declaration, due and payable.
125.1439 Moneys of authority; deposit; agreement with noteholders; system of accounts.
Contracts and security.
System of accounts.
125.1440 Notes and bonds; legal investment.
125.1441 Faith and credit bonds.
125.1442 Property of authority; exempt from taxation.
125.1443 Notes and bonds; exemption from taxation.
125.1444 Loans; conditions, amount.
Sale of housing units, approval; sweat equity.
Term of loan.
125.1445 Preference to displaced persons.
125.1446 Equality of occupancy and employment.

CHAPTER III

125.1451 Low and moderate income housing; definitions.
125.1452 Low and moderate income housing; dwelling units to certain low income persons and families.
125.1453 Low income housing; criteria for determination of occupant eligibility; rental charges.
125.1454 Low and moderate income housing; agreements for services of selection of eligible families and individuals.
125.1455 Low and moderate income housing; rights of persons or families benefited.
125.1456 Low and moderate income housing; financing for small scale housing developments.
125.1457 Appropriation.

CHAPTER IV

125.1461 Nonprofit housing corporations; incorporation.
125.1462 Qualified nonprofit housing corporations; corporate name.
125.1463 Articles of incorporation.
125.1464 Directors, additional, power of authority.
125.1465 Articles of incorporation; filing, approval.

CHAPTER V

125.1471 Consumer housing cooperatives; incorporation.
125.1472 Consumer housing cooperatives; corporate name.
125.1473 Consumer housing cooperative; articles of incorporation.
125.1474 Directors, additional, power of authority.
125.1475 Articles of incorporation; filing, approval of authority.

CHAPTER VI

125.1481 Limited dividend housing corporations; incorporation.
125.1482 Corporate name.
125.1483 Articles of incorporation.
125.1484 Surplus; definition.
125.1485 Directors, additional, power of authority.
125.1486 Articles of incorporation; filing, approval.

CHAPTER VII

125.1491 Limited dividend housing association; approval, members.
125.1492 Association name.
125.1493 Organization document; contents.
125.1494 Surplus; definition.
125.1495 Managing agent; power of authority.
125.1496 Basic organization document; approval.

URBAN REDEVELOPMENT

Act 304 of 1969

125.1501-125.1512 Rejected.

125.1-125.8 Repealed. 1963, p. 162, Act 116, Imd. Eff. May 10.

Sections created state department of economic development, and abolished the Michigan planning commission.

Act 281, 1945, p. 468; Eff. Sep. 6.

AN ACT to provide for regional planning; the creation, organization, powers and duties of regional planning commissions; the provision of funds for the use of regional

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planning commissions; and the supervision of the activities of regional planning commissions under the provisions of this act. Am. 1952, p. 284, Act 194, Eff. Sep. 18.

The People of the State of Michigan enact:

125.11 Regional planning; definitions.

Sec. 1. For the purpose of this act certain terms are defined as provided in this section. Wherever appropriate the singular includes the plural and the plural includes the singular. The terms "local governmental units" or "local units" shall include cities, villages, other incorporated political subdivisions, counties, school districts, special authorities, townships, or any legally constituted governing body responsible for the exercise of governmental functions within a political subdivision of the state.

HISTORY: CL 1948, 125.11.

CITED IN OTHER SECTIONS: Sections 125.11 to 125.23 are cited in § 252.3.

125.12 Regional planning commissions; creation.

Sec. 2. Regional planning commissions may be created by resolution by 2 or more legislative bodies of any local governmental units desiring to create a regional planning commission.

HISTORY: CL 1948, 125.12;—Am. 1952, p. 284, Act 194, Eff. Sep. 18.

125.13 Regional planning commissions; limit of jurisdiction.

Sec. 3. The boundaries of the area which are to define the limit of jurisdiction of the regional planning commission shall be established by the resolutions of the participating legislative bodies. The boundaries of this area need not be coincident with the boundaries of any single governmental subdivision or group of subdivisions which are to be included in the area, but may include all or such portions of any governmental subdivision.

HISTORY: CL 1948, 125.13;—Am. 1952, p. 284, Act 194, Eff. Sep. 18.

125.14 Regional planning commissions; compensation; expenses.

Sec. 4. No compensation shall be paid members of regional planning commissions for their services as members of the regional planning commissions: Provided, That this shall not affect in any way remuneration received by any state or local official who, in addition to his responsibilities and duties as a state or local official, serves also as a member of the regional planning commission. All members may be reimbursed for actual expenses incurred as members of the commission in carrying out the work of the commission.

HISTORY: CL 1948, 125.14;—Am. 1952, p. 284, Act 194, Eff. Sep. 18.

125.15 Regional planning commissions; chairman; rules of procedure; records.

Sec. 5. Each regional planning commission shall elect its own chairman and establish its own rules of procedure, and may create and fill such other offices as it may determine necessary. It shall keep a record of its resolutions, transactions, findings and determinations, which records shall be a public record.

HISTORY: CL 1948, 125.15;—Am. 1952, p. 284, Act 194, Eff. Sep. 18.

125.16 Regional planning commissions; director and employees.

Sec. 6. The regional planning commission may appoint a director and such employees as it may deem necessary for its work and may hire such experts and consultants for part time or full time service as may be necessary for the prosecution of its responsibilities.

HISTORY: CL 1948, 125.16.

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125.17 Aid from governmental agencies.

Sec. 7. Aid for the purpose of accomplishing the objectives of the regional planning commission may be accepted from all governmental agencies whether local, state or federal, if the conditions under which such aid is furnished are not incompatible with the other provisions of this act.

HISTORY: CL 1948, 125.17.

125.18 Appointment of advisory committees or councils.

Sec. 8. The regional planning commission may appoint advisory committees or councils whose membership may consist of individuals whose experience, training or interest in the program may qualify them to lend valuable assistance to the regional planning commission by acting in an advisory capacity in consulting with the regional planning commission on technical and special phases of the program. Members of such advisory bodies shall receive no compensation for their services but may be reimbursed for actual expenses incurred in the performance of their duties.

HISTORY: CL 1948, 125.18.

125.19 Regional planning commissions; functions; reports.

Sec. 9. The regional planning commission may conduct all types of research studies, collect and analyze data, prepare maps, charts and tables, and conduct all necessary studies for the accomplishment of its other duties; it may make plans for the physical, social and economic development of the region, and may adopt by resolution of a majority of its full membership any plan or the portion of any plan so prepared as its official recommendation for the development of the region; it may publicize and advertise its purposes, objectives and findings, and may distribute reports thereon; it may provide advisory services to the participating local governmental units and to other public and private agencies in matters relative to its functions and objectives, and may act as a coordinating agency for programs and activities of such agencies as they relate to its objectives. The regional planning commission shall make an annual report of its activities to the legislative bodies of the participating local governmental units.

HISTORY: CL 1948, 125.19;—Am. 1952, p. 284, Act 194, Eff. Sep. 18.

125.20 Access to records and information.

Sec. 10. The regional planning commission shall be given access to all studies, reports, surveys, records, and all other information and material in the possession of such governmental agencies as shall be required by the regional planning commission for the accomplishment of its objectives.

HISTORY: CL 1948, 125.20.

125.21 Local subdivisions; adoption of plans of regional commission.

Sec. 11. Local governmental subdivisions, whether active participants in the work of the regional planning commission or not, may adopt all or any portion of the plans prepared and adopted by the regional planning commission by following those procedures specified by act of the legislature or by local charter for the adoption of an official master plan.

HISTORY: CL 1948, 125.21.

125.22 Local subdivisions; allocation of funds.

Sec. 12. For the purpose of providing funds to meet the expenses of a regional planning commission any local governmental unit participating in the formation, functioning and support of the regional planning commission or any other local governmental unit wishing to contribute thereto may allocate funds for the purpose by official act of its legislative body. The proportion of the total amount of funds to be so provided by each participating local governmental unit may be suggested by the regional planning investigating committee or prepared as a proposed budget by the regional planning

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commission and submitted to the legislative bodies of the participating local governmental units. Each legislative body of the participating governmental units may appropriate its share of the funds to be allocated for the use of the regional planning commission by the adoption of a legislative act which is identical with a similar act or acts as adopted by the other participating local governmental units. The services of personnel, the use of equipment and office space, and the provision of special services, may be accepted from any participating local governmental unit and may be considered a part of the financial support of that governmental unit.

HISTORY: CL 1948, 125.22;—Am. 1952, p. 284, Act 194, Eff. Sep. 18.

125.23 Gifts, grants.

Sec. 13. The regional planning commissions may accept gifts and grants from public or private individuals or agencies if the conditions under which such grants are made are in accordance with the accomplishment of the objectives of the regional planning commission.

HISTORY: CL 1948, 125.23;—Am. 1952, p. 285, Act 194, Eff. Sep. 18.

125.24 Transfer of functions to regional council of government; vote required; grants-in-aid.

Sec. 14. The regional planning commission as constituted under this act may transfer by interlocal agreement or contract its activities, functions, programs, staff, moneys, properties, and any other liabilities or assets to a regional council of government hereinafter created. This transfer must be authorized by a majority vote of the governing body of the regional planning commission and submitted to each local governmental unit participating as a member of the regional planning commission. The local legislative body of each local governmental unit participating as a member of the regional planning commission must authorize and concur in the transfer by majority vote.

In the event of such transfer, the council shall be entitled to receive and disburse all grants-in-aid and other revenues that would otherwise be available to the regional planning commission.

HISTORY: Add. 1967, p. 107, Act 87, Eff. Nov. 2.

Original section 14 of Act 281 of 1945, p. 468, was a severing clause section and was repealed by Act 129 of 1947.

125.25 Research studies and plans; review by office of planning coordination.

Sec. 15. Research studies and plans for the physical, social and economic development of the region which are prepared by the regional planning commissions pursuant to section 9 shall be forwarded as soon as is practical and prior to adoption in whole or in part to the office of planning coordination of the executive office of the governor for review and comment.

HISTORY: Add. 1967, p. 107, Act 87, Eff. Nov. 2.

Act 285, 1931, p. 471; Eff. Sep. 18.

AN ACT to provide for city, village and municipal planning; the creation, organization, powers and duties of planning commissions; the regulation and subdivision of land; and to provide penalties for violation of the provisions of this act. Am. 1952, p. 30. Act 25, Eff. Sep. 18.

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The People of the State of Michigan enact:

125.31 Municipal planning; definitions; municipality to include cities, villages, townships.

Sec. 1. For the purpose of this act certain terms are defined as provided in this section. Wherever appropriate the singular includes the plural and the plural includes the singular. "Municipality" or "municipal" includes or relates to cities, villages, townships, charter townships and other incorporated political subdivisions. "Mayor" means the chief executive of the municipality, whether the official designation of his office be mayor, city manager or otherwise. "Council" means the chief legislative body of the municipality. "Board of county auditors" or "county commissioners" means the chief administrative or legislative body or board of the county. The term "streets" includes streets, avenues, boulevards, roads, lanes, alleys, viaducts and other ways.

HISTORY: CL 1948, 125.31;—Am. 1952, p. 30, Act 25, Eff. Sep. 18.

CITED IN OTHER SECTIONS: Sections 125.31 to 125.45 are cited in § 125.333.

125.32 Municipal planning commission; creation; existing plan commission.

Sec. 2. Any municipality is hereby authorized and empowered to make, adopt, amend, extend, add to, or carry out a municipal plan as provided in this act and create by ordinance a planning commission with the powers and duties herein set forth. The planning commission of a city shall be designated city planning or city plan commission; of a village, village planning or village plan commission and of any other municipality, such designation as its council may specify. The legislative body of any city or village now or hereafter having a plan commission created by charter, may by ordinance extend the powers and duties of such commission in accordance with the terms of this act. Sections 3, 4 and 5 of this act shall not apply to such cities or villages. This act shall not in any way affect the powers and duties or organization of such planning commission under a charter except as they may be added to or enlarged by the terms of this act.

HISTORY: Am. 1943, p. 227, Act 163, Eff. July 30;—CL 1948, 125.32.

125.33 Municipal planning commission; members; appointment, compensation, term, removal, vacancies.

Sec. 3. (1) The commission shall except as provided in subsection (2) consist of 9 members who shall represent insofar as is possible different professions or occupations who shall be appointed by the mayor, if the mayor be an elective officer, otherwise by such officer as council may in the ordinance creating the commission designate as the appointing power, but such appointment shall always be subject to the approval by a majority vote of the members elect of the legislative body of such municipality. All members of the commission may be compensated at a rate to be determined by the appointing or legislative body and shall hold no other municipal office except that 1 of such members may be a member of the zoning board of adjustment or appeals. The term of each member shall be 3 years, except that 3 members of the first commission to be so appointed shall serve for the term of 1 year, 3 for a term of 2 years and 3 for a term of 3 years. All members shall hold office until their successors are appointed. Members may, after a public hearing, be removed by the mayor for inefficiency, neglect of duty or malfeasance in office.

(2) If deemed desirable by the council such commission may consist of the mayor, 1 of the administrative officials of the municipality selected by the mayor, 1 member of council to be selected by it as members ex officio and 6 persons who shall be appointed by the mayor as is herein provided. All appointed members of the commission may be compensated at a rate to be determined by the appointing or legislative body and in this case also the appointed members shall hold no other municipal office except that 1 of such appointed members may be a member of the zoning board of ad-

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justment or appeals. The terms of ex officio members shall correspond to their respective official tenures, except that the term of the administrative official selected by the mayor shall terminate with the term of the mayor selecting him. The term of each appointed member, where 6 are appointed shall be 3 years or until his successor takes office except that the respective terms of 2 of the members first appointed shall be for 1 year and 2 for 2 years. Members other than the member selected by council may, after public hearing, be removed by the mayor for inefficiency, neglect of duty, or malfeasance in office. Council may for like cause remove the member selected by it.

(3) Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired term by the mayor in the case of members selected or appointed by him, by council in the case of the member appointed by the council, and by the appointing power designated by council in municipalities in which the mayor is not an elective officer.

HISTORY: CL 1948, 125.33;—Am. 1969, p. 91, Act 45, Imd. Eff. Jul. 17.

125.34 Municipal planning commission; chairman, meetings, rules, records.

Sec. 4. The commission shall elect its chairman from amongst the appointed members and create and fill such other of its offices as it may determine. The term of chairman shall be 1 year, with eligibility for reelection. The commission shall hold at least 1 regular meeting in each month. It shall adopt rules for transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations, which record shall be a public record.

HISTORY: CL 1948, 125.34.

125.35 Municipal planning commission; employees, contracts for services, expenditures.

Sec. 5. The commission may appoint such employees as it may deem necessary for its work, whose appointment, promotion, demotion, and removal shall be subject to the same provisions of law as govern other corresponding civil employees of the municipality. The commission may also contract with city planners, engineers, architects, and other consultants for such services as it may require. The expenditures of the commission, exclusive of gifts, shall be within the amounts appropriated for the purpose by council, which shall provide the funds, equipment, and accommodations necessary for the commission's work.

HISTORY: CL 1948, 125.35.

125.36 Municipal planning commission; adoption of master plan, contents, amendment.

Sec. 6. The commission shall make and adopt a master plan for the physical development of the municipality, including any areas outside of its boundaries which, in the commission's judgment, bear relation to the planning of the municipality. The plan, with the accompanying maps, plats, charts, and descriptive matter shall show the commission's recommendations for the development of the territory, including, among other things, the general location, character, and extent of streets, viaducts, subways, bridges, waterways, flood plains, water fronts, boulevards, parkways, playgrounds and open spaces, the general location of public buildings and other public property, and the general location and extent of public utilities and terminals, whether publicly or privately owned or operated, for water, light, sanitation, transportation, communication, power, and other purposes; also the removal, relocation, widening, narrowing, vacating, abandonment, change of use or extension of any of the foregoing ways, grounds, open spaces, buildings, property, utilities or terminals; the general location, character, layout and extent of community centers and neighborhood units; and the general character, extent and layout of the replanning and redevelopment of blighted districts and slum areas; as well as a zoning plan for the control of the height, area,

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bulk, location, and use of buildings and premises. As the work of making the whole master plan progresses, the commission from time to time may adopt and publish parts thereof, any such part to cover 1 or more major sections or divisions of the municipality or 1 or more of the aforesaid or other functional matters to be included in the plan. The commission from time to time may amend, extend, or add to the plan.

HISTORY: Am. 1943, p. 227, Act 163, Eff. July 30;—CL 1948, 125.36;—Am. 1962, p. 132, Act 138, Eff. Mar. 28, 1963.

125.37 Municipal planning commission; surveys for basis, purpose.

Sec. 7. In the preparation of such plan the commission shall make careful and comprehensive surveys and studies of present conditions and future growth of the municipality and with due regard to its relation to the neighboring territory. The plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the municipality and its environs which will, in accordance with present and future needs, best promote health, safety, morals, order, convenience, prosperity, and general welfare, as well as efficiency and economy in the process of development; including, among other things, adequate provision for traffic, the promotion of safety from fire and other dangers, adequate provision for light and air, the promotion of the healthful and convenient distribution of population, the promotion of good civic design and arrangement, wise and efficient expenditure of public funds, and the adequate provision of public utilities and other public requirements.

HISTORY: CL 1948, 125.37.

125.38 Municipal planning commission; adoption of part or whole of plan; public hearing, notice.

Sec. 8. The commission may adopt the plan as a whole by a single resolution or may by successive resolutions adopt successive parts of the plan, said parts corresponding with major geographical sections or divisions of the municipality or with functional subdivisions of the subject matter of the plan, and may adopt any amendment or extension thereof or addition thereto. Before the adoption of the plan or any such part, amendment, extension, or addition the commission shall hold at least 1 public hearing thereon, notice of the time and place of which shall be given, not less than 15 days prior to such hearing, by 1 publication in a newspaper of general circulation in the municipality and in the official gazette, if any, of the municipality, and by registered United States mail to each public utility company and to each railroad company owning or operating any public utility or railroad within the geographical sections or divisions of the municipality affected. The adoption of the plan or of any such part or amendment or extension or addition shall be by resolution of the commission carried by the affirmative votes of not less than 6 members of the commission. The resolution shall refer expressly to the maps and descriptive and other matter intended by the commission to form the whole or part of the plan, and the action taken shall be recorded on the map and plan and descriptive matter by the identifying signature of the chairman and/or secretary of the commission. An attested copy of the plan or part thereof shall be certified to council and to the county register of deeds.

HISTORY: Am. 1941, p. 511, Act 297, Eff. Jan. 10, 1942;—CL 1948, 125.38.

125.39 Municipal planning commission; public works; powers of council; failure to act; program.

Sec. 9. Whenever the commission shall have adopted the master plan of the municipality or of 1 or more major sections or districts thereof no street, square, park, or other public way, ground, or open space, or public building or structure, shall be constructed or authorized in the municipality or in such planned section and district until the location, character, and extent thereof shall have been submitted to and approved by the commission: Provided, That in case of disapproval the commission shall com-

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municate its reasons to council, which shall have the power to overrule such disapproval by a recorded vote of not less than 2/3 of its entire membership: Provided, however, That if the public way, ground, space, building, structure, or utility be one the authorization or financing of which does not under the law or charter provisions governing same, fall within the province of the municipal council, then the submission to the planning commission shall be by the board, commission, or body having such jurisdiction, and the planning commission's disapproval may be overruled by said board, commission, or body by a vote of not less than 2/3 of its membership. The failure of the commission to act within 60 days from and after the date of official submission to the commission shall be deemed approval. For the purpose of furthering the desirable future development of the municipality under the master plan the city planning commission, after the commission shall have adopted a master plan, shall prepare coordinated and comprehensive programs of public structures and improvements. The commission shall annually prepare such a program for the ensuing 6 years, which program shall show those public structures and improvements, in the general order of their priority, which in the commission's judgment will be needed or desirable and can be undertaken within the 6-year period. The above comprehensive coordinated programs shall be based upon the requirements of the community for all types of public improvements, and, to that end, each agency or department of such municipality concerned with such improvements shall upon request furnish the commission with lists, plans and estimates of time and cost of public structures and improvements within the purview of such department.

HISTORY: Am. 1943, p. 227, Act 163, Eff. July 30;—CL 1948, 125.39.

125.40 Municipal planning commission; rescission of action by legislative body; procedure.

Sec. 10. Whenever the council or legislative body of any municipality shall have ordered the opening, widening or extension of any street, avenue or boulevard, or whenever the council or other legislative body shall have ordered that proceedings be instituted for the acquisition or enlargement of any park, playground, playfield or other public open space, such resolution shall not be rescinded until after the matter has been referred back to the city planning commission for a report and until after a public hearing shall have been held. The council shall have power to overrule the recommendation of the city planning commission by a vote of not less than 2/3 of its entire membership.

HISTORY: CL 1948, 125.40.

125.41 Municipal planning commission; publicity and education, gifts, cooperation from public officials.

Sec. 11. The commission shall have the power to promote public interest in and understanding of the plan and to that end may publish and distribute copies of the plan or of any report and may employ such other means of publicity and education as it may determine. Members of the commission, when duly authorized by the commission, may attend city planning conferences or meetings of city planning institutes, or hearings upon pending city planning legislation, and the commission may, by resolution spread upon its minutes, pay the reasonable traveling expenses incident to such attendance. The commission shall, from time to time, recommend to the appropriate public officials programs for public structures and improvements and for the financing thereof. It shall be part of its duties to consult and advise with public officials and agencies, public utility companies, civic, educational, professional, and other organizations, and with citizens with relation to the protecting or carrying out the plan. The commission shall have the right to accept and use gifts for the exercise of its functions. All public officials shall, upon request, furnish to the commission, within a reasonable

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time, such available information as it may require for its work. The commission, its members, officers, and employees, in the performance of their functions, may enter upon any land and make examinations and surveys and place and maintain necessary monuments, and marks thereon. In general, the commission shall have such powers as may be necessary to enable it to fulfill its functions, promote municipal planning, or carry out the purposes of this act.

HISTORY: CL 1948, 125.41.

125.42 Municipal planning commission; succession to zoning commission.

Sec. 12. The commission shall have all powers heretofore granted by law to the zoning commission of the municipality, and, from and after the creation of a planning commission in such municipality, all powers and records of the zoning commission shall be transferred to the planning commission: Provided, however, That in the event that the existing zoning commission shall be nearing the completion of its zoning plan, council may, by resolution, postpone the said transfer of the zoning commission's powers until the completion of such zoning plan; but such postponement shall not exceed a period of 1 year.

HISTORY: CL 1948, 125.42.

125.43 Municipal planning commission; necessity of approval of plats; street system.

Sec. 13. Whenever planning commission shall have adopted that sort of a master plan relating to the major street system of the territory within its subdivision jurisdiction or part thereof, and shall have filed a certified copy of such plan in the office of the county register of deeds of the county in which such territory or part is located, then no plat of a subdivision of land within such territory or part shall be filed or recorded until it shall have been approved by such planning commission and such approval entered in writing on the plat by the chairman or secretary of the commission.

HISTORY: CL 1948, 125.43.

125.44 Municipal planning commission; regulations governing subdivision of land; bond to secure improvement; publication of regulations.

Sec. 14. Before exercising the powers referred to in section 13, the planning commission shall adopt regulations governing the subdivision of land within its jurisdiction. Such regulations may provide for the proper arrangement of streets in relation to other existing or planned streets and to the master plan, for adequate and convenient open spaces for traffic, utilities, access of fire-fighting apparatus, recreation, light and air, and for the avoidance of congestion of population, including minimum width and area of lots.

Such regulations may include provisions as to the extent to which streets and other ways shall be graded and improved and to which water and sewer and other utility mains, piping, or other facilities shall be installed as a condition precedent to the approval of the plat. The regulations or practice of the commission may provide for a tentative approval of the plat previous to such installation; but any such tentative approval shall be revocable and shall not be entered on the plat. In lieu of the completion of such improvements and utilities prior to the final approval of the plat, the commission may accept a bond with surety to secure to the municipality the actual construction and installation of such improvements or utilities at a time and according to specifications fixed by or in accordance with the regulations of the commission. The municipality is hereby granted the power to enforce such bond by all appropriate legal and equitable remedies.

All such regulations shall be published as provided by law for the publication of ordinances, and before adoption, a public hearing shall be held thereon. A copy thereof

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shall be certified by the commission to the recorders of the counties in which the municipality and territory are located.

HISTORY: CL 1948, 125.44.

125.45 Municipal planning commission; approval or disapproval of plats, procedure, effect.

Sec. 15. The planning commission shall approve, modify or disapprove a plat within 60 days after the submission thereof to it; otherwise such plat shall be deemed to have been approved, and a certificate to that effect shall be issued by the commission on demand: Provided, however, That the applicant for the commission's approval may waive this requirement and consent to an extension of such period. The ground of disapproval of any plat shall be stated upon the records of the commission. Any plat submitted to the commission shall contain the name and address of a person to whom notice of a hearing shall be sent; and no plat shall be acted on by the commission without affording a hearing thereon. Notice shall be sent to the said address by registered mail of the time and place of such hearing not less than 5 days before the date fixed therefor. Similar notice shall be mailed to the owners of land immediately adjoining the platted land, as their names appear upon the plats in the county auditor's office and their addresses appear in the directory of the municipality or on the tax records of the municipality or county. Every plat approved by the commission shall, by virtue of such approval, be deemed to be an amendment of or an addition to or a detail of the municipal plan and a part thereof. Approval of a plat shall not be deemed to constitute or effect an acceptance by the public of any street or other open space shown upon the plat. The planning commission may, from time to time, recommend to council amendments of the zoning ordinance or map or additions thereto to conform to the commission's recommendations for the zoning regulation of the territory comprised within approved subdivisions. The commission shall have the power to agree with the applicant upon use, height, area or bulk requirements or restrictions governing buildings and premises within the subdivision, provided such requirements or restrictions do not authorize the violation of the then effective zoning ordinance of the municipality. Such requirements or restrictions shall be stated upon the plat prior to the approval and recording thereof and shall have the same force of law and be enforceable in the same manner and with the same sanctions and penalties and subject to the same power of amendment or repeal as though set out as a part of the zoning ordinance or map of the municipality.

HISTORY: CL 1948, 125.45.

Sec. 16. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 414, Act 267, Imd. Eff. May 25.

Act 222, 1943, p. 361; Eff. Jul. 30.

AN ACT enabling the planning commissions of cities and villages, after adoption of a master plan, to certify plats of precised portions thereof to the legislative body, and enabling cities and villages by ordinance to adopt such certified plats showing the future outside lines of streets, ways, places, parks, playgrounds and other public grounds, and to regulate buildings within such lines.

The People of the State of Michigan enact:

125.51 Municipal planning commission; authorization to certify plats; estimate of time period for land acquisitions.

Sec. 1. After the planning commission of any city or village shall have lawfully adopted a master plan for the physical development of the municipality or of 1 or

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more major sections or divisions thereof, it shall have the power to make or cause to be made and certify to the legislative body of such municipality, from time to time, detailed and precised plats, each showing the exact location of the proposed future outside lines of 1 or more new, extended or widened streets, avenues, places or other public ways, or of 1 or more parks, playgrounds or other public grounds or extensions thereof shown on such adopted master plan. At the time of each such certification to the legislative body, the commission shall transmit an estimate of the time period within which the land acquisitions for public use indicated on the certified plat should be accomplished. The making or certifying of such a plat by the commission shall not in and of itself constitute or be deemed to constitute the opening and establishment of any street or the taking or acceptance of any land for any of the aforesaid purposes.

HISTORY: CL 1948, 125.51.

125.52 Adoption by legislative body; notice before consideration; modifications; disapproval; failure to report within 30 days deemed approval.

Sec. 2. The legislative body of any city or village may by ordinance adopt any such precised plat certified to it by the planning commission as provided in section 1: Provided, That notice of time and place when and where it shall be considered for final passage shall be sent by mail to the record owners of land located within or abutting on the new lines of such proposed streets, ways, places, parks, playgrounds or other public grounds or extensions thereof designated on the plat. Any modification of such certified plat before passage of the adopting ordinance, and any amending ordinance originating in the legislative body shall be submitted to the planning commission for its approval: Provided, That in case of disapproval the commission shall communicate its reasons therefor to the legislative body which shall thereafter have the power to overrule such disapproval by a recorded vote of not less than 2/3 of its entire membership. Failure of the planning commission to report on any such modification or amendment within 30 days shall be deemed to constitute an approval thereof. The adoption of any such certified plat by ordinance, or by amending ordinance, shall not in and of itself constitute or be deemed to constitute the opening or establishment of any street or the taking or acceptance of any land for any of the aforesaid purposes.

HISTORY: CL 1948, 125.52.

125.53 Amendments or modifications; notice of consideration; approval.

Sec. 3. Amendments or modifications to such certified plats, in conformity with lawfully adopted changes, or additions to the adopted master plan may be made and certified by the commission to the legislative body, and ordinances embodying amendments to or changes in such certified plats may be adopted by the legislative body, in accordance with the procedure prescribed by law for the enactment of municipal ordinances: Provided, That notice of the time and place when and where it shall be considered by final passage shall be sent by mail to the record owners of land located within or abutting on the lines of proposed streets, ways, places, parks, playgrounds, or other public grounds. Any such proposed amendment or change shall be submitted to and approved by the planning commission: Provided, That in case of disapproval the commission shall communicate its reasons to the legislative body which shall have the power to overrule such disapproval by a recorded vote of not less than 2/3 of its entire membership. Any plat of a street, park, playground, or public ground certified by the planning commission to the legislative body under this act shall be deemed approved by the commission without further submission thereof to said commission.

HISTORY: CL 1948, 125.53.

125.54 Building permits, granting; public hearing.

Sec. 4. For the purpose of accomplishing a coordinated, adjusted, and harmonious development of the municipality and its environs which will, in accordance with pres-

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ent and future needs, best promote health, safety, morals, order, convenience, prosperity, and general welfare, as well as efficiency and economy in the process of development; including, among other things, adequate provision for traffic, the promotion of safety from fire and other dangers, adequate provision for light and air, the promotion of the healthful and convenient distribution of population, the promotion of good civic design and arrangement, wise and efficient expenditure of public funds, and the adequate provision of public utilities and other public requirements, the legislative body of any city or village may provide by ordinance that no permit shall be issued for, and no building or structure or part thereof shall be erected on any land located within the proposed future outside lines of any new, extended or widened street, avenue, place or other public way, or of any park, playground or other public grounds or extension thereof shown on any such certified and adopted plat. Any such ordinance shall provide that the zoning board of appeals, if the municipality has such a board, or if not, that a board of appeals created for the purpose in such ordinance, shall have the power on appeal filed with it by the owner of such land to authorize the granting of a permit for and the erection of a building, or structure, or part thereof, within the lines of any such mapped street, park, playground, or other public ground in any case in which such board finds, upon the evidence and arguments presented to it on such appeal, (a) that the entire property of the appellant located in whole, or in part, within the lines of such mapped street, park, playground, or other public ground cannot yield a reasonable return to the owner unless such permit be granted, and (b) that, balancing the interest of the municipality in preserving the integrity of the adopted map, and the interest of the owner of the property in the use and benefits of his property, the granting of such permit is required by considerations of justice and equity. Before taking any such action, the board of appeals shall hold a public hearing thereon, at least 10 days' notice of the time and place of which shall be given to the appellant by mail at the address specified by the appellant in his appeal petition. In the event that the board of appeals decides to authorize a building permit and erection, it shall have the power to specify the exact location, ground area, height, and other details and conditions of size, character and construction, and also the duration of the building, structure, or part thereof to be permitted.

HISTORY: CL 1948, 125.54.

125.55 Outside lines shown by appropriate symbols on maps.

Sec. 5. The proposed future outside lines of streets, parks, playgrounds and other public grounds shown on any plat certified and adopted as hereinbefore provided, may for convenience be shown, wholly or in part, by appropriate symbols on any official map or other map of the city or village: Provided, That showing such lines on any map shall not in and of itself constitute or be deemed to constitute the opening or establishment of any street or the taking or acceptance of any land for any of the aforesaid purposes.

HISTORY: CL 1948, 125.55.

Sec. 6. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 416, Act 287, Imd. Eff. May 25.

Act 344, 1945, p. 637; Imd. Eff. May 31.

AN ACT to authorize counties, cities, villages and townships of this state to adopt plans for the rehabilitation of blighted areas; to authorize assistance in carrying out such plans by the acquisition of real property and the disposal of real property in such areas; to prescribe the methods of financing the exercise of these powers, and to declare the effect of this act.

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The People of the State of Michigan enact:

125.71 Rehabilitation of blighted areas.

Sec. 1. It is hereby found and declared that large areas in the municipalities of the state have become blighted, with the consequent impairment of taxable values upon which, in large part, municipal revenues depend; that such blighted areas are detrimental or inimical to the health, safety, morals, and general welfare of the citizens, and to the economic welfare of the municipality; that in order to improve and maintain the general character of the municipality, it is necessary to rehabilitate such blighted areas; that the conditions found in blighted areas can not be remedied by the ordinary operations of private enterprise, with due regard to the general welfare of the public, without public participation in the planning, property, acquisition, disposition and financing thereof; that the purposes of this act are to rehabilitate such areas by acquiring and developing properties within such areas for the protection of the health, safety, morals and general welfare of the municipality, to preserve existing values of other properties within or adjacent to such areas, and to preserve the taxable value of the property within such areas; and the necessity in the public interest for provisions herein enacted is hereby declared as a matter of legislative determination to be a public purpose and a public use.

HISTORY: CL 1948, 125.71.

CITED IN OTHER SECTIONS: Sections 125.71 to 125.83 are cited in §§ 125.971, 125.1501, 213.361, and 560.103.

125.72 Rehabilitation of blighted areas; definitions.

Sec. 2. When used in this act:

(a) "Blighted area" means a portion of a municipality, developed or undeveloped, improved or unimproved, characterized by obsolescence, physical deterioration of structures therein, improper division or arrangement of lots and ownerships and streets and other open spaces, mixed character and uses of the structures, or any other similar characteristics which endanger the health, safety, morals, or general welfare of the municipality, and which may include any buildings or improvements not in themselves obsolescent, and any real property, residential or nonresidential, whether improved or unimproved, the acquisition of which is deemed necessary for rehabilitation of the area.

(b) "Municipality" means any county, city, village or township in the state.

(c) "Development plan" means a plan for the rehabilitation of all or any part of a blighted area.

(d) "Development area" means that portion of a blighted area to which a development plan is applicable.

(e) "Real property" means land, buildings, improvements, land under water, waterfront property, and any and all easements, franchises and hereditaments, corporeal or incorporeal, and every estate, interest, privilege, easement, franchise and right therein, or appurtenant thereto, legal or equitable, including rights of way, terms for years, and liens, charges, or incumbrances by mortgage, judgment or otherwise.

(f) "Local taxes" means state, county, city, village, township and school taxes, any special district taxes, and any other tax on real property, but shall not include special assessment for local benefit improvements.

(g) "Public use" when used with reference to land reserved for such purpose means only such uses as are for the general use and benefit of the public as a whole, such as schools, libraries, public institutions, administration buildings, parks, boulevards, playgrounds, streets, alleys, easements for sewers, public lighting, water, gas, or other similar utilities.

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(h) "Project" means all of the undertakings herein authorized for the rehabilitation of a blighted area.

HISTORY: Am. 1947, p. 357, Act 237, Eff. Oct. 11;—CL 1948, 125.72;—Am. 1952, p. 366, Act 222, Imd. Eff. May 2;—Am. 1957, p. 435, Act 296, Eff. Sep. 27;—Am. 1965, p. 389, Act 227, Imd. Eff. Jul. 16.

125.73 Power of municipality.

Sec. 3. Any municipality is hereby granted the power to bring about the rehabilitation of blighted areas and the prevention, reduction or elimination of blight, blighting factors or causes of blight, and for that purpose to acquire real property by purchase, gift, exchange or condemnation, and to lease, sell or exchange such real property in accordance with the provisions of this act.

HISTORY: CL 1948, 125.73.

125.74 Rehabilitation of blighted areas; definitions; plans.

Sec. 4. (1) As used in this section:

(a) "District area" means a portion of a municipality consisting of 1 or more adjacent or nearby development areas and any surrounding territory that will be significantly affected by the plan for the development area or areas, where a majority of residents in the district area reside in the development area or areas.

(b) "Development plan" and "Development area" have the same meaning as defined in section 2.

(c) "Citizens' district council" means any citizens' district council established under the terms of this act.

(d) "Coordinating council on community redevelopment" means any coordinating council on community redevelopment established under the terms of this act.

Conditions to exercise powers.

(2) The following plans, statements and actions are made requisite for and conditions of the exercise of the powers herein granted for the acquisition, sale or lease of real property for the carrying out of a development plan in a development area:

Master plan.

(a) A master plan of the municipality adopted by the local legislative body, or a master plan which is sufficiently advanced to designate areas in need of rehabilitation.

Development plan.

(b) A plan adopted by the local legislative body of the general features of development of the district within which the development area lies and of other districts adjacent to the development area, of such extent, content and particularity as is necessary to the coordination of the development area plan with the future development of the territory surrounding the development area, or, if no future development is planned, then in coordination with the present development.

District areas; citizen councils; consultation; records.

(c) District areas shall be designated for all development areas that have been approved by a local legislative body and subject to the terms of this act as of January 1, 1968, and all subsequent development areas that are so approved. No district area shall be designated unless the local legislative body shall first hold a public hearing thereon. The legislative body shall give notice of such public hearing not less than 20 nor more than 30 days prior to the date for the public hearing.

For each district area, a citizens' district council of not less than 12 nor more than 25 members shall be selected in a manner that ensures that the citizens' district council is to the maximum extent possible representative of the residents of the area and of other persons with a demonstrable and substantial interest in the area. The majority of the citizens' district council shall be composed of citizens living in the development area. The term of office on the councils shall be for 3 years. Upon the expiration of the

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terms of the members of the citizens' district council now serving, 1/3 shall be elected or appointed for 3 years, 1/3 for 2 years and 1/3 for 1 year. Members of the council may be selected by direct election by the residents of the area and other persons with a demonstrable and substantial interest in the area, or may be appointed by the chief executive officer of the municipality after consultation with local community groups and residents of the area or by a combination of appointment and election. The method of selection of the citizens' district council, and any appointments to the council by the chief executive officer, shall be determined with the approval of the local legislative body after a public hearing has been held, with public notice of such hearing distributed throughout the district area at least 20 days prior to the date of the hearing. Citizens' district councils shall be established within 45 days of any initial designation of a development area by any local planning agency or local legislative body, except that regarding any development area or development plan in effect as of the effective date of this act, the citizens' district council shall be established within 90 days of the effective date of this act.

In a city of over 1,000,000, the local legislative body shall adopt an ordinance governing the composition and method of selecting the members of the citizens' district councils, with the limitation that any such ordinance shall provide for a majority of the citizens' district council to be composed of citizens living in a development area or areas.

The local official responsible for preparation of the development plan within the district area shall periodically consult with and advise the citizens' district council regarding all aspects of the plan, including the development of new housing for relocation purposes located either inside or outside of the development area. The consultation shall begin prior to any final decisions by any local planning agency or local legislative body regarding the development plan other than the designation of the development area. The consultation shall continue throughout the various stages of the development plan, including the final implementation of the plan. The local officials responsible for the development of the plan shall incorporate into the development plan the desires and suggestions of the citizens' district council to the extent feasible. No local commission, public agency, or local legislative body of any municipality shall approve any development plan for a development area unless there has previously been consultation between the citizens' district council and the local officials responsible for the development plan.

A record of the meetings, including information and data presented, shall be maintained and included in official presentation of the proposed development plan to the local legislative body. The chief executive officer of the municipality shall give the citizens' district council written notice of any contemplated zoning change, hearing or condemnation proceedings within the district area. The notice shall be given at least 20 days prior to the effective date of the change or the date of the hearing or proceedings. Upon receiving a request from the citizens' district council, the local legislative body shall hold a public hearing on the proposed zoning change or condemnation proceedings. Each citizens' district council may call upon any city department for information.

Coordinating council on community redevelopment.

(d) In a municipality with 2 or more district areas, each citizens' district council shall elect 4 of its members who shall compose the entire membership of the coordinating council on community redevelopment. The committee shall advise local units of government on proposed policy on urban renewal, make recommendations for new projects and promote better relations between local units of government and residents of urban renewal areas. Notwithstanding any other provisions of this act, the forma-

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tion of a coordinating council on community redevelopment shall not be a requisite for or condition of the exercise of the powers herein granted for the acquisition, sale or lease of real property or the carrying out of a development plan in a development area.

Development plan; adoption; contents; hearing.

(e) (i) A development plan, adopted by the local legislative body, after consultation with a citizens' district council and a subsequent public hearing thereon as hereinafter provided of the development area in which the land proposed to be acquired is located or for the effectuation or protection of which development the proposed land acquisition is deemed necessary. The plan shall designate the location and extent of streets and other public facilities within the area and shall designate the location, character and extent of the categories of public and private land uses proposed for and within the area, such as residential, recreation, business, industry, schools, open spaces and others, and shall also include a feasible method for the relocation of families who will be displaced from the area in decent, safe and sanitary dwelling accommodations and without undue hardship to such families, and such other general features of the proposed rehabilitation as may be determined by the local legislative body. A feasible method for relocation of displaced families shall demonstrate that standard housing units are or will be available to the displaced families and individuals at rents or prices within their financial means, in reasonably convenient locations not less desirable than the development area with respect to utilities and facilities.

(ii) The plan shall designate the location, extent, character and estimated cost of the improvements contemplated for the area; and may include any or all of the following improvements:

Partial or total vacation of plats, or replatting; opening, widening, straightening, extending, vacating or closing streets, alleys or walkways; locating or relocating water mains, sewers, or other public or private utilities; paving of streets, alleys or sidewalks in special situations; acquiring parks, playgrounds, or other recreational areas or facilities; street tree planting, green belts or buffer strips and other appropriate public improvements.

(iii) The plan shall include estimates of the number of persons residing in the development area and the number of families and individuals to be displaced; a survey of their income and racial composition; a statistical description of the housing supply in the community, including the number of private and public units in existence or under construction, the annual rate of turnover of the various types of housing, and the range of rents and sale prices; an estimate of the total demand for housing in the community; and the estimated capacity of private and public housing available to displaced families and individuals.

(iv) A local administrative agency shall be designated to provide information concerning private and public housing available to displaced families and individuals and to advise and assist in their relocation.

Public hearing; notice; record.

(f) The local legislative body prior to its determination of such blighted area and its determination that there is a feasible method for relocation of families and individuals who will be displaced from the area, and prior to adoption of such development plan shall hold a public hearing thereon. Notice of the time and place of such hearing shall be given by publication in a newspaper of general circulation not less than 30 days prior to the date set for such hearing. Notice of such hearing shall be distributed in the blighted area at least 25 days before such hearing. Notice of such hearings shall be mailed at least 25 days before such hearing to the last known owner of each parcel of land in such blighted area at the last known address of such owner as shown by the

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records of the assessor. Such notice shall contain a description of the development area. For purposes of this notice it shall be sufficient to describe the boundaries of the development area by its location in relation to highways, streets, streams or otherwise. Such notice shall further contain a statement that maps, plats and particular description of the development plan, including the method of relocating families and individuals who will be displaced from the area, are available for public inspection at a place to be designated in such notice, and that all aspects of the development plan will be open for discussion at the public hearing. At the time set for hearing the local legislative body shall provide an opportunity for all persons interested to be heard and shall receive and consider communications in writing with reference thereto. The hearing shall provide the fullest opportunity for expression of opinion, for argument on the merits of the development plan, and for introduction of documentary evidence pertinent thereto. The local legislative body shall make and preserve a record of the public hearing, including specific findings of fact with respect to its determination of such blighted area and its determination that there is a feasible method for relocation of families and individuals who will be displaced from the area, all data presented at the public hearing and all other data which the legislative body considered in making its determinations.

Approval by citizens' district council.

(g) Within 10 days after the completion of the public hearing as provided in subsection (f) of this section, the citizens' district council for the district within which the proposed development area is located shall notify the local legislative body in writing of its approval or disapproval of the development plan. If the citizens' district council approves the plan or fails to notify the local legislative body of its approval or disapproval of the plan, the local legislative body is free to act on the plan. If the citizens' district council disapproves the plan and so notifies in writing the local legislative body, the local legislative body shall not adopt the plan for at least 30 days after receipt of the notice and during that period shall consult with the citizens' district council concerning its objections.

HISTORY: Am. 1947, p. 358, Act 237, Eff. Oct. 11;—CL 1948, 125.74;—Am. 1957, p. 436, Act 296, Eff. Sep. 27;—Am. 1968, p. 281, Act 189, Imd. Eff. Jun. 22;—Am. 1969, p. 349, Act 173, Imd. Eff. Aug. 5.

125.74a Racial segregation in housing; consultation and assistance of state civil rights commission.

Sec. 4a. No action taken under this act shall have the effect of promoting or perpetuating racial segregation in housing. To secure this objective, the local legislative body, municipal officials and agencies, citizens' district councils, and the coordinating council on urban redevelopment may consult with and seek the assistance of the state civil rights commission.

HISTORY: Add. 1968, p. 284, Act 189, Imd. Eff. Jun. 22.

125.75 Rehabilitation of blighted areas; acquisition of property, condemnation; dispossession.

Sec. 5. For the accomplishment of the purposes of this act, the municipality shall acquire fee simple title in real property by purchase, gift, exchange, condemnation or otherwise, and shall apply such real property thereafter to the expressed purposes of this act.

The local legislative body may institute and prosecute proceedings under the power of eminent domain in accordance with the laws of the state or provisions of any local charter relative to condemnation. The purposes contemplated by this act are hereby declared to be public purposes within the meaning of the constitution, state laws and charters relative to the power of eminent domain. No resident owner in a develop-

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ment area may be dispossessed after condemnation under the provisions of this act until other adequate housing accommodations are available, to the people displaced.

HISTORY: Am. 1947, p. 359, Act 237, Eff. Oct. 11;—CL 1948, 125.75;—Am. 1957, p. 437, Act 296, Eff. Sep. 27.

125.75a Rehabilitation of blighted areas; urban renewal plat.

Sec. 5a. Where, pursuant to the development of a project, disposition of acquired lands in accordance with the development plan is hampered by reason of the size or character of the lots or tracts of land within the development area, and where diversification of ownership within the development area prohibits redesign by means of a proprietor's plat, the municipality, by action of its governing body, may authorize a plat or replat of the area or any part thereof to be made by a registered civil engineer or a registered land surveyor.

The plat shall be prepared, approved and recorded as provided in Act No. 172 of the Public Acts of 1929, as amended, being sections 560.1 to 560.80 of the Compiled Laws of 1948, except that the certificate of the county and city treasurer relating to tax titles and tax liens shall not be required, and in lieu of the signature of the proprietor of the land the dedication shall be signed by the director of urban renewal or by the administrative officer of the municipality and shall refer to this act as the authority for certification. There shall be set forth in the title of the plat the words "urban renewal plat" or "urban renewal replat". Unplatted and previously platted lands may be included in the same plat, and such plat shall supersede all previously recorded plats in the area covered by the urban renewal plat or urban renewal replat.

All lands within the development area, whether publicly or privately owned, may be included in the urban renewal plat or urban renewal replat, and all land so platted shall be divided into lots and be numbered in accordance with the development plan, except that no lot shall include property in both public and private ownership, nor in 2 or more individual private ownerships, unless such division is of a lot in a recorded subdivision which was so divided prior to the making of the urban renewal plat or urban renewal replat.

The plat or replat shall state in the dedication that necessary rights to all highways, streets, alleys and public places, including parks, green belts and buffer strips, have been acquired by the municipality by purchase, dedication, condemnation or adverse possession for public use, prior to the making of the urban renewal plat or urban renewal replat.

All easements retained by the municipality for the development of the project shall be designated on the urban renewal plat or urban renewal replat and become a part thereof.

An urban renewal plat or urban renewal replat shall conform in all respects to the urban renewal project plan for the area in which said plat or replat may be located. An urban renewal plat or urban renewal replat, when approved by the governing body where the lands are located, shall not be rejected for the reason that any lot shown thereon fails to meet minimum requirements as to width as prescribed by Act No. 172 of the Public Acts of 1929, as amended.

An urban renewal plat or urban renewal replat, when recorded and filed, shall be treated in respect to assessment, return of taxes and sale of lands for delinquent taxes and for all other purposes, the same as if made by the proprietor under the general provisions of Act No. 172 of the Public Acts of 1929, as amended.

HISTORY: Add. 1959, p. 371, Act 244, Imd. Eff. Aug. 13.

125.76 Acquisition of property; jurisdiction of public agencies.

Sec. 6. After the acquisition of the real property, such property as will be used by public agencies shall be transferred to or placed under the jurisdiction of the appropriate public agencies for public use as defined in this act. The remainder of the land

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which, in accordance with the development plan, is to be devoted to private uses shall be sold, leased or exchanged to corporations, companies or individuals, or to urban redevelopment corporations whose use of such property shall be in accordance with the limitations and conditions provided in the development plan.

Any such sale, lease or exchange may be made without public bidding but only after public hearing by the local legislative body upon the proposed sale, lease or exchange and the provisions thereof. The sale, lease or exchange shall be under terms and conditions fixed by the local legislative body and shall contain provisions that the development plan for the property shall be carried out.

HISTORY: CL 1948, 125.76.

125.77 Repealed. 1957, p. 439, Act 296, Eff. Sep. 27.

Section authorized municipalities to finance rehabilitation of blighted areas by taxation, bonds, or assessment to a special district.

125.77a Municipal bonds; payable from income, terms, interest.

Sec. 7a. A municipality may issue bonds or notes from time to time in its discretion to finance the undertaking of any project authorized by this act including, without limiting the generality thereof, the payment of principal and interest on any advances or loans made for surveys and plans for any project authorized by this act, and may issue refunding bonds or notes for the payment or retirement of such bonds or notes previously issued by it either before or after the effective date of this section. The bonds or notes shall be made payable, as to both principal and interest, solely from the income, proceeds, revenues and funds of the municipality derived from or held in connection with its undertaking and carrying out of any projects under this act. Payment of the bonds or notes both as to principal and interest, may be further secured by a pledge of any loan, grant or contribution due or to become due from the federal government or other source, in aid of any projects of the municipality under this act. Bonds or notes issued under this section shall not constitute an indebtedness within the meaning of any constitutional, statutory or charter debt limitation or restriction, and shall not be subject to the provisions of any other law or charter relating to the authorization, issuance or sale of bonds or notes and may be issued without vote of the electors of the municipality. Bonds or notes issued under the provisions of this section are declared to be issued for an essential public and governmental purpose, and, together with interest thereon and income therefrom, shall be exempted from all taxes. Bonds or notes issued under this section shall not require as a condition precedent to their issuance approval of the municipal finance commission. Bonds or notes issued under this section shall be authorized by resolution or ordinance of the legislative body of the municipality and may be issued in one or more series and shall bear such dates, be payable at such times, bear interest at such rates, not exceeding 6% per annum, be in such denominations, be in such form either with or without coupons, carry such registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such places, and be subject to such terms of redemption, with or without premium, be secured in such manner, and have such other characteristics as may be provided by the resolution or ordinance. The bonds or notes may be sold at not less than par at public sale held after notice published prior to the sale in a newspaper having a general circulation in the municipality and in such other medium of publication as the municipality may determine or may be exchanged for other bonds or notes on the basis of par. The bonds or notes may be sold to the federal government at private sale at not less than par, and, if less than all of the authorized principal amount of the bonds or notes is sold to the federal government, the balance may

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be sold at private sale at not less than par at an interest cost to the municipality of not to exceed the interest cost to the municipality of the portion of the bonds or notes sold to the federal government.

HISTORY: Add. 1957, p. 437, Act 296, Eff. Sep. 27.
CITED IN OTHER SECTIONS: The above section is cited in § 125.946b.

125.77b Municipal general obligation bonds; approval, maximum issue, time of sale; usefulness of improvements.

Sec. 7b. (1) For the purpose of providing funds to pay all or part of the cost of any project undertaken under this act or the net project cost of any project undertaken under this act with federal financial assistance, a municipality may provide by resolution duly adopted by its legislative body and without vote of the electors of the municipality for borrowing money and issuing general obligation bonds of the municipality therefor, which bonds shall pledge the full faith and credit of the municipality. The term "cost of any project" as used in this section means any or all of the following items: Cost of land acquisition, demolition of buildings, land and site improvements, plans, surveys, appraisals and all other costs relating to the acquisition, rehabilitation, financing, and disposal of any project or any part thereof under the terms of this act. The term "net project cost" as used in this section shall have the meaning ascribed thereto in section 110 (f) title 1 of the housing act of 1949, as amended (public law 171, 81st Congress, first session, approved July 15, 1949, as amended).

Issuance and sale; resolution; designation; approval; maximum.

(2) The bonds may be issued and sold from time to time during the progess of any project undertaken under this act, in which event the maximum amount of bonds so issued shall not exceed the estimated cost of any project undertaken under this act or the estimated net cost of any project undertaken under this act with federal assistance. The legislative body in the resolution authorizing issuance of the bonds shall set forth the estimate or the bonds may be issued when any project has been completed. Bonds issued under this section shall be designated "rehabilitation bonds". All bonds issued under this section shall be subject to the approval of the municipal finance commission, as provided in Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2 of the Compiled Laws of 1948, and shall be subject to the provisions thereof. It being the determination of this legislature that urban blight constitutes a serious menace to public health, welfare and safety of municipalities and their inhabitants and that the financing of projects designed to eliminate urban blight is necessary for the public health, welfare and safety, the bonds authorized to be issued under this section are declared to be issued for an essential public and governmental purpose. The maximum principal amount of bonds that may be authorized pursuant to this section in any year shall not exceed an amount equal to the limitation on the maximum rate of taxation for such year for the municipality authorized by law less the taxes actually levied for the year exclusive of debt service tax levies and less budget bonds for the year issued or authorized to be issued, and less any bonds authorized in such year to be issued pursuant to sections 6a and 6b of Act No. 208 of the Public Acts of 1949, as amended, being sections 125.946a and 125.946b of the Compiled Laws of 1948. In any city which now has or which may hereafter have a population of 750,000 or more, the city may issue bonds authorized pursuant to this section in a principal amount which in any year shall not exceed an amount equal to 2 ½% of the assessed value of the real and personal property in the city less the taxes actually levied for the year and less budget bonds authorized for the year issued or authorized to be issued and less any bonds authorized in such year to be issued pursuant to sections 6a and 6b of Act No. 208 of the Public Acts of 1949, as amended. Any bonds authorized to be issued pursuant to this section shall be sold not later than 3 full fiscal years from the end of the fiscal year in which the bonds are authorized to be issued. The maximum amount

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of bonds issued pursuant to this section that may be outstanding at any one time shall not, together with other outstanding indebtedness of the municipality, exceed the maximum limitations on bonded indebtedness of the municipality imposed by law.

Other laws not applicable.

(3) Except as herein otherwise provided, the bonds shall not be subject to the provisions of any other law or charter provision relating to their issuance or sale.

Estimated period of usefulness.

(4) The legislative body of any municipality issuing bonds pursuant to this section in the resolution authorizing issuance thereof shall estimate the period of usefulness of the planned improvements to be installed in the development area after the project is completed and the estimate shall constitute the estimate of the period of usefulness required by section 3, chapter 5 of Act No. 202 of the Public Acts of 1943, as amended, being section 135.3 of the Compiled Laws of 1948. The proceeds of sale of any bonds issued pursuant to this section may be used to pay part or all of the principal and interest on any notes or bonds issued pursuant to this act.

HISTORY: Add. 1957, p. 438, Act 296, Eff. Sep. 27;—Am. 1958, p. 66, Act 60, Imd. Eff. Apr. 8;—Am. 1970, p. 607, Act 223, Eff. Apr. 1, 1971.

CITED IN OTHER SECTIONS: The above section is cited in § 125.946b.

125.77c Tax revenues.

Sec. 7c. As an additional and alternative method of financing part or all of the costs of any project undertaken under this act, any municipality may use general tax revenues levied for the purpose or not otherwise earmarked.

HISTORY: Add. 1957, p. 439, Act 296, Eff. Sep. 27.

125.78 Loans and grants; acceptance, federal assistance, conditions; labor wages and standards.

Sec. 8. Municipalities are authorized and permitted to accept loans and grants from other government agencies to finance the purposes of this act, to borrow money and may issue bonds or notes therefor, to apply for and accept advances, loans, grants, contributions, and any other form of financial assistance from the federal government, the state, county, municipality or other public body or from any sources, public or private, for the purposes of this act, to give such security as may be required and to enter into and carry out contracts in connection therewith. A municipality, notwithstanding the provisions of any other law, may include in any contract for financial assistance with the federal government for a project as defined in this act such conditions imposed pursuant to federal law, to agree to any conditions that it may deem reasonable and appropriate attached to federal financial assistance and imposed pursuant to federal law, in the undertaking or carrying out of a project as defined in this act as the municipality may deem reasonable and appropriate and which are not inconsistent with the purposes of this act, and to include in any contract let in connection with such a project provisions to fulfill such of said conditions as it may deem reasonable and appropriate, including the payment of prevailing salaries and wages and compliance with federal labor standards.

HISTORY: CL 1948, 125.78;—Am. 1952, p. 367, Act 222, Imd. Eff. May 2;—Am. 1957, p. 439, Act 296, Eff. Sep. 27.

125.79 Modification of plan; hearing.

Sec. 9. If previous to the lease, sale or exchange of any real property in the development area, the local legislative body desires to modify the development plan, it shall hold a public hearing thereon, notice of such hearing to be given as provided in section 4 of this act. If the modification be approved by the local legislative body, it shall become a part of the approved development plan.

The part of a development plan which directly applies to a parcel of real property in the area, may be modified by the local legislative body at any time or times after the

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transfer or lease or sale of the parcel of real property in the area provided that the modification be consented to by the lessee or purchaser.

HISTORY: CL 1948, 125.79.

125.80 Work done in accordance with plan.

Sec. 10. On and after the date when a plan has been approved for the rehabilitation of an area by the local legislative body, no permit shall be issued for work or work done in the area which is not in accordance with the plan officially adopted and made effective by the local legislative body: Provided, however, That the local legislative body shall provide by ordinance that the zoning board of appeals, if the municipality has such a board, or if not, then a board of appeals created for the purpose, shall have the power on appeal filed with it by the owner of real property in the area to approve a minor deviation from the plan for the area in any case in which such board finds upon the evidence presented to it, that the application of the plan results in unnecessary hardship or practical difficulties and a minor deviation from the development plan is required by considerations of justice and equity. Before taking any such action, the board shall hold a public hearing thereon, at least 10 days' notice of the time and place of which shall be given by public notice in a newspaper published or circulated generally in the municipality and by notice to all property owners within 200 feet of the property in question, such notice to be by mail addressed to the respective owners at the address given in the last assessment roll.

HISTORY: CL 1948, 125.80.

125.81 Designation of administrative agency.

Sec. 11. The local legislative body may designate an administrative agency to be responsible for the administration of this act or by ordinance may create a commission for that purpose consisting of not more than 7 members, the majority of whom shall be residents of the municipality, and by suitable action shall establish regulations for the guidance of the agency or commission in the effectuation of the purposes of this act.

HISTORY: CL 1948, 125.81;—Am. 1961, p. 212, Act 147, Imd. Eff. May 31.

125.82 Action by ordinance or resolution; validation of prior actions.

Sec. 12. All actions of local legislative bodies under the provisions of this act shall be by ordinance or resolution and such ordinance or resolution shall be subject to the same provisions regarding procedure and executive veto as are applicable to other ordinances or resolutions of the legislative body. Any provision in this or any other act or in the charter of any municipality to the contrary notwithstanding, any action of local legislative bodies relating to the approval or modification of a development plan heretofore taken under the provisions of this act by resolution and all actions subsequent thereto dependent on such earlier actions are validated. Any development plan heretofore approved by resolution may thereafter be modified by resolution.

HISTORY: CL 1948, 125.82;—Am. 1968, p. 284, Act 189, Imd. Eff. Jun. 22.

125.83 Powers deemed additional.

Sec. 13. The powers granted in this act shall be in addition to powers granted to municipalities, the local legislative bodies thereof and other officials and bodies thereof under the statutes and local charters. Nothing herein contained shall be construed to amend or repeal any of the provisions of Act No. 18 of the Public Acts of 1933 as amended.

HISTORY: CL 1948, 125.83.

NOTE: The reference above should have been to Act 18, 1933, Ex. Ses., which is Compilers' § 125.651 et seq.

125.84 Urban renewal projects.

Sec. 14. For any urban renewal project initiated under this act:

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Projects initiated prior to June 22, 1968.

(a) Where the project was initiated prior to June 22, 1968, the local legislative body by resolution may exempt the project from the provisions of section 4, as amended, relating to district areas, citizens' district councils and coordinating councils on community redevelopment if on that date, of the persons residing in the project area at the time of project initiation and requiring relocation, 50% of such persons had relocated in accordance with law, or if on June 22, 1968, there were fewer than 100 such persons remaining to be relocated. The provisions of this subsection do not apply to a city of over 500,000 population.

Businesses exceed residences.

(b) Where the number of business establishments in the project area exceeds the number of occupied dwelling units in the area, the majority of the citizens' district council need not be composed of citizens living in the development area.

Citizens' district council as neighborhood advisory council.

(c) Where a citizens' district council is established pursuant to this act, it shall serve in lieu of and shall be deemed to satisfy all requirements relating to an urban renewal neighborhood advisory council required to be appointed pursuant to section 3 of Act No. 323 of the Public Acts of 1966, being section 125.963 of the Compiled Laws of 1948.

Hearing, notice.

(d) Where a hearing is required to be held prior to the adoption of a development plan, in the case of a neighborhood development program to be carried out under applicable regulations and guidelines of the United States department of housing and urban development, notwithstanding the notice requirements of section 4, notice of the hearing shall be deemed sufficient if such notice is distributed door-to-door and mailed to known property owners only in the specific area or areas where property is to be acquired or rehabilitated and mailed to all community organizations known to be interested in the project and posted in appropriate public buildings and appropriate other places of public gathering.

Boundaries, revision.

(e) The boundaries of the district area may be revised by the local legislative body if the existing citizens' district council is notified in writing by the local legislative body at least 10 days prior to final action on the revised boundaries. If new area is included in the revised district area, persons residing in or having a demonstrable and substantial interest in the newly included area may be elected or appointed to the revised citizens' district council in the same manner of selection as the original citizens' district council. Notwithstanding the maximum size prescribed for citizens' district councils, the number of persons to be selected to represent the newly included area shall be determined by the local legislative body. If the existing citizens' district council disapproves the revised boundaries or number of persons to be elected or appointed to the revised citizens' district council and so notifies the local legislative body in writing within the 10-day period, final action on the revised boundaries or the number of persons to be elected or appointed to the revised citizens' district council shall not be taken by the local legislative body for at least 30 days after receipt of the disapproval notice, during which time the local legislative body shall consult with the citizens' district council concerning its objections. Where a district area is revised persons serving on the citizens' district council as residents of the district area who no longer reside in the revised district area shall not thereafter serve on the citizens' district council for the revised area unless they are reappointed or reelected as persons with a demonstrable and substantial interest in the revised area.

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Citizens' district council vacancies.

(f) Vacancies on the citizens' district council may be filled by appointment of the chief executive officer of the municipality.

Time provisions, directory only.

(g) The time provisions of section 4 are directory and not mandatory and any development plan adopted after consultation with a citizens' district council as provided in section 4 shall not be invalid because such time provisions were not strictly complied with.

Validation of citizens' district councils.

(h) All citizens' district councils established as of the effective date of this section are validated notwithstanding noncompliance with the provisions of section 4 and all development plans heretofore adopted and all other actions heretofore taken by a municipality after consultation as required in section 4 with a citizens' district council shall not be invalid for any irregularities in the establishment, appointment or selection of such citizens' district council.

HISTORY: Add. 1969, p. 762, Act 336, Imd. Eff. Nov. 28.

Original section 14 of Act 344 of 1945, p. 637, was a severing clause section and was repealed by Act 129 of 1947.

125.91-125.94 Repealed. 1964, p. 279, Act 210, Eff. Aug. 28.

Sections provided grants in aid to regional planning commissions.

Act 282, 1945, p. 471; Eff. Sep. 6.

AN ACT to provide for county planning; the creation, organization, powers and duties of county planning commissions.

The People of the State of Michigan enact:

125.101 County planning commission; creation; existing commissions.

Sec. 1. Any county is hereby authorized and empowered to make, adopt, amend, extend, add to, or carry out a county plan as provided in this act and create by ordinance a planning commission with the powers and duties herein set forth. The planning commission of a county shall be designated the county planning commission.

All county planning commissions organized under Act No. 285 of the Public Acts of 1931, as amended, may immediately reconstitute themselves under this act or may continue to function under the former act as the official county planning commissions: Provided, That, upon expiration of the terms of existing membership of county planning commissions constituted under Act No. 285 of the Public Acts of 1931, all succeeding appointments shall be made in accordance with the provisions of this act: And provided, That upon passage of this act the powers exercised by county planning commissions so constituted shall be those specified for all county planning commissions in the terms of this act. All powers previously exercised by local planning commissions as provided by Act No. 285 of the Public Acts of 1931, which are in conflict with the provisions of the act herewith adopted, are hereby revoked.

HISTORY: CL 1948, 125.101.

NOTE: Act 285 of 1931, above referred to, is Compilers' §§ 125.31-125.45.

CITED IN OTHER SECTIONS: Sections 125.101 to 125.107 are cited in § 125.280.

125.102 County planning commission; members, appointment, terms, vacancies, compensation, expenses.

Sec. 2. The county planning commission shall consist of not less than 5 nor more than 11 members who shall individually be representative of important segments of the economic, governmental, social life and development of the particular county, in accordance with the major interests as they exist in the county, such as agriculture,

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recreation, education, government, transportation, industry and commerce. The county board of supervisors shall establish the basis for representative membership on the commission. A majority of commission members shall hold no other office or position in the county government. The method of appointment and the term of office of members of the commission shall be determined by resolution of a majority of the full membership of the county board of supervisors. The term of each appointed member shall be for 3 years, except that upon first appointment of the membership by the board, the terms of office may be varied to permit the establishment of overlapping terms of office and the terms of ex officio members shall correspond to their respective official tenures or as may be determined by the county board. The county board of supervisors shall provide for the filling of any vacancy in the membership of the commission for the unexpired terms and may remove any member for nonperformance of duty or misconduct upon public hearing. Members of the commission may receive the same compensation and mileage, but not to exceed that provided for members of the board of supervisors except that ex officio members shall serve without compensation. All members of the commission may be reimbursed for actual, reasonable and necessary expenses incurred in the discharge of their duties.

HISTORY: CL 1948, 125.102;—Am. 1964, p. 18, Act 12, Eff. Aug. 28.

125.102a County planning commission in certain counties; transfer to jurisdiction of county board of auditors.

Sec. 2a. In counties having a population between 650,000 and 1,000,000 and having a board of county auditors, any county planning commission and any planning department created or existing under the provisions of this act may, by resolution of the board of supervisors, be placed under the jurisdiction of the county board of auditors.

HISTORY: Add. 1968, p. 113, Act 91, Imd. Eff. Jun. 15.

125.103 County planning commission; officers; director; information, meetings, records.

Sec. 3. The commission shall elect a chairman from its appointive members; and appoint a secretary; and create and fill such other offices as it may determine advisable. The county board may appropriate funds for reimbursement of the members of the commission for such reasonable and necessary expenses as may be deemed necessary for carrying out the powers herein conferred and the duties herein prescribed. The commission may employ a director and such personnel as it may deem necessary, contract for the part time or full time services of planning and other technicians, and pay such other expenses within total funds provided for the commission, as may be deemed necessary. The appointment of employees shall be subject to the same provisions of law as govern other corresponding civil employees of the county. The county planning commission is authorized to make use of the expert advice and information which may be furnished by appropriate federal, state, county, and municipal officials, and departments and agencies having information, maps and data pertinent to county planning. State, county and municipal officials, departments, and agencies are hereby directed to make such information available for the use of the county planning commission as well as authorized to furnish such other technical assistance and advice as they may have available for such purpose. The commission shall hold meetings as often as is determined necessary, but not less than 4 regular meetings shall be held each year. It shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations which record shall be a public record.

HISTORY: CL 1948, 125.103.

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125.104 Development plans; duties of commission; coordinating agency.

Sec. 4. It shall be a function of the county planning commission to make a plan for the development of the county, which plan may include planning in cooperation with the constituted authorities for incorporated areas in whole or to the extent to which, in the commission's judgment, they are related to the planning of the unincorporated territory or of the county as a whole. The plan with accompanying maps, plats, charts, and all pertinent and descriptive explanatory matter shall show the planning commission's recommendations for the development of the county. In the preparation of a county development plan, the planning commission shall make careful and comprehensive studies of the existing conditions and probable growth of the territory within its jurisdiction. Such plan shall be made with the purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the county which will be in accordance with present and future needs for best promoting the health, safety, morals, order, convenience, prosperity and general welfare of the inhabitants, as well as for efficiency and economy in the process of development. It shall be the duty of the county planning commission to: (1) make studies, investigations, and surveys relative to the economic, social and physical development of the county; (2) formulate plans and make recommendations for the most effective economic, social and physical development of the county; (3) cooperate with all departments of the state and federal governments and other public agencies concerned with programs directed towards the economic, social and physical development of the county, and seek the maximum coordination of the county programs of these agencies; (4) consult with representatives of adjacent counties in respect to their planning so that conflicts in over-all county plans may be avoided.

The county planning commission may serve as a coordinating agency for all planning committees and commissions within the county.

HISTORY: CL 1948, 125.104.

125.104a County planning commission as metropolitan county planning commission; duties.

Sec. 4a. (1) The county planning commission may be designated by the board of supervisors as the metropolitan county planning commission. Any commission so organized shall perform metropolitan and regional planning, whenever necessary or desirable. The commission may engage in comprehensive planning, including but not limited to the following, to the extent directly related to urban needs:

(a) Preparation, as a guide for long-range development, of general physical plans with respect to the pattern and intensity of land use and the provision of public facilities, together with long-range fiscal plans for such development.

(b) Programming of capital improvements based on a determination of relative urgency, together with definitive financing plans for the improvements to be constructed in the earlier years of the program.

(c) Coordination of all related plans of the departments or subdivisions of the government concerned.

(d) Intergovernmental coordination of all related planned activities among the state and local governmental agencies concerned.

(2) In addition to the powers conferred by other provisions of this act, the commission may apply for, receive and accept grants from any governmental agency, or from the federal government, and agree to and comply with such terms and conditions as

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may be necessary, convenient or desirable. The commission may do any and all things necessary or desirable to secure the financial aid or cooperation of the federal government in carrying out the functions of the commission, when approved by a 2/3 vote of the board of supervisors.

HISTORY: Add. 1961, p. 352, Act 211, Eff. Sep. 8.

125.105 Development plans; adoption of plan; review; adoption by municipality.

Sec. 5. It shall be the duty of the county planning commission to adopt a plan for the development of the county. The county plan with accompanying maps, plats, charts, and descriptive and explanatory matter shall show the commission's recommendations for the development of the county. The county planning commission may adopt the plan as a whole by a single resolution, or may by successive resolutions adopt successive parts of the plan, said parts corresponding to major geographical sections of the county or to functional divisions of the subject matter of the plan, and may adopt any amendment or extension thereof or addition thereto. The adoption of the plan, or of any such part, amendment, extension, or addition, shall by resolution be carried by the affirmative votes of not less than a majority of the full membership of the commission after duly advertised public hearing. The resolution shall refer expressly to the maps, plats, charts, and descriptive and explanatory matter intended by the commission to form the whole or part of the plan, and the action taken shall be recorded on the maps, plats, charts, and descriptive and explanatory matter by the identifying signature of the chairman of the commission. Following adoption of the county plan or any part thereof and the certification by the commission to the county board of supervisors of a copy of the county plan, no work shall be initiated on any project involving the expenditure of funds by a county board, department or agency for the acquisition of land, the erection of structures, the extension, construction or improvement of any physical facility by any county board, department or agency unless a full description of the project, its proposed location and extent thereof shall have been submitted to the county planning commission and the report and advice of the commission thereon shall have been received by the county board of supervisors and by the county board, department or agency submitting the proposal. The requirement for planning commission's review shall be deemed to be waived if within 30 days after the proposal has been filed with the commission, the commission fails to furnish in writing, its report and advice upon the proposal. Copies of said report and advice shall be furnished to the county board, department or agency sponsoring the proposal.

Any plan describing the recommended development of an incorporated area shall not be recognized as official plan or part of the official plan for that area unless adopted by the municipality in the manner prescribed for the adoption of such plans by municipalities under the provisions of the state statutes or the local charter.

HISTORY: CL 1948, 125.105.

125.106 Promoting public interest; conferences; consultation with officials.

Sec. 6. The commission shall have the power to promote public interest in an understanding of the plan and to that end may publish and distribute copies of the county plan or of any report thereon and may employ such other means of publicity and education as it may determine advisable. Members of the commission, when duly authorized by the commission, may attend conferences and meetings dealing with planning problems and techniques, and any hearings on pending planning legislation and the commission may, by resolution, pay the reasonable traveling expenses incident to such attendance. The county planning commission, as a part of its duties, shall consult and advise with public officials and public agencies, other planning commissions or committees, private organizations and agencies, and citizens of the county to develop ade-

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quate support and understanding of the objectives of the county plan. The commission shall have the right to accept and use gifts. In general the commission shall have such powers as may be necessary to fulfill its functions and carry out the purposes of this act.

HISTORY: CL 1948, 125.106.

125.107 Advisory committees or councils.

Sec. 7. The county planning commission may appoint advisory committees or councils which may be composed of individuals qualified by experience, training, or interests to assist in the consideration and solution of county problems and representative of the governmental subdivisions within the county, such as townships or incorporated places, and other functional groups or agencies.

HISTORY: CL 1948, 125.107.

Sec. 8. (This was a severing clause section.)

HISTORY: Rep. 1947, p. 170, Act 129, Eff. Oct. 11.

Act 57, 1944 (1st Ex. Ses.), p. 132, Imd. Eff. Mar. 8.

AN ACT to create a fund to assist local units of government to defray the cost of preparing certain surveys, plans and specifications; to provide for the disbursement of said fund; and to make an appropriation therefor.

The People of the State of Michigan enact:

125.151 Appropriation for post-war activities; disbursement.

Sec. 1. There is hereby appropriated the sum of $5,000,000.00 from the general fund from moneys not otherwise appropriated, to the state administrative board to be expended as provided in this act. Said appropriation shall be credited to a special fund to be set up in the state treasury. Disbursements may be made by the state administrative board from said fund for the purpose of providing funds to local units as hereinafter provided to cover 1/2 of the cost of preparing surveys, plans and specifications from which the construction of public buildings, highways and streets, publicly owned and operated facilities, utilities and services may be projected to be undertaken as post-war activities for the purpose of providing employment during the period of post-war industrial dislocation and resulting period of unemployment. Such disbursements may be made by the state administrative board as provided in this act, on application by the several county road commissions and governing bodies of the counties, cities, villages, townships and school districts of the state, and upon certification by the state highway commissioner or the state planning commission, as the case may be, that the local unit making application has complied with the provisions of this act and such rules and regulations as may have been prescribed by said commissions.

HISTORY: CL 1948, 125.151.

125.152 Post-war appropriation; county roads, bridges, other structures; apportionment.

Sec. 2. $1,000,000.00 of said fund is hereby earmarked and allocated for the several county road commissions to defray 1/2 of the cost of preparing surveys, plans and specifications for construction or improvement of county roads, bridges and grade separations, and shall be apportioned on the basis of the following formula: 1/3 on the basis of the per cent of each county's county road mileage to the total county road mileage of the state; 1/3 on the basis of the per cent of each county's area to the total area of the state; and 1/3 on the basis of the per cent of each county's population to the total population of the state, according to the 1940 federal census: Provided, That in order to be eligible to receive the amount apportioned under said formula, the county

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road commission shall be required to furnish to the state highway commissioner surveys, plans and specifications with a statement of the total cost thereof certified to by the clerk of the county road commission making such applications and showing the expenditure or commitment made by the county road commission. In case any portion of said $1,000,000.00 is uncommitted by November 1, 1944, the uncommitted portion of said $1,000,000.00 shall be available for allocation to the several county road commissions meeting the other requirements of this section. The state highway commissioner shall review and investigate all such applications, and shall furnish the state administrative board with his report and recommendations, and a certificate of the amount which may be advanced under any said application.

HISTORY: CL 1948, 125.152.

125.153 Post-war appropriation; allocation for surveys and plans; review of applications by state planning commission.

Sec. 3. $1,000,000.00 of said fund is hereby earmarked and allocated for the several cities, villages and townships for the purpose of defraying 1/2 of the cost of preparing surveys, plans and specifications for street and public improvement projects, and shall be apportioned on a population basis, according to the 1940 federal census: Provided, That the population of townships shall not include the population of any incorporated village or villages located therein: Provided further, That each city, village and township meeting the requirements of this section shall be entitled to a minimum allowance of $200.00: Provided further, That in no case shall any city, village or township be entitled to receive more than 1/2 of the cost of the surveys, plans and specifications submitted by it and approved as herein required: Provided further, That in order to be eligible to receive the amount apportioned under this section, each city, village or township shall be required to furnish to the Michigan state planning commission surveys, plans and specifications showing the expenditure, commitment or appropriation by said city, village or township of at least 50 per cent of the cost of completing such surveys, plans and specifications. In case any portion of said $1,000,000.00 is uncommitted by November 1, 1944, the uncommitted portion of said $1,000,000.00 shall be available for allocation to the several cities, villages and townships meeting the other requirements of this section. Any city incorporated subsequent to the 1940 federal census, for which a special federal census has been taken, may participate under the provisions of this section and act. The Michigan state planning commission shall review and investigate all such applications, and shall furnish the state administrative board with its report and recommendations, and a certificate of the amount which may be advanced under any said application.

HISTORY: Am. 1945, p. 283, Act 211, Imd. Eff. May 17;—CL 1948, 125.153.

125.154 Post-war appropriation; surveys and plans for highways, streets, public buildings, services; apportionment.

Sec. 4. Three million dollars of said fund is hereby earmarked and allocated for the several cities, villages, counties and school districts for the purpose of defraying 1/2 of the cost of preparing surveys, plans and specifications for public improvements, including highways and streets, public buildings, publicly owned and operated facilities, utilities, and services, and shall be apportioned on the basis of the following formula: To each city and village on the basis of the per cent of its population to the total population of the state, according to the 1940 federal census, and the total school census of the state, according to the 1943 school census; to each county on the basis of the per cent of its population outside incorporated cities and villages to the total population of the state, according to the 1940 federal census, and the total school census of the state, according to the 1943 school census; and to each school district on the basis of the per cent of its school census, according to the 1943 school census, to the total population

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of the state, according to the 1940 federal census, and the total school census of the state according to the 1943 school census: Provided, That in order to be eligible to receive the amount apportioned under this section, each city, village, county or school district shall be required to furnish to the Michigan state planning commission surveys, plans and specifications showing the expenditure or commitment or appropriation by said city, village, county or school district of at least 50 per cent of the cost of completing such surveys, plans and specifications. In case any portion of said $3,000,000.00 is uncommitted by November 1, 1944, the uncommitted portion of said $3,000,000.00 shall be available for allocation to the several cities, villages, counties and school districts meeting the other requirements of this section. Any city incorporated subsequent to the 1940 federal census, for which a special federal census has been taken, may participate under the provisions of this section and act. The Michigan state planning commission shall review and investigate all such applications, and shall furnish the state administrative board with its report and recommendations, and a certificate of the amount which may be advanced under any said application.

HISTORY: Am. 1945, p. 284, Act 211, Imd. Eff. May 17;—CL 1948, 125.154.

125.155 Post-war appropriation; joint projects; surveys and plans to state planning commission.

Sec. 5. The provisions of this act shall extend equally to any 2 or more cities, villages, townships or school districts, or any combination thereof, which together or in conjunction with the county or the county road commission of such county join in the preparation of surveys, plans and specifications for joint projects of the types contemplated by this act. In each case, the legislative or governing body of each participating unit of local government shall pass a resolution setting forth the nature of the project contemplated and the portion of the cost of the preparation of the surveys, plans and specifications therefor which is to be borne by it. Said surveys, plans and specifications shall be furnished to the Michigan state planning commission, which shall review and investigate all such applications, and shall furnish the state administrative board with its report and recommendations, and a certificate of the amount which may be advanced under any said application. In the event that such surveys, plans and specifications shall meet the other requirements of this act, the portion of the cost thereof to be borne by the local unit and the amount of matching funds available under this act shall be the same as if said unit had made application for a single project.

HISTORY: CL 1948, 125.155.

125.156 Post-war appropriation; allocations to county or road commissions by municipality.

Sec. 6. Any city, village or township may, by resolution of its governing body, allocate to the county or the county road commission in which it is situated, any part or all of the sums apportioned to it under the provisions of this act, and said county or the county road commission may, with the approval of the state highway commissioner or the Michigan state planning commission, as the case may be, and the state administrative board, be credited, on complying with the provisions of this act, with the amount so allocated, for the purpose of preparing surveys, plans and specifications as provided under the provisions of this act.

HISTORY: CL 1948, 125.156.

125.157 Post-war appropriation; prior surveys entirely completed.

Sec. 7. The provisions of this act shall not be construed to authorize the advancement of funds to defray the cost of surveys, plans and specifications which have been entirely completed prior to the effective date of this act.

HISTORY: CL 1948, 125.157.

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125.158 Post-war appropriation; certification of vouchers.

Sec. 8. In the disbursement of advances under this act, the accounting laws of the state shall govern, and vouchers shall be certified to by the secretary of the state administrative board.

HISTORY: CL 1948, 125.158.

125.159 Uncommitted balance.

Sec. 9. Any uncommitted balance in the fund established under the provisions of this act on June 30, 1946, shall revert to the general fund.

HISTORY: Am. 1945, p. 263, Act 196, Imd. Eff. May 17;—CL 1948, 125.159.

125.160 Rules relative to applications.

Sec. 10. The state highway commissioner and the Michigan state planning commission are hereby authorized to promulgate the necessary uniform rules and regulations relative to the making of applications to each said commission for disbursements under this act, and the presentation, form and approval of the surveys, plans and specifications to be submitted in connection therewith.

HISTORY: CL 1948, 125.160.

Sec. 11. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 416, Act 267, Imd. Eff. May 25.

Act 183, 1943, p. 257; Imd. Eff. Apr. 17.

AN ACT to provide for the establishment in portions of counties lying outside the limits of incorporated cities and villages of zoning districts within which the proper use of land and natural resources may be encouraged or regulated by ordinance, and within which districts provisions may also be adopted designating the location of, the size of, the uses that may be made of, the minimum open spaces, sanitary, safety and protective measures that shall be required for, and the maximum number of families that may be housed in dwellings, buildings and structures that may hereafter be erected or altered; to provide for a method for the adoption of ordinances and amendments thereto; to provide for emergency interim ordinances; to provide for the administering of ordinances adopted; to provide for conflicts with other acts, ordinances or regulations; to provide penalties for violations; to provide for the assessment, levy and collection of taxes; to provide for referenda; to provide for appeals; and to provide for the repeal of acts in conflict therewith.

The People of the State of Michigan enact:

125.201 County zoning districts; establishment; provisions; erosion, setback lines.

Sec. 1. The county board of supervisors of any county in the state of Michigan may provide by ordinance for the establishment of zoning districts in the portions of such county outside the limits of incorporated cities and villages within which districts the use of land for agriculture, forestry, recreation, residence, industry, trade, soil conservation, water supply conservation and additional uses of land may be encouraged, regulated or prohibited, and for such purposes may divide the county into districts of such number, shape and area as may be deemed best suited to carry out the provisions of this act. The county board of supervisors of any county may also provide by ordinance for the establishment of zoning districts in the portions of such county outside the limits of incorporated cities and villages in the establishment of setback lines in areas subject to damage from beach erosion, and for such purpose may divide the county into districts of such number, shape and area as may be deemed best suited to provide such protection, and prior to the enactment of any such ordinance the county board of su-

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pervisors shall consult with the county engineer, surveyor or other competent engineer. For each such district, provisions may also be adopted designating or limiting the location, size of, and the specific uses for which dwellings, buildings and structures, may hereafter be erected or altered; the minimum open spaces, sanitary, safety and protective measures that shall be required for such dwellings, buildings and structures; and the maximum number of families which may be housed in buildings and dwellings hereafter erected or altered. All such provisions shall be uniform for each class of land or buildings throughout each district, but the provisions in 1 district may differ from those in other districts: Provided, That no county board of supervisors shall have authority under this act, or under any ordinance adopted as provided by this act, to regulate or control the drilling, completion or operation of oil and/or gas wells, or other wells drilled for oil and/or gas exploration purposes and shall have no jurisdiction with reference to the issuance of permits for the location, drilling, completion, operation or abandonment of such wells, but all such jurisdiction shall be vested exclusively in the supervisor of wells of the state of Michigan, as provided in Act No. 61 of the Public Acts of 1939, as amended, being sections 319.1 to 319.27, inclusive, of the Compiled Laws of 1948.

HISTORY: CL 1948, 125.201;—Am. 1952, p. 43, Act 42, Imd. Eff. Apr. 1.
CITED IN OTHER SECTIONS: Sections 125.201 to 125.232 are cited in §§ 125.280 and 125.297.

125.202 County zoning districts; resolution; notice; petition.

Sec. 2. This act shall not become operative in any county in the state of Michigan until (a) the county board of supervisors shall have passed a resolution declaring its intent to proceed under the provisions of this act, and shall have given public notice within 10 days of the passage of its resolution by publication in a newspaper published in such county, and if no newspaper be published in such county, then in a newspaper published in an adjacent county, or (b) until a petition signed by a number of qualified and registered voters residing in that portion of the county outside of the limits of incorporated cities equal to not less than 8 per cent of the total vote cast for all candidates for governor, at the last preceding general election at which a governor was elected, in that portion of the county outside the limits of incorporated cities shall have been filed with the county clerk praying the county board of supervisors to undertake such action. Upon the filing of such petition the county board of supervisors shall, at the next regular meeting, vote upon a resolution declaring its intent to initiate action under the provisions of this act.

HISTORY: CL 1948, 125.202.

125.203 County zoning districts; basis for plan; purposes.

Sec. 3. The provisions of the zoning ordinance shall be based upon a plan designed to promote the public health, safety, morals and general welfare, to encourage the use of lands in accordance with their character and adaptability and to limit the improper use of land, to avoid the overcrowding of population, to lessen congestion on the public roads and streets, to reduce hazards to life and property, to facilitate adequate provision for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation and other public requirements, and to conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources and properties; and shall be made with reasonable consideration, among other things, to the character of each district, its peculiar suitability for particular uses, the conservation of property values and natural resources, and the general and appropriate trend and character of land, building and population development.

HISTORY: CL 1948, 125.203.

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125.204 County zoning commission; members, qualifications, term, vacancies, removal.

Sec. 4. In each county in which the county board of supervisors exercises the authority conferred by this act, there shall be a permanent county zoning commission composed of 5 members. The board of supervisors may provide by resolution for a zoning commission composed of not to exceed 11 members, each to be appointed by the county board of supervisors. The members of said commission shall be selected upon the basis of their respective qualifications and fitness to serve as members of a zoning commission and without consideration to their political activities. Not less than 2/3 shall be electors who reside in and have property assessed for taxes located in the portions of the county outside the limits of incorporated cities and villages. No elected officer of the county nor any employee of the board of supervisors shall serve simultaneously as a member or as an employee of the zoning commission. One member of such commission may be a member of the board of supervisors. The first commission appointed shall be divided as nearly as possible into 3 equal groups, with terms of each group as follows: One group for 1 year, 1 group for 2 years and 1 group for 3 years. Upon the expiration of the terms of the members first appointed, successors shall be appointed in like manner for terms of 3 years each. The county board of supervisors shall provide for the filing [sic] of vacancies and the removal of any member for nonperformance of duty or misconduct in office.

HISTORY: CL 1948, 125.204;—Am. 1960, p. 78, Act 86, Eff. Aug. 17;—Am. 1961, p. 402, Act 229, Eff. Sep. 8.

125.205 County zoning commission; annual meetings; notice; officers, election.

Sec. 5. The county zoning commission shall hold a minimum of 2 regular meetings annually, giving notice of the time and place by publication in a newspaper published in such county, and if no newspaper be published in such county, then in a newspaper published in an adjacent county, not more than 20 days nor less than 8 days prior thereto at which meetings any person having interests in the county, or their duly appointed representatives, shall be heard relative to any matters that should properly come before the zoning commission. The zoning commission shall elect from its members a chairman, a secretary, and such other officers or committees as it may deem necessary, and may engage such employees including technical assistance for periods of 1 year or less as it may require. The election of officers shall be held at least once in every 2 year period.

HISTORY: CL 1948, 125.205.

125.206 County zoning commission; compensation, expenses.

Sec. 6. Members of the county zoning commission may receive not to exceed $10.00 per diem compensation, and they shall be reimbursed for reasonable expenses actually incurred in the discharge of their duties as members. The total annual amount to be allowed as expenses of all members of such commission, including any compensation paid its employees, shall not exceed a reasonable sum, which sum shall be provided annually in advance by the board of supervisors. The county treasurer shall draw warrants against such sums only upon vouchers signed by the chairman and secretary of the zoning commission.

HISTORY: CL 1948, 125.206;—Am. 1960, p. 78, Act 86, Eff. Aug. 17;—Am. 1961, p. 402, Act 229, Eff. Sep. 8.

125.207 County zoning commission; zone plan; basis; administration and enforcement.

Sec. 7. The county zoning commission shall adopt and file with the board of supervisors recommendations as to (1) a zone plan for the county outside of the limits of incorporated cities and villages which plan shall be based upon an inventory of conditions pertinent to zoning in the county, (2) the establishment of zoning districts

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including the boundaries thereof, (3) the text of a zoning ordinance with the necessary maps and zoning regulations to be adopted for any zoning district or the county as a whole, and (4) the manner of administering and enforcing the zoning ordinance.

HISTORY: CL 1948, 125.207.

125.208 County zoning commission; information and counsel.

Sec. 8. The county zoning commission is directed to make use of such information and counsel which may be furnished by appropriate public officials, departments or agencies, and all public officials, departments and agencies having information, maps and data pertinent to county zoning are hereby directed to make the same available for the use of the county zoning commission.

HISTORY: CL 1948, 125.208;—Am. 1960, p. 79, Act 86, Eff. Aug. 17.

125.209 County zoning commission; tentative zoning plan, hearing, notice.

Sec. 9. Before submitting its recommendations of a tentative zoning plan to the board of supervisors, the county zoning commission shall hold at least 1 public hearing, notice of which hearing shall be given by 2 publications in a newspaper published in the county, and if no newspaper is published in such county, then in a newspaper published in an adjacent county, the first to be printed not more than 30 days nor less than 20 days, and the second not more than 8 days before the date of such hearing. Not less than 20 days' notice of the time and place of such hearing shall also be given by certified mail to each electric, gas, pipeline and telephone public utility company, that registers its name and mailing address with the county zoning commission for the purpose of receiving such notice, and to each railroad within the district or zone affected. The notices shall include the places and times at which the tentative text and any maps of the zoning ordinance may be examined.

HISTORY: CL 1948, 125.209;—Am. 1960, p. 79, Act 86, Eff. Aug. 17;—Am. 1961, p. 402, Act 229, Eff. Sep. 8.

125.210 County zoning commission; board of supervisors, vote on adoption of zoning ordinance.

Sec. 10. Following the hearing, the county zoning commission shall submit the proposed zoning ordinance, including any zoning maps, to the board of supervisors. After receiving the recommended zoning plan, the board of supervisors, at any regular meeting or at any special meeting called for the purpose, shall consider such recommendations and vote upon the adoption of a zoning ordinance for the county. The board shall make no change or departure from the plans, text or maps as certified by the zoning commission unless such proposed change or departure shall first be submitted to the zoning commission for its advice or suggestions. The zoning commission shall have 30 days from and after receipt of such submission within which to send its report to the board of supervisors.

HISTORY: CL 1948, 125.210;—Am. 1960, p. 79, Act 86, Eff. Aug. 17.

125.211 Zoning ordinance; approval by department of economic development.

Sec. 11. Following the adoption of a zoning ordinance by the board of supervisors, such ordinance including any zoning maps shall be submitted to the Michigan department of economic development for approval. The approval of the Michigan department of economic development shall be conclusively presumed unless the Michigan department of economic development shall, within 30 days after its receipt, have notified the county clerk of its disapproval. The zoning ordinance shall become effective on the date following its approval by the Michigan department of economic development. The county clerk shall cause the ordinance as adopted and approved including any zoning maps, each signed by the chairman of the board of supervisors and certified to by the clerk thereof and signed by the chairman of the Michigan economic de-

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velopment commission, to be deposited with the secretary of state. The county clerk shall maintain a copy in the office of the county clerk for public use.

HISTORY: CL 1948, 125.211;—Am. 1960, p. 79, Act 86, Eff. Aug. 17.

125.212 Zoning ordinance; referendum, petition, filing.

Sec. 12. Within 30 days following the effective date of a zoning ordinance, a petition signed by a number of persons residing in and owning property assessed for taxes located in that portion of the county outside the limits of incorporated cities and incorporated villages equal to not less than 15% of the total vote cast for all candidates for governor, at the last preceding general election at which a governor was elected, in that portion of the county outside the limits of incorporated cities and incorporated villages, may be filed with the county clerk praying therein for the submission of such ordinance to the voters residing in and having property assessed for taxes located in that portion of the county outside the limits of incorporated cities and incorporated villages for their approval or rejection. Upon the filing of such petition, such ordinance shall not be invalidated until the same shall have been rejected by a majority of the voters residing in and owning property assessed for taxes located in that portion of the county outside the limits of incorporated cities and incorporated villages voting thereon at any regular election or special election called for that purpose. The board of supervisors shall provide the manner of submitting such ordinance to the electors for their approval and determining the result thereof.

HISTORY: CL 1948, 125.212;—Am. 1960, p. 79, Act 86, Eff. Aug. 17;—Am. 1961, p. 403, Act 229, Eff. Sep. 8.

125.213 Zoning ordinance; report and recommendations to board of supervisors.

Sec. 13. Following the enactment of the zoning ordinance, the county zoning commission shall from time to time prepare and file with the county board of supervisors a report on the operations of the zoning ordinance including recommendations as to the enactment of amendments or supplements thereto at least once each year.

HISTORY: CL 1948, 125.213;—Am. 1961, p. 403, Act 229, Eff. Sep. 8.

125.214 Zoning ordinance; amendment.

Sec. 14. Amendments or supplements to the zoning ordinance may be made from time to time in the same manner provided in this act for the enactment of the original ordinance.

HISTORY: CL 1948, 125.214.

125.215 Interim zoning ordinance; approval, publication, duration.

Sec. 15. To protect the public health, safety, morals and general welfare of the inhabitants of the county, and the lands and resources of the county during the period required for the preparation and enactment of an ordinance authorized by this act as provided by sections 7 to 12, the county board of supervisors may direct the county zoning commission to submit, within a specified period of time, recommendations as to the provisions of an interim zoning ordinance and to submit such recommendations without consideration for the provisions of sections 7, 8 and 9 of this act. Before presenting its recommendations to the county board of supervisors, the zoning commission shall submit the interim zoning plan, or any amendment thereto, to the department of economic development for approval, which approval shall be conclusively presumed unless said department, within 15 days after the receipt thereof, shall have notified the county clerk in writing of its disapproval. The director of economic development may act in behalf of the department during any 15-day period in which the commission of economic development does not meet. Following approval by the department of economic development, the county board of supervisors is hereby authorized to enact an interim ordinance without consideration for the provisions of sections 10 or 12 of this act and to give such interim ordinance immediate effect. The text of

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such interim ordinance, excluding maps, shall be published within 10 days following its adoption by the county board of supervisors by 1 publication in a newspaper of general circulation published in such county. The interim ordinance shall be limited to 1 year from the date it becomes effective and to only 2 years of renewal thereafter by resolution of the board of supervisors.

HISTORY: CL 1948, 125.215;—Am. 1960, p. 80, Act 86, Eff. Aug. 17.

125.216 Existing buildings, dwellings, and land uses.

Sec. 16. The lawful use of any building or structure and of any land or premise as existing and lawful at the time of enactment of a zoning ordinance, or in the case of an amendment of an ordinance, then at the time of such amendment, may be continued although such use does not conform with the provisions of such ordinance or amendment. The board of supervisors shall provide in any zoning ordinance for the completion, restoration, reconstruction, extension or substitution of nonconforming uses upon such reasonable terms as may be set forth in the zoning ordinance.

HISTORY: CL 1948, 125.216.

125.217 Repealed. 1960, p. 81, Act 86, Eff. Aug. 17.

Section related to county zoning commission record of nonconforming uses of property.

125.218 County board of appeals; appointment, term, per diem, removal, quorum.

Sec. 18. In each county in which the board of supervisors exercises the authority conferred by this act, it shall provide for and appoint a county board of appeals of not less than 3 and not more than 7 members. The term of each member shall be for 3 years, except that the first board appointed shall be divided as nearly as possible into 3 equal groups with the terms of office for each group as follows: One group for 1 year, 1 group for 2 years and 1 group for 3 years. All members of said board of appeals shall be chosen from electors residing in and having property assessed for taxes located in the unincorporated area of the county. No elected officer of the county nor any employee of the board of supervisors may serve simultaneously as a member of or as an employee of the board of appeals. One member shall be a member of the county zoning commission. The total amount allowed any member of said board of appeals in any one year as per diem or as expenses actually incurred in the discharge of his duty shall not exceed a reasonable sum which sum shall be provided annually in advance by the board of supervisors. The board of supervisors shall provide for the removal of any member for nonperformance of duty or misconduct in office. A majority of the total membership of the board of appeals shall comprise a quorum.

HISTORY: CL 1948, 125.218;—Am. 1960, p. 80, Act 86, Eff. Aug. 17.

125.219 County board of appeals; meetings; open to public; record of proceedings.

Sec. 19. Meetings of the board of appeals shall be held at the call of the chairman and at such other times as the board in its rules of procedure may specify. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board of appeals shall be open to the public. The board shall maintain a record of its proceedings which shall be filed in the office of the county clerk and shall be a public record.

HISTORY: CL 1948, 125.219.

125.220 County board of appeals; duties.

Sec. 20. The board of appeals shall act upon all questions as they may arise in the administration of the zoning ordinance, including the interpretation of the zoning maps, and may fix rules and regulations to govern its procedure sitting as such a board of appeals. It shall hear and decide appeals from and review any order, requirements,

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decision or determination made by an administrative official charged with enforcement of any ordinance adopted pursuant to the provisions of this act. It shall also hear and decide all matters referred to it or upon which it is required to pass under any ordinance adopted pursuant to this act. The concurring vote of a majority of the members of the board of appeals shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant any matter upon which they are required to pass under any such ordinance or to effect any variation in such ordinance. Such appeal may be taken by any person aggrieved or by any officer, department, board or bureau of the township, county or state. The grounds of every such determination shall be stated.

HISTORY: CL 1948, 125.220.

125.221 County board of appeals; appeals.

Sec. 21. Such appeal shall be taken within such time as shall be prescribed by the board of appeals by general rule, by the filing with the officer from whom the appeal is taken and with the board of appeals of a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board, all the papers constituting the record upon which the action appealed from was taken.

HISTORY: CL 1948, 125.221.

125.222 County board of appeals; restraining order.

Sec. 22. An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the board of appeals after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of appeals or by the circuit court, on application, on notice to the officer from whom the appeal is taken and on due cause shown.

HISTORY: CL 1948, 125.222.

125.223 County board of appeals; hearing; appeal to circuit court.

Sec. 23. The board of appeals shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the parties, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by the agent or by attorney. The board of appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end shall have all the powers of the officer from whom the appeal was taken and may issue or direct the issuance of a permit. Where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of such ordinance, the board of appeals shall have power in passing upon appeals to vary or modify any of its rules, regulations or provisions so that the spirit of the ordinance shall be observed, public safety secured and substantial justice done. The decision of such board shall not be final, and any person having an interest affected by any such ordinance shall have the right to appeal to the circuit court on questions of law and fact.

HISTORY: CL 1948, 125.223.

125.224 Nuisance per se; abatement.

Sec. 24. Uses of land or buildings, or buildings erected, altered, razed or converted in violation of any provision of local ordinances or regulations adopted under the authority of this act are hereby declared to be a nuisance per se. The court shall order such nuisance abated and the owner and/or agent in charge of such building or land shall be adjudged guilty of maintaining a nuisance per se. The county board of supervisors of any county shall in the ordinance enacted under the authority of this act des-

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ignate the proper official or officials whose duty it shall be to enforce the provisions of such ordinance and provide penalties for the violation thereof.

HISTORY: CL 1948, 125.224.

125.225 Assessment of taxes.

Sec. 25. For the purpose of providing funds to carry out the provisions of this act, the county board of supervisors of such county shall levy a sufficient tax, in addition to other taxes now authorized by law, upon the real and personal property subject to taxation in such county, and such taxes shall be collected as other taxes are collected, and when collected shall be applied to the payment of any indebtedness incurred by any county coming under the provisions of this act, and to no other purpose: Provided, That the taxes assessed, levied and collected shall not cause the limit of taxes established by law to be exceeded.

HISTORY: CL 1948, 125.225.

125.226 Prior act; applicability.

Sec. 26. Act No. 79 of the Public Acts of 1929, as in effect prior to May 6, 1935, shall remain in full force and effect as applicable to those townships in which the same became operative by adoption of the electors of such townships, pursuant to the terms thereof, prior to May 6, 1935, and shall remain operative as to any such township until the county of which such township is a part shall have adopted and made effective an ordinance enacted under the terms of this act.

HISTORY: CL 1948, 125.226.

NOTE: Act 79 of 1929, above referred to, is CL 1929, 2642-2651, and has been omitted from this compilation, see repeal in Sec. 32 of this act.

125.227 Prior ordinance effective until new ordinance adopted.

Sec. 27. In the event any county shall have an ordinance adopted and in effect or shall have had a referendum authorizing an ordinance under the provisions of Act No. 79 of the Public Acts of 1929, as in effect prior to January 1, 1942, such ordinance or any ordinance hereafter adopted by reason of such referendum under the provisions of Act No. 79 of the Public Acts of 1929 shall remain in full force and effect until a new ordinance is adopted and in effect under the provisions of this act.

HISTORY: CL 1948, 125.227.

NOTE: Act 79 of 1929, above referred to, is CL 1929, 2642-2651, and has been omitted from this compilation, see repeal in Sec. 32 of this act.

125.228 Provisions not applicable.

Sec. 28. Except as specifically provided by this act, the provisions of subdivision 13 of section 11 of Act No. 156 of the Public Acts of 1856 shall not apply to the enactment of an ordinance under the provisions of this act.

HISTORY: CL 1948, 125.228.

NOTE: Subdiv. 13, Sec. 11, Act 156, 1856, above referred to, should refer to Act 156, 1851, and is Compilers' § 46.11, Subdiv. 13.

125.229 Act controlling.

Sec. 29. Insofar as the provisions of this act are inconsistent with the provisions of any other law, the provisions of this act shall be controlling.

HISTORY: CL 1948, 125.229.

Sec. 30. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 416, Act 267, Imd. Eff. May 25.

125.231 County rural zoning enabling act; short title.

Sec. 31. This act shall be known and may be cited as "The county rural zoning enabling act."

HISTORY: CL 1948, 125.231.

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125.232 Act repealed.

Sec. 32. Act No. 79 of the Public Acts of 1929, except as hereinbefore provided, is hereby repealed.

HISTORY: CL 1948, 125.232.

NOTE: Act 79 of 1929, above referred to, is CL 1929, 2642-2651, and has been omitted from this compilation.

Act 62, 1943, p. 67; Imd. Eff. Mar. 31.

AN ACT to provide for the regulation by county boards of supervisors of the minimum construction requirements of dwellings, buildings and structures in the portions of such county outside incorporated cities and villages, by ordinance; to provide for amendments or supplements thereto, and referenda thereon; to authorize penalties; to provide for the administration of this act; and to declare the effect of this act.

The People of the State of Michigan enact:

125.251 Minimum construction requirements of dwellings; division of districts outside cities and villages; uniformity.

Sec. 1. The board of supervisors of any county in the state of Michigan may, in the portions of such county outside incorporated cities and villages, provide by ordinance for the minimum construction requirements of dwellings, buildings and structures, and designate the manner in which, and the type of materials of which dwellings, buildings and structures shall thereafter be erected or altered. The portions of the county outside incorporated cities and villages may be divided into districts of such number, shape and area as may be deemed best suited to carry out the provisions of this act, and different requirements may be adopted for each such district: Provided, however, That the requirements shall be uniform for each class of dwelling, building or structure throughout each district.

HISTORY: CL 1948, 125.251.

125.252 Resolution; notice; petition; adoption of ordinance.

Sec. 2. This act shall not become operative in any county in the state of Michigan until (a) the county board of supervisors shall have passed a resolution declaring its intent to proceed under the provisions of this act, and shall have given public notice within 10 days of the passage of its resolution by publication in a newspaper published in such county, and if no newspaper be published in such county, then in a newspaper published in an adjacent county, or (b) until a petition signed by a number of qualified and registered voters residing in that portion of the county outside of the limits of incorporated cities equal to not less than 8 per cent of the total vote cast for all candidates for governor, at the last preceding general election at which a governor was elected, in that portion of the county outside the limits of incorporated cities, shall have been filed with the county clerk requesting the county board of supervisors to undertake such action. Upon the filing of such petition the county board of supervisors shall, at the next regular meeting, authorize the preparation of an ordinance in conformity with the provisions of this act, and shall, not later than the second regular meeting thereafter vote on the adoption of such ordinance.

HISTORY: CL 1948, 125.252.

125.253 Adoption of parts of standard codes; copy for public inspection.

Sec. 3. The provisions of any such ordinance shall be made with reasonable consideration and in accordance with a plan designed to lessen congestion on the public streets, to promote the public health, safety, morals and general welfare, and the safety, protection and sanitation of such dwellings, buildings and structures, and with reasonable consideration for the provisions of any existing rural zoning ordinance in

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effect in the county, or in any township thereof. Any such ordinance may from time to time be amended in the same manner as provided herein for the adoption of the ordinance. Following the adoption of said ordinance, copies thereof shall at all times be made available for public use in the office of the county clerk. Any county adopting an ordinance under the provisions of this act shall have power to adopt any standard plumbing, electrical or building code, or any part thereof, which has been promulgated by the state of Michigan or by any department, board or other agency thereof, or by any national organization or association which is organized and conducted for the purpose of developing any such code or codes by reference thereto in an adopting ordinance and without publishing any such code, or the parts selected, in full, if said code and the parts thereof selected are clearly identified in said ordinance and that the purpose of said code shall be published with the adopting ordinance and that printed copies thereof are kept in the office of the county clerk, available for inspection by and distribution to the public at all times. The publication shall contain a notice to the effect that a complete copy of said code is available for public use and inspection at the office of the county clerk.

HISTORY: CL 1948, 125.253;—Am. 1951, p. 121, Act 93, Eff. Sep. 28;—Am. 1960, p. 26, Act 30, Eff. Aug. 17.

125.254 Administration and enforcement.

Sec. 4. The county board of supervisors shall in any ordinance adopted under the provisions of this act designate the proper county, village and/or township official or officials whose duty it shall be to cooperate in the administration and enforcement of the provisions of such ordinance, and shall provide penalties for the violation thereof.

HISTORY: CL 1948, 125.254;—Am. 1951, p. 121, Act 93, Eff. Sep. 28.

125.255 Referendum.

Sec. 5. If within 30 days following the adoption of an ordinance, or any amendment thereto, under the terms of this act, a petition signed by a number of qualified and registered voters residing in that portion of the county outside of the limits of incorporated cities equal to not less than 8 per cent of the total vote cast for all candidates for governor, at the last preceding general election at which a governor was elected, in that portion of the county outside the limits of incorporated cities, shall have been filed with the county clerk praying therein for the submission of such ordinance, or amendment, to the electors of such county outside incorporated cities for their approval or rejection, then said ordinance, or amendment, shall not take effect until the same shall have been approved by a majority of the electors of the county outside incorporated cities voting thereon at any regular election, or special election called for that purpose. The board of supervisors shall provide the manner of submitting the adoption of such ordinance, or amendment thereto, to the electors for their approval and determining the result thereof.

HISTORY: CL 1948, 125.255.

125.256 Act self-executing; certain provisions inapplicable.

Sec. 6. The provisions of this act shall be self-executing, and the provisions of subdivision 13 of section 11 of Act No. 156 of the Public Acts of 1851, being section 1130 of the Compiled Laws of 1929, shall not apply to ordinances adopted under the provisions of this act.

HISTORY: CL 1948, 125.256.

NOTE: Subdiv. 13, Sec. 11, Act 156, 1851, above referred to, is Compilers' § 46.11, Subdiv. 13.

125.257 Certain conflicting requirements superseded.

Sec. 7. Any ordinance adopted under the provisions of this act shall supersede conflicting requirements under Act No. 167 of the Public Acts of 1917, as amended, and Act No. 302 of the Public Acts of 1937, as amended.

HISTORY: CL 1948, 125.257.

NOTE: Act 167 of 1917, above referred to, is Compilers' § 125.401 et seq. Act 302, 1937, as amended by Act 69 of 1939, Act 339, 1941, and Act 241 of 1941, has been omitted from this compilation. See Compilers' § 125.298.

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125.258 Ordinances adopted under prior acts to remain in force.

Sec. 8. Ordinances adopted prior to the effective date of this act under the provisions of Act No. 324 of the Public Acts of 1931 shall remain in force and effect regardless of any conflict with the provisions of this act so long as Act No. 324 of the Public Acts of 1931 remains in force and effect.

HISTORY: CL 1948, 125.258.

NOTE: Act 324 of 1931, above referred to, has been omitted from this compilation. See Compilers' § 125.359.

Sec. 9. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 416, Act 267, Imd. Eff. May 25.

Act 184, 1943, p. 264; Eff. Jul. 30.

AN ACT to provide for the establishment in the unincorporated portions of organized townships of zoning districts within which the proper use of land and natural resources may be encouraged or regulated by ordinance, and within which districts provisions may also be adopted designating the location of, the size of, the uses that may be made of, the minimum open spaces, sanitary, safety and protective measures that shall be required for, and the maximum number of families that may be housed in dwellings, buildings and structures, including tents and trailer coaches, that may hereafter be erected or altered; to provide for a method for the adoption of ordinances and amendments thereto; to provide for emergency interim ordinances; to provide for the administering of ordinances adopted; to provide for conflicts with other acts, ordinances or regulations; to provide penalties for violations; to provide for the assessment, levy and collection of taxes; to provide for the collection of fees for building permits; to provide for petitions, public hearings and referenda; to provide for appeals; and to provide for the repeal of acts in conflict herewith.

The People of the State of Michigan enact:

125.271 Township zoning districts; establishment; provisions.

Sec. 1. The township board of any organized township in the state of Michigan may provide by ordinance for the establishment of zoning districts in the unincorporated portions of such township within which districts the use of land for agriculture, forestry, recreation, residence, industry, trade, migratory labor camps, soil conservation, water supply conservation and additional uses of land may be encouraged, regulated or prohibited, and for such purposes may divide unincorporated portions of the township into districts of such number, shape and area as may be deemed best suited to carry out the provisions of this act. For each such district, provisions may also be adopted designating or limiting the location, the height, number of stories, and size of dwellings, buildings and structures that may hereafter be erected or altered, including tents and trailer coaches, and the specific uses for which dwellings, buildings and structures including tents and trailer coaches may hereafter be erected or altered; the area of yards, courts, and other open spaces, and the sanitary, safety and protective measures that shall be required for such dwellings, buildings and structures, including tents and trailer coaches; and the maximum number of families which may be housed in buildings, dwellings and structures including tents and trailer coaches hereafter erected or altered. All such provisions shall be uniform for each class of land or buildings, dwellings and structures, including tents and trailer coaches, throughout each district, but the provisions in 1 district may differ from those in other districts: Provided, That no township board shall have authority under this act, or under any ordi-

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nance adopted as provided by this act, to regulate or control the drilling, completion or operation of oil and/or gas wells, or other wells drilled for oil and/or gas exploration purposes and shall have no jurisdiction with reference to the issuance of permits for the location, drilling, completion, operation or abandonment of such wells, but all such jurisdiction shall be vested exclusively in the supervisor of wells of the state of Michigan, as provided in Act No. 61 of the Public Acts of 1939.

HISTORY: CL 1948, 125.271.

NOTE: Act 61 of 1939, above referred to, is Compilers' §§ 319.1-319.27.

CITED IN OTHER SECTIONS: Sections 125.271 to 125.301 are cited in §§ 125.321 and 125.331.

125.272 Township zoning districts; resolution, notice, petition, vote.

Sec. 2. This act shall not become operative in any organized township in the state of Michigan until (a) the township board shall have passed a resolution declaring its intent to proceed under the provisions of this act, and shall have given public notice within 10 days of the passage of its resolution by publication in a newspaper of general circulation in such township, or (b) until a petition signed by 8% of the persons who are residents and property owners in the unincorporated portion of the township, shall have been filed with the township clerk praying the township board to undertake such action. Upon the filing of such petition the township board shall, at the next regular meeting, vote upon a resolution declaring its intent to initiate action under the provisions of this act and give public notice of the resolution as provided in this section.

HISTORY: CL 1948, 125.272;—Am. 1955, p. 306, Act 204, Eff. Oct. 14;—Am. 1961, p. 388, Act 225, Eff. Sep. 8.

125.273 Township zoning districts; basis for plan; purposes.

Sec. 3. The provisions of the zoning ordinance shall be based upon a plan designed to promote the public health, safety, morals and general welfare, to encourage the use of lands in accordance with their character and adaptability and to limit the improper use of land, to avoid the overcrowding of population, to provide adequate light and air, to lessen congestion on the public roads and streets, to reduce hazards to life and property, to facilitate adequate provision for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation and other public requirements, and to conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources and properties; and shall be made with reasonable consideration, among other things, to the character of each district, its peculiar suitability for particular uses, the conservation of property values and natural resources, and the general and appropriate trend and character of land, building and population development.

HISTORY: CL 1948, 125.273.

125.274 Township zoning board; appointment, terms, vacancies, removal.

Sec. 4. In each township in which this act becomes operative, there shall be a permanent township zoning board composed of 4 members. The township board may provide by resolution for a zoning board composed of not to exceed 7 members, each to be appointed by the township board. The members of said board shall be selected upon the basis of their respective qualifications and fitness to serve as members of a zoning board and without consideration for their political activities. Of the members first appointed, 2 shall be appointed for terms of 2 years each. The other 2 members shall be appointed for terms of 4 years each; or in case of a township zoning board of more than 4 members, 3 shall be first appointed for 2 years each and the others first appointed for 4 years each. Each member of said board shall serve until his successor is appointed and has qualified. Upon the expiration of the terms of the members first appointed, successors shall be appointed, in like manner, for terms of 4 years each. Vacancies shall be filled in the same manner as is provided for the appointment in the first instance for the remainder of the unexpired term. No elected officer of the township nor any employee of the township board shall serve simultaneously as a member

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or an employee of the zoning board, and no less than 2/3 of the members of such board shall be electors who reside in and have property assessed for taxes located in the unincorporated portions of the township. Members of the zoning board shall be removable for nonperformance of duty or misconduct in office by the township board upon written charges and after public hearing.

HISTORY: Am. 1947, p. 186, Act 137, Eff. Oct. 11;—CL 1948, 125.274;—Am. 1949, p. 634, Act 310, Eff. Sep. 23;—Am. 1955, p. 306, Act 204, Eff. Oct. 14;—Am. 1960, p. 211, Act 146, Eff. Aug. 17.

125.275 Township zoning board; annual meetings; notice; officers, election.

Sec. 5. The township zoning board shall hold a minimum of 2 regular meetings annually, giving notice of the time and place by publication in a newspaper of general circulation in such township not more than 15 days nor less than 8 days prior thereto at which meetings any person having interests in the township, or their duly appointed representatives, shall be heard relative to any matters that should properly come before the zoning board. The zoning board shall elect from its members a chairman, a secretary, and such other officers or committees as it may deem necessary, and may engage such employees including technical assistance for periods of 1 year or less as it may require. The election of officers shall be held at least once in every 2 year period.

HISTORY: CL 1948, 125.275.

125.276 Township zoning board; compensation, expenses.

Sec. 6. Members of the township zoning board may receive not to exceed $25.00 per diem compensation. The total annual amount to be allowed as expenses of all members of such board, including any compensation paid its employees, shall be appropriated annually in advance by the township board and shall not exceed $5,000.00.

HISTORY: CL 1948, 125.276;—Am. 1949, p. 635, Act 310, Eff. Sep. 23;—Am. 1954, p. 37, Act 29, Eff. Aug. 13;—Am. 1961, p. 388, Act 225, Eff. Sep. 8;—Am. 1969, p. 732, Act 323, Imd. Eff. Aug. 20.

125.277 Township zoning board; zone plan; basis; administration and enforcement.

Sec. 7. The township zoning board shall adopt and file with the township board recommendations as to (1) a zone plan for the unincorporated portions of the township as a whole which plan shall be based upon an inventory of conditions pertinent to zoning in the township, (2) the establishment of zoning districts including the boundaries thereof, (3) the text of a zoning ordinance with the necessary maps and zoning regulations to be adopted for any zoning district or the township as a whole, and (4) the manner of administering and enforcing the zoning ordinance.

HISTORY: CL 1948, 125.277.

125.277a Township zoning board; planning expert, compensation.

Sec. 7a. The township zoning board may engage the services of a township planning expert with the consent of the township board, and the compensation for the services shall be paid from appropriations made by the township board.

HISTORY: Add. 1956, p. 146, Act 63, Imd. Eff. Apr. 2.

125.278 Township zoning board; information and counsel furnished.

Sec. 8. The township zoning board is directed to make use of such information and counsel which may be furnished by appropriate public officials, departments or agencies, and all public officials, departments and agencies having information, maps and data pertinent to township zoning are hereby directed to make the same available for the use of the township zoning board.

HISTORY: CL 1948, 125.278.

125.279 Township zoning board; tentative zoning plan, hearing, notice.

Sec. 9. Before submitting its recommendations of a tentative zoning plan to the township, the township zoning board shall hold at least 1 public hearing, notice of

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which hearing shall be given by 2 publications in a newspaper of general circulation in the township, the first to be printed not more than 30 days nor less than 20 days and the second not more than 8 days before the date of such hearing. Not less than 20 days' notice of the time and place of such hearing shall also be given by certified mail to each electric, gas, pipeline and telephone public utility company that registers its name and mailing address with the township zoning commission for the purpose of receiving such notice, and to each railroad operating within the district or zone affected. The notices shall include the places and times at which the tentative text and any maps of the zoning ordinance may be examined.

HISTORY: CL 1948, 125.279;—Am. 1960, p. 212, Act 146, Eff. Aug. 17;—Am. 1961, p. 388, Act 225, Eff. Sep. 8.

125.280 Township zoning; ordinance, approval; coordinating zoning committee.

Sec. 10. Following such hearing, the township zoning board shall submit the proposed zoning ordinance including any zoning maps to the county zoning commission of the county in which such township is situated for approval in the event such commission shall have been appointed, as provided by Act No. 183 of the Public Acts of 1943, as amended, being sections 125.201 to 125.232 of the Compiled Laws of 1948, and is functioning in the county, or to the county planning commission appointed as provided by Act No. 282 of the Public Acts of 1945, as amended, being sections 125.101 to 125.107 of the Compiled Laws of 1948, or, by resolution of the board of supervisors, to the coordinating zoning committee of the county. If there is no county zoning commission or county planning commission the proposed zoning ordinance, including any zoning maps, shall be submitted to the coordinating zoning committee. The coordinating zoning committee shall be composed of 3 members and shall be appointed by the county board of supervisors for the purpose of coordinating the zoning ordinances proposed for adoption under the provisions of this act with the zoning ordinances of any township, city or incorporated village having a common boundary with the township. The approval of such zoning commission, planning commission or coordinating zoning committee shall be conclusively presumed unless such commission or committee shall, within 30 days of its receipt, have notified the township clerk of its disapproval.

HISTORY: CL 1948, 125.280;—Am. 1961, p. 388, Act 225, Eff. Sep. 8;—Am. 1967, p. 253, Act 190, Eff. Nov. 2;—Am. 1968, p. 155, Act 100, Eff. Nov. 15.

125.281 Zoning ordinance; amendment, adoption, hearing, notice.

Sec. 11. The township zoning board shall then transmit its proposed zoning plan and text to the township board; and, if the township board shall deem any amendments, changes, additions, or departures advisable as to the proposed text, or as to any zoning ordinance, it shall refer the same to the zoning board for a report thereon within a time specified by such legislative body. After receiving the report, the township board shall grant a hearing on any proposed ordinance provision to any property owner who by certified mail addressed to the clerk of the board requests to be so heard and shall request the zoning board to attend any such hearing. Thereafter at any regular meeting or at any special meeting called therefor the township board may adopt, in accordance with this act, a zoning ordinance for the unincorporated portions of the township, with or without any amendments that have been previously considered by such zoning board or at such hearing, and may give the ordinance immediate effect. In the event an ordinance is given immediate effect, the limitation of section 1 of Act No. 191 of the Public Acts of 1939, being section 41.191 of the Compiled Laws of 1948, providing an ordinance shall not take effect until 30 days after publication, shall not apply.

HISTORY: CL 1948, 125.281;—Am. 1949, p. 635, Act 310, Eff. Sep. 23;—Am. 1959, p. 307, Act 204, Eff. Mar. 19, 1960;—Am. 1960, p. 212, Act 146, Eff. Aug. 17.

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125.282 Zoning ordinance; referendum, petition, filing.

Sec. 12. Within 30 days following the passage by the township board or its rejection of such zoning ordinance, a petition signed by 15% of the persons residing in and owning property assessed for taxes located in the unincorporated portion of the township may be filed with the township clerk praying therein for the submission of such ordinance to the electors residing in the unincorporated portion of the township for their approval or rejection. Upon the filing of such petition, any ordinance passed by the township board shall not be invalidated until the same shall have been rejected by a majority of the persons residing in and owning property assessed for taxes located in the unincorporated portion of the township voting thereon at the next regular election which supplies reasonable time for proper notices and printing of ballots, or at any special election called for that purpose. The township board shall provide the manner of submitting any ordinance to the voters for their approval or rejection, and determining the result thereof.

HISTORY: CL 1948, 125.282;—Am. 1955, p. 306, Act 204, Eff. Oct. 14;—Am. 1960, p. 212, Act 146, Eff. Aug. 17;—Am. 1961, p. 389, Act 225, Eff. Sep. 8.

125.283 Zoning ordinance; report to township board.

Sec. 13. Following the enactment of the zoning ordinance, the township zoning board shall from time to time prepare and file, with the township board a report on the operations of the zoning ordinance including recommendations as to the enactment of amendments or supplements thereto at least once each year.

HISTORY: Am. 1947, p. 232, Act 165, Eff. Oct. 11;—CL 1948, 125.283.

125.284 Zoning ordinance; amendment procedure; conformance to court decree.

Sec. 14. Amendments or supplements to the zoning ordinance may be made from time to time in the same manner provided in this act for the enactment of the original ordinance, except that the public hearing conducted by the township board shall not be necessary unless a request is made in writing by a property owner. If an individual property is proposed for rezoning, the property shall be conspicuously posted at least 8 days prior to the hearing provided by section 9 of this act stating the time, place, date and purpose of the hearing. It shall only be necessary to publish the section or sections to be amended in or added to the zoning ordinance. Any amendment for the purpose of conforming a provision thereof to the decree of a court of competent jurisdiction as to any specific lands may be adopted by the township board and the amendment published without referring the same to any other board or agency provided for in this act.

HISTORY: Am. 1947, p. 186, Act 137, Eff. Oct. 11;—CL 1948, 125.284;—Am. 1949, p. 635, Act 310, Eff. Sep. 23;—Am. 1960, p. 23, Act 26, Eff. Aug. 17;—Am. 1961, p. 389, Act 225, Eff. Sep. 8.

125.285 Zoning ordinance; interim ordinance, approval, publication, renewal.

Sec. 15. To protect the public health, safety, morals and general welfare of the inhabitants of the township, and the lands and resources of the township during the period required for the preparation and enactment of an ordinance authorized by this act as provided by sections 7 to 12, the township board may direct the township zoning board to submit, within a specified period of time, recommendations as to the provisions of an interim zoning ordinance and to submit such recommendations without consideration for the provisions of sections 7, 8, 9, 11 and 12 of this act. Before presenting its recommendations to the township board, the zoning board shall submit the interim zoning plan, or any amendment thereto, to the county zoning commission or the coordinating zoning committee, as provided by section 10 of this act, for the purpose of coordinating the zoning plan with the zoning ordinances of any township, incorporated city or incorporated village having a common boundary with the township. Approval shall be conclusively presumed unless the commission or committee, within

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15 days after receipt thereof, shall have notified the township clerk of its disapproval. Following approval the township board is hereby authorized to give such interim ordinance or amendments thereto immediate effect. A true copy of such ordinance shall be published as provided by Act No. 191 of the Public Acts of 1939. The publication of maps and other data pertinent to any such ordinance shall not be required to be made, but the publication of the ordinance or amendments thereto shall state the place where the maps and other information are available for examination. The interim ordinance, including any amendments thereto, shall be limited to 1 year from the date the same becomes effective and to only 2 years of renewal thereafter by resolution of the township board.

HISTORY: Am. 1947, p. 186, Act 137, Eff. Oct. 11;—CL 1948, 125.285;—Am. 1952, p. 406, Act 248, Eff. Sep. 18;—Am. 1960, p. 212, Act 146, Eff. Aug. 17;—Am. 1961, p. 389, Act 225, Eff. Sep. 8.

125.286 Buildings, dwellings and land; existing uses, continuation.

Sec. 16. The lawful use of any dwelling, building or structure and of any land or premise as existing and lawful at the time of enactment of a zoning ordinance, or, in the case of an amendment of an ordinance, then at the time of such amendment, may be continued although such use does not conform with the provisions of such ordinance or amendment. The township board shall provide in any zoning ordinance for the completion, restoration, reconstruction, extension or substitution of nonconforming uses upon such reasonable terms as may be set forth in the zoning ordinance.

HISTORY: CL 1948, 125.286.

Sec. 17.

HISTORY: Rep. 1947, p. 187, Act 137, Eff. Oct. 11.

This section provided for a record of existing nonconforming uses.

125.288 Board of appeals; membership, expenses, removals.

Sec. 18. In each township in which the township board exercises the authority conferred by this act, there shall be a township board of appeals of 3 members. The first member of such board of appeals shall be the chairman of the township zoning board, the second member shall be a member of the township board appointed by the township board; and the third member shall be selected and appointed by the first 2 members from among the electors residing in the unincorporated area of the township. No elected officer of the township nor any employee of the township board may serve simultaneously as the third member of or as an employee of the township board of appeals. The total amount allowed such board of appeals in any 1 year as per diem or as expenses actually incurred in the discharge of their duties shall not exceed a reasonable sum which sum shall be provided annually in advance by the township board. Members of the board of appeals shall be removable by the township board for nonperformance of duty or misconduct in office upon written charges and after public hearing.

HISTORY: CL 1948, 125.288;—Am. 1966, p. 127, Act 106, Imd. Eff. Jun. 22.

125.289 Board of appeals; meetings, open to public, record of proceedings.

Sec. 19. Meetings of the township board of appeals shall be held at the call of the chairman and at such other times as the board in its rules of procedure may specify. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board of appeals shall be open to the public. The board shall maintain a record of its proceedings which shall be filed in the office of the township clerk and shall be a public record.

HISTORY: CL 1948, 125.289.

125.290 Board of appeals; duties.

Sec. 20. The township board of appeals shall act upon all questions as they may arise in the administration of the zoning ordinance, including the interpretation of the zon-

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ing maps, and may fix rules and regulations to govern its procedures sitting as such a board of appeals. It shall hear and decide appeals from and review any order, requirements, decision or determination made by an administrative official charged with enforcement of any ordinance adopted pursuant to the provisions of this act. It shall also hear and decide all matters referred to it or upon which it is required to pass under any ordinance adopted pursuant to this act. The concurring vote of a majority of the members of the board of appeals shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant any matter upon which they are required to pass under any such ordinance or to effect any variation in such ordinance. Such appeal may be taken by any person aggrieved or by any officer, department, board or bureau of the township, county or state. The grounds of every such determination shall be stated.

HISTORY: CL 1948, 125.290.

125.291 Board of appeals; appeals.

Sec. 21. Such appeal shall be taken within such time as shall be prescribed by the township board of appeals by general rule, by the filing with the officer from whom the appeal is taken and with the board of appeals of a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

HISTORY: CL 1948, 125.291.

125.292 Board of appeals; restraining order.

Sec. 22. An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the township board of appeals after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of appeals or by the circuit court, on application, on notice to the officer from whom the appeal is taken and on due cause shown.

HISTORY: CL 1948, 125.292.

125.293 Board of appeals; hearing; appeal to circuit court.

Sec. 23. The township board of appeals shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the parties, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney. The board of appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end shall have all the powers of the officer from whom the appeal was taken and may issue or direct the issuance of a permit. Where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of such ordinance, the board of appeals shall have power in passing upon appeals to vary or modify any of its rules, regulations or provisions so that the spirit of the ordinance shall be observed, public safety secured and substantial justice done. The decision of such board shall not be final, and any person having an interest affected by any such ordinance shall have the right to appeal to the circuit court on questions of law and fact.

HISTORY: CL 1948, 125.293.

125.294 Nuisance per se; abatement; enforcement.

Sec. 24. Uses of land, and dwellings, buildings or structures, including tents and trailer coaches, used, erected, altered, razed or converted in violation of any provision of local ordinances or regulations adopted under the authority of this act are hereby

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declared to be a nuisance per se. The court shall order such nuisance abated and the owner and/or agent in charge of such dwelling, building, structure, tent, trailer coach or land shall be adjudged guilty of maintaining a nuisance per se. The township board shall in the ordinance enacted under the authority of this act designate the proper official or officials whose duty it shall be to enforce the provisions of such ordinance and provide penalties for the violation thereof.

HISTORY: CL 1948, 125.294.

125.295 Fees for building permits; additional taxes.

Sec. 25. For the purpose of providing funds to carry out the provisions of this act, the township board of any organized township in the state of Michigan may require the payment of reasonable fees for building permits as a condition to the granting of authority to erect, alter or locate dwellings, buildings and structures, including tents and trailer coaches, within any zoning district established hereunder, both for the purpose of obtaining advance information as to building operations, locations and proposed uses, and for the purpose of defraying the cost, in whole or in part, of the enforcement of this act in such township, and in case such board has incurred or expects to incur any expense of public funds in carrying out the provisions of this act, it shall, for that purpose, in addition to the revenues of such fees, levy a sufficient tax, in addition to other taxes now authorized by law, upon the real and personal property subject to taxation in such township, and such taxes shall be collected as other taxes are collected. When such taxes or fees are collected, the same shall be applied to the payment of any indebtedness incurred by the township coming under the provisions of this act, and to no other purpose: Provided, That the taxes assessed, levied and collected shall not cause the limit of taxes established by law to be exceeded.

HISTORY: CL 1948, 125.295.

125.296 Prior ordinance effective until new ordinance adopted.

Sec. 26. In the event any township shall have an ordinance adopted and in effect or shall have had a referendum authorizing an ordinance under the provisions of Act No. 302 of the Public Acts of 1937, prior to the effective date of this act, such ordinance or any ordinance hereafter adopted by reason of such referendum under the provisions of said Act No. 302 of the Public Acts of 1937 shall remain in full force and effect until a new ordinance is adopted and in effect under the provisions of this act, and any such ordinance shall be deemed to have been adopted as an ordinance under the provisions of this act, and shall be governed thereby.

HISTORY: Am. 1947, p. 186, Act 137, Eff. Oct. 11;—CL 1948, 125.296.

NOTE: Act 302 of 1937, above referred to, was omitted from this compilation, as the same was repealed by Sec. 30 of this act. It was amended by Act 69 of 1939, Act 339 of 1941, and Act 241 of 1941.

125.297 Townships not subject to act.

Sec. 27. In the event that an ordinance enacted pursuant to the provisions of this act becomes effective in any township which is located in a county in which Act No. 183 of the Public Acts of 1943, as amended, being sections 125.201 to 125.232 of the Compiled Laws of 1948, the county rural zoning enabling act, has theretofore become or thereafter becomes operative, such township shall not be subject, unless otherwise provided in this act, to the provisions of said Act No. 183 of the Public Acts of 1943, the county rural zoning enabling act, nor to any ordinance, rule or regulation adopted pursuant thereto.

HISTORY: CL 1948, 125.297;—Am. 1955, p. 307, Act 204, Eff. Oct. 14.

125.298 Ordinances controlling.

Sec. 28. Insofar as the provisions of any ordinance lawfully adopted under the provisions of this act are inconsistent with the provisions of ordinances adopted under any

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other law, the provisions of ordinances adopted under the provisions of this act, unless otherwise provided in this act, shall be controlling.

HISTORY: CL 1948, 125.298;—Am. 1955, p. 307, Act 204, Eff. Oct. 14.

Sec. 29. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 416, Act 267, Imd. Eff. May 25.

Sec. 30. (This was a repeal section.)

HISTORY: Rep. 1945, p. 409, Act 267, Imd. Eff. May 25.

ACT REPEALED: Act 302 of 1937, as amended by Act 69 of 1939, Act 339 of 1941, and Act 241 of 1941.

125.301 Township rural zoning act; short title.

Sec. 31. This act shall be known and may be cited as "The township rural zoning act."

HISTORY: CL 1948, 125.301.

Act 171, 1958, p. 193; Eff. Sep. 13.

AN ACT providing for the continuation of zoning regulations in newly incorporated villages or in territories attached to villages.

The People of the State of Michigan enact:

125.311 Annexed property to village; continuation of zoning regulation.

Sec. 1. Whenever any portion of any township becomes an incorporated village, or whenever any territory is annexed to any village, the then existing zoning regulations for the territory within the newly incorporated village or within the territory attached to a then existing village shall remain in full force and effect for a period of 2 years after incorporation or annexation unless the legislative body of the village shall lawfully adopt other zoning regulations or ordinances.

HISTORY: New 1958, p. 193, Act 171, Eff. Sep. 13;—Am. 1964, p. 83, Act 80, Eff. Aug. 28.

Act 168, 1959, p. 234; Eff. Mar. 19, 1960.

AN ACT to provide for township planning; for the creation, organization, powers and duties of township planning commissions; and for the regulation and subdivision of land.

The People of the State of Michigan enact:

125.321 Township planning commission; definitions.

Sec. 1. As used in this act:

(1) "Basic plan" means master plan, general development plan, guide plan, or the plan referred to in Act No. 184 of the Public Acts of 1943, as amended, being sections 125.271 to 125.301 of the Compiled Laws of 1948, being the basis on which the zoning plan is developed.

(2) "Citizen member" means a member of a township planning commission holding no other township office except that he may be a member of a township zoning board of adjustment or appeals.

(3) "Planning commission" means township planning commission.

HISTORY: New 1959, p. 234, Act 168, Eff. Mar. 19, 1960.

125.322 Township planning commission; purpose of plans.

Sec. 2. The purpose of plans prepared pursuant to this act shall be to promote public health, safety and general welfare; to encourage the use of resources in accordance with their character and adaptability; to avoid the overcrowding of land by buildings

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or people; to lessen congestion on public roads and streets; to facilitate provision for a system of transportation, sewage disposal, safe and adequate water supply, recreation and other public improvements; and to consider the character of each township and its suitability for particular uses judged in terms of such factors as the trend in land and population development.

HISTORY: New 1959, p. 234, Act 168, Eff. Mar. 19, 1960.

125.323 Township planning commission; creation; referendum; resolution, copies to secretary of state and county or regional planning commission.

Sec. 3. (1) The township board of any township may create, by resolution, a township planning commission with power to make, adopt, extend, add to or otherwise amend, and to carry out plans for the unincorporated portions of the township as provided in this act.

(2) The resolution creating a planning commission shall become effective 60 days after publication in a newspaper having general circulation in a township. Within 60 days following the publication of the resolution by the township board, a petition signed by a number of qualified and registered voters residing in the unincorporated portion of the township equal to not less than 8% of the total vote cast for all candidates for governor, at the last preceding general election at which a governor was elected, may be filed with the township clerk praying therein for the submission of the resolution to the electors residing in the unincorporated portion of the township for their approval or rejection. Upon the filing of the petition, the resolution shall not take effect until approved by a majority of the electors voting thereon at the next regular or special election which allows reasonable time for proper notices and printing of ballots or at any special election called for that purpose. The township board shall provide the manner of submitting such resolution to the electors for their approval or rejection, and determining the results thereof.

(3) Upon the filing with the township clerk of a petition requesting the township board to adopt a resolution as herein provided, signed by a number of qualified and registered voters residing in the unincorporated area of the township equal to not less than 8% of the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected, the township board, at its first meeting following such filing shall submit the same to a vote as provided in this section.

(4) The township clerk shall transmit copies of the resolution to the secretary of state and to the planning commission of the county of which the township is a part, and if there is no county planning commission, to the regional planning commission which is exercising planning jurisdiction over the township, within 10 days after adoption. The secretary of state shall maintain a public record of all resolutions so received.

HISTORY: New 1959, p. 234, Act 168, Eff. Mar. 19, 1960;—Am. 1962, p. 63, Act 78, Eff. Mar. 28, 1963.

125.324 Township planning commission; members, qualification, appointment, term, vacancies, compensation, budget; gifts; expenditures.

Sec. 4. (1) The planning commission shall consist of not less than 5 nor more than 9 members, who shall be representative of major interests as they exist in the township, such as agriculture, recreation, education, public health, government, commerce, transportation and industry. All members shall be qualified electors and property owners of the township. One member of the township board shall be a member of the planning commission.

(2) All members of the planning commission shall be appointed by the township supervisor with the approval of the township board. Members may be removed by the township supervisor, after a hearing, with the approval of the township board.

(3) The term of each member shall be for 3 years, except that of the members first appointed, 1/3 shall serve for 1 year, 1/3 for 2 years and 1/3 for 3 years. A successor

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shall be appointed not more than 1 month after the term of the preceding commission member has expired. All vacancies for unexpired terms shall be filled for the remainder of such term.

(4) Members of the planning commission may be compensated for their services as provided by the township board. The planning commission may make and administer regulations relative to compensation for the travel of its members and employees when engaged in the performance of activities authorized by the township planning commission, including attendance at conferences and meetings. The planning commission shall prepare a detailed budget and submit same to the township board for approval or disapproval. The township board annually may appropriate and make available funds for carrying out the purposes and functions permitted under this act, and may match township funds with federal, state, county or other local government or private grants. The township board may accept and use gifts and grants for planning commission purposes. Money so accepted shall be deposited with the township treasurer in a special nonreverting planning commission fund for expenditure by the planning commission for the purpose designated by the donor. The township treasurer shall draw warrants against the special nonreverting fund only upon vouchers signed by the chairman and secretary of the planning commission and upon orders drawn by the township clerk. The expenditures of the planning commission, exclusive of gifts and grants, shall be within the amounts appropriated by the township board.

HISTORY: New 1959, p. 235, Act 168, Eff. Mar. 19, 1960.

125.325 Township planning commission; officers, advisory committees; meetings, notice; director; rules; record; reports.

Sec. 5. (1) The planning commission shall elect a chairman, vice chairman and secretary from its members and create and fill such other offices or committees as it may deem advisable. The planning commission may appoint advisory committees outside of its membership. The terms of all officers shall be 1 year.

(2) The planning commission shall hold at least 4 regular meetings each year, and by resolution shall determine the time and place of such meetings. Special meetings may be called by 2 members upon written request to the secretary or by the chairman. The secretary shall send written notice of any special meeting to all members at least 48 hours in advance of the meeting. All meetings shall be open to the public.

(3) The township board upon recommendation of the planning commission may employ a planning director or other planning personnel, contract for the part-time or full-time services of planning and other technicians, and pay or authorize the payment of expenses within the funds budgeted and provided for planning purposes.

(4) The planning commission shall adopt rules for the transaction of business, and shall keep a public record of its resolutions, transactions, findings and determinations. It shall make an annual written report to the township board concerning its operations and the status of planning activities, including recommendations regarding actions by the township board related to planning and development.

HISTORY: New 1959, p. 235, Act 168, Eff. Mar. 19, 1960;—Am. 1965, p. 130, Act 97, Imd. Eff. Jun. 28.

125.326 Basic plan; consultation with other planning commissions.

Sec. 6. The planning commission shall make and adopt a basic plan as a guide for the development of unincorporated portions of the township. As a basis for the plan, the planning commission is hereby empowered to (1) make inquiries, investigations and surveys of all the resources of the township and (2) assemble and analyze data and formulate plans for the proper conservation and uses of all resources, including a determination of the extent of probable future need for the most advantageous designation of lands having various use potentials and for services, facilities and utilities required to equip such lands. The planning commission shall consult, in respect to its

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planning, with representatives of adjacent townships; with the county planning commission, if any; with any representatives of incorporated municipalities within the township; and with the regional planning commission, if any. The planning commission is authorized to make use of expert advice and information which may be furnished by appropriate federal, state, county and municipal officials, departments and agencies having information, maps and data pertinent to township planning. State, regional, county and municipal officials and departments and agencies shall make available public information for the use of township planning commissions and may furnish such other technical assistance and advice as they may have for planning purposes.

HISTORY: New 1959, p. 236, Act 168, Eff. Mar. 19, 1960.

125.327 Basic plan; contents.

Sec. 7. (1) The basic plan shall include maps, plats, charts and descriptive, explanatory and other related matter and shall show the planning commission's recommendations for the physical development of the unincorporated area of the township.

(2) The basic plan shall include those of the following subjects which reasonably can be considered as pertinent to the future development of the township:

(a) A land use plan and program, in part consisting of a classification and allocation of land for agriculture, residence, commerce, industry, recreation, ways and grounds, public buildings, schools, soil conservation, forest, wild life refuges and other uses and purposes.

(b) The general location, character and extent of streets, roads, highways, railroads, bridges, waterways and water front developments; flood prevention works, drainage, sanitary sewers and water supply systems, works for preventing pollution and works for maintaining water levels; and public utilities and structures.

(c) Recommendations as to the general character, extent and layout for the redevelopment or rehabilitation of blighted districts and slum areas; and the removal, relocation, widening, narrowing, vacating, abandonment, changes or use or extension of ways, grounds, open spaces, buildings, utilities or other facilities.

(d) Recommendations for implementing any of its proposals.

HISTORY: New 1959, p. 236, Act 168, Eff. Mar. 19, 1960.

125.328 Basic plan; adoption procedure, approval by county planning commission.

Sec. 8. The planning commission by majority vote of its membership may adopt the basic plan as a whole by a single resolution, or may by successive resolutions adopt successive parts of the plan, the parts corresponding with major geographical sections or divisions of the township or with functional subdivisions of the subject matter of the basic plan, and may adopt any amendment or extension thereof or addition thereto as herein provided. The plan or parts thereof shall be referred to the county planning commission of the county of which the township is a part for its approval. The county planning commission shall approve or disapprove the plans within 45 days after date of receipt. In the event of disapproval, a notice of such disapproval shall be forwarded to the township clerk within 15 days after disapproval. In counties where there is no county planning commission, the referral shall be made to the regional planning commission, if any, having planning jurisdiction over the township. The referral shall be subject to the conditions applicable to the procedure of referral to the county planning commission.

HISTORY: New 1959, p. 236, Act 168, Eff. Mar. 19, 1960.

125.329 Basic plan; hearing, publication of notice.

Sec. 9. Before the adoption of the plan or any part, amendment, extension or addition, the planning commission shall hold at least 1 public hearing thereon. Thirty days'

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notice of public hearing shall be given by 2 publications at least 2 weeks apart and not less than 7 days before the hearing in a newspaper having a general circulation in the township. Following the adoption of the basic plan or any part thereof by the planning commission, copies of the plan shall be transmitted to the township board and to the county planning commission of the county of which the township is a part, and if there is no county planning commission, then to the regional planning commission which is exercising planning jurisdiction over the township.

HISTORY: New 1959, p. 237, Act 168, Eff. Mar. 19, 1960.

125.330 Basic plan; approval of public way, space, building or structure.

Sec. 10. Whenever the planning commission has adopted the basic plan of the township of 1 or more major sections or districts thereof, no street, square, park or other public way, ground or open space, or public building or structure, shall be constructed or authorized in the township or in the planned section and district until the location, character and extent thereof shall have been submitted to and approved by the planning commission. The planning commission shall communicate its reasons for approval or disapproval to the township board, which shall have the power to overrule the planning commission by a recorded vote of not less than a majority of its entire membership. If the public way, ground, space, building, structure or utility is one, the authorization or financing of which does not, under the law governing same, fall within the province of the township board, then the submission to the planning commission shall be by the board, commission or body having jurisdiction, and the planning commission's disapproval may be overruled by resolution of the board, commission or body by a vote of not less than a majority of its membership. The failure of the planning commission to act within 60 days after the official submission to the planning commission shall be deemed approval. The planning commission shall promote public understanding of an interest in the plan and shall publish and distribute copies of the plan and of any report, and may employ such other means of publicity and education as it determines necessary.

HISTORY: New 1959, p. 237, Act 168, Eff. Mar. 19, 1960;—Am. 1960, p. 8, Act 10, Imd. Eff. Mar. 30.

125.331 Zoning board; powers and duties; zoning ordinances and amendments, filing.

Sec. 11. The township board, by resolution, may transfer to the planning commission all powers, duties and responsibilities provided by Act No. 184 of the Public Acts of 1943, as amended, being sections 125.271 to 125.301 of the Compiled Laws of 1948, for zoning boards created thereunder. If the existing zoning board is nearing the completion of its zoning plan, the township board shall postpone the transfer of the zoning board's powers until the completion of the zoning plan, but the postponement shall not exceed a period of 1 year. In townships where the planning commission has been granted the powers of the zoning board, the chairman of the planning commission shall be designated as the first member of the zoning board of appeals. In those counties where a county planning commission has been established, the township planning commission shall file with the county planning commission a copy of all township zoning ordinances and any amendment thereto.

HISTORY: New 1959, p. 237, Act 168, Eff. Mar. 19, 1960;—Am. 1966, p. 218, Act 193, Eff. Mar. 10, 1967.

125.332 Approval of plats.

Sec. 12. The township board shall refer plats or other matters relating to land development to the planning commission before final action thereon by the township board

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and may request the planning commission to recommend regulations governing the subdivision of land. The recommendations may provide for the procedures of submittal, including recommendations for submitting a preliminary subdivision design, the standards of design and the physical improvements that may be required.

HISTORY: New 1959, p. 237, Act 168, Eff. Mar. 19, 1960.

125.333 Inconsistent acts.

Sec. 13. Insofar as the provisions of this act are inconsistent with the provisions of any other law, the provisions of this act shall be controlling except that this act shall not supersede Act No. 240 of the Public Acts of 1937, as amended, being sections 338.551 to 338.576 of the Compiled Laws of 1948, as to work required to be performed by registered architects, professional engineers or land surveyors. This act shall not preclude the creation or continuance of a township planning commission created pursuant to Act No. 285 of the Public Acts of 1931, as amended, being sections 125.31 to 125.45 of the Compiled Laws of 1948.

HISTORY: New 1959, p. 238, Act 168, Eff. Mar. 19, 1960;—Am. 1963, p. 103, Act 91, Eff. Sep. 6.

Act 185, 1943, p. 271; Imd. Eff. Apr. 17.

AN ACT to provide for the regulation by township boards of the minimum construction requirements of dwellings, buildings and structures in the unincorporated portions of such township by ordinance; to provide for amendments or supplements thereto, and referenda thereon; to authorize penalties; to provide for the administration of this act; to provide for conflicts with other acts and ordinances and for the repeal of acts in conflict herewith; and to declare the effect of this act.

The People of the State of Michigan enact:

125.351 Minimum construction requirements of dwellings and other structures in unincorporated portions of township; uniformity.

Sec. 1. The township board of any organized township in the state of Michigan may, in the unincorporated portions of such township, provide by ordinance for the minimum construction requirements of dwellings, buildings and structures, and designate the manner in which, and the type of materials of which dwellings, buildings and structures shall thereafter be erected or altered. The unincorporated portions of the township may be divided into districts of such number, shape and area as may be deemed best suited to carry out the provisions of this act, and different requirements may be adopted for each such district: Provided, however, That the requirements shall be uniform for each class of dwelling, building or structure throughout each district.

HISTORY: CL 1948, 125.351.

125.352 Resolution of township board; notice; petition; adoption of ordinance.

Sec. 2. This act shall not become operative in any organized township in the state of Michigan until (a) the township board shall have passed a resolution declaring its intent to proceed under the provisions of this act, and shall have given public notice within 10 days of the passage of its resolution by publication in a newspaper of general circulation in the township, or (b) until a petition signed by a number of qualified and registered voters residing in the township equal to not less than 8 per cent of the total vote cast for all candidates for governor, at the last preceding general election at which a governor was elected, in the township, shall have been filed with the township clerk requesting the township board to undertake such action. Upon the filing of such petition the township board shall, at the next regular meeting, authorize the

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preparation of an ordinance in conformity with the provisions of this act, and shall not later than 60 days thereafter vote on the adoption of such ordinance.

HISTORY: CL 1948, 125.352.

125.353 Adoption of standard building codes or parts thereof; copy for public inspection.

Sec. 3. The provisions of any such ordinance shall be made with reasonable consideration and in accordance with a plan designed to lessen congestion on the public streets, to promote the public health, safety, morals and general welfare, and the safety, protection and sanitation of such dwellings, buildings and structures, and with reasonable consideration for the provisions of any existing rural zoning ordinance in effect in the township. Any such ordinance may from time to time be amended in the same manner as provided herein for the adoption of the ordinance. Following the adoption of the ordinance copies thereof shall at all times be made available for the public use in the office of the township clerk. Any township adopting an ordinance under the provisions of this act shall have power to adopt any standard plumbing, electrical, building, heating or air conditioning code, or any part or parts thereof, which has been promulgated by the state or by any department, board or other agency thereof, or by any national organization or association which is organized and conducted for the purpose of developing any such code or codes by reference thereto in an adopting ordinance and without publishing any such code, or the part or parts selected, in full, if the code and the part or parts thereof selected are clearly identified in the ordinance and that the purpose of the code shall be published with the adopting ordinance and that printed copies thereof are kept in the office of the township clerk, available for inspection by and distribution to the public at all times. The publication shall contain a notice to the effect that a complete copy of the code is available for public use and inspection at the office of the township clerk.

HISTORY: CL 1948, 125.353;—Am. 1951, p. 120, Act 92, Eff. Sep. 28;—Am. 1960, p. 38, Act 48, Eff. Aug. 17;—Am. 1966, p. 160, Act 135, Imd. Eff. Jun. 24.

125.354 Administration and enforcement.

Sec. 4. The township board shall in any ordinance adopted under the provisions of this act designate the proper official or officials whose duty it shall be to administer and enforce the provisions of such ordinance, and shall provide penalties for the violation thereof.

HISTORY: CL 1948, 125.354.

125.355 Referendum.

Sec. 5. If within 30 days following the adoption of an ordinance, or any amendment thereto, under the terms of this act, a petition signed by a number of qualified and registered voters residing in the township equal to not less than 8 per cent of the total vote cast for all candidates for governor, at the last preceding general election at which a governor was elected, in the township, shall have been filed with the township clerk praying therein for the submission of such ordinance, or amendment, to the electors of such township for their approval or rejection, then said ordinance, or amendment, shall not take effect until the same shall have been approved by a majority of the electors of the township voting thereon at any regular election, or special election called for that purpose. The township board shall provide the manner of submitting the adoption of such ordinance, or amendment thereto, to the electors for their approval and determining the result thereof.

HISTORY: CL 1948, 125.355.

125.356 Prior ordinances to remain in force.

Sec. 6. In the event any township shall have an ordinance adopted and in effect under the provisions of Act No. 324 of the Public Acts of 1931, such ordinance shall re-

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main in full force and effect until a new ordinance is adopted and in effect under the provisions of this act.

HISTORY: CL 1948, 125.356.

NOTE: Act 324 of 1931, above referred to, is omitted from this compilation.

125.357 Conflicting requirements and provisions superseded.

Sec. 7. The provisions of any ordinance adopted under this act shall supersede conflicting requirements under Act No. 167 of the Public Acts of 1917, as amended, and shall supersede conflicting provisions of ordinances adopted under Act ..... of the Public Acts of 1943, the township rural zoning enabling act.

HISTORY: CL 1948, 125.357.

NOTE: Act 167 of 1917, above referred to, is Compilers' § 125.401 et seq.

The 1943 act, above referred to, is Act 184, being Compilers' § 125.271 et seq.

125.358 Controlling provisions of ordinance.

Sec. 8. Insofar as the provisions of any ordinance lawfully adopted under the provisions of this act are inconsistent with the provisions of ordinances adopted under any other law, the provisions of ordinances adopted under the provisions of this act shall be controlling.

HISTORY: CL 1948, 125.358.

125.359 Act repealed.

Sec. 9. Act No. 324 of the Public Acts of 1931, except as hereinbefore provided, is hereby repealed.

HISTORY: CL 1948, 125.359.

NOTE: Act 324 of 1931, above referred to, is omitted from this compilation.

Sec. 10. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 416, Act 267, Imd. Eff. May 25.

Act 167, 1917, p. 311; Eff. Aug. 10.

AN ACT to promote the health, safety and welfare of the people by regulating the light and ventilation, sanitation, fire protection, maintenance, alteration and improvement of dwellings; to define the classes of dwellings affected by the act, to establish administrative requirements and to establish remedies and fix penalties for the violation thereof.

The People of the State of Michigan enact:

ARTICLE I.

GENERAL PROVISIONS.

125.401 Housing law of Michigan; scope of act.

Sec. 1. Scope of the act. This act shall be known as the housing law of Michigan and all provisions thereof shall apply to every city and organized village in the state which, by the last regular or special federal census, had a population of 100,000 or more, and to every such city or village as its population shall reach 100,000 thereafter and also to that territory immediately adjacent and contiguous to the boundaries of any such city or village and extending for a radial distance of 2 1/2 miles beyond such boundaries in all directions. All provisions of this act shall also apply to any city and organized village in this state which, as determined by such census, has or shall hereafter attain a population of 10,000 or more: Provided, however, That the provisions of this act relating to private dwellings and 2 family dwellings as hereinafter defined shall not apply to any city or organized village lying outside said territory and having a population of less than 100,000 unless the legislative body of such city or village by resolution, passed by a majority vote of the members elect of such body, adopt such provisions;

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and in case of unincorporated areas lying within a radial distance of 1 ¼ miles beyond the boundaries of any city or village of 10,000 or more but less than 100,000 population, the provisions of this act relating to private dwellings and 2 family dwellings may be applied to such unincorporated areas by ordinance of the respective township board adopting such provisions. All the provisions of the act shall apply to all dwellings within the classes defined in the following sections, except that in sections where specific reference is made to 1 or more specific classes of dwellings, such provisions shall apply only to those classes to which such specific reference is made. All other provisions which relate to dwellings shall apply to all classes of dwellings.

HISTORY: Am. 1919, p. 564, Act 326, Imd. Eff. May 13;—CL 1929, 2487;—Am. 1939, p. 709, Act 303, Eff. Sept. 29;—Am. 1941, p. 109, Act 91, Imd. Eff. May 16;—CL 1948, 125.401.

COMPILERS' NOTE: The catchlines following the act section numbers of this act were incorporated as a part of the act when enacted.

CITED IN OTHER SECTIONS: Sections 125.401 to 125.519 are cited in §§ 252.131, 400.14c, and 500.2901.

125.402 Housing law of Michigan; definitions.

Sec. 2. Definitions. Certain words in this act are defined for the purposes thereof as follows: Words used in the present tense include the future; words in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural the singular; the word "person" includes a corporation as well as a natural person.

(1) Dwelling. A "dwelling" is any house, building, structure, tent, shelter, trailer or vehicle, or portion thereof, (except railroad cars, on tracks or rights-of-way) which is occupied in whole or in part as the home, residence, living or sleeping place of 1 or more human beings, either permanently or transiently. A house trailer or other vehicle, when occupied or used as a dwelling, shall be subject to all the provisions of this act, except that house trailers or other vehicles, duly licensed as vehicles, may be occupied or used as a dwelling for reasonable periods or lengths of time, without being otherwise subject to the provisions of this act for dwellings, when located in a park or place designated or licensed for the purpose by the corporate community within which they are located: Provided, That such parking sites are equipped with adequate safety and sanitary facilities.

(1a). "Sub-standard dwelling" is a dwelling of any class which is not so equipped as to have each of the following items: running water, inside toilets; or a dwelling which has either inadequate cellar.drainage, defective plumbing, and inside room having no windows therein, improper exits or defective stairways so as to make such dwelling a fire hazard.

(2) Classes of dwellings. For the purposes of this act dwellings are divided into the following classes: (a) "private dwellings," (b) "2 family dwellings," and (c) "multiple dwellings."

(a) A "private dwelling" is a dwelling occupied by but 1 family, and so designed and arranged as to provide cooking and kitchen accommodations for 1 family only.

(b) A "2 family dwelling" is a dwelling occupied by but 2 families, and so designed and arranged as to provide cooking and kitchen accommodations for 2 families only.

(c) A "multiple dwelling" is a dwelling occupied otherwise than as a private dwelling or 2 family dwelling.

(3) Classes of multiple dwellings. All multiple dwellings are dwellings and for the purpose of this act are divided into 2 classes, viz.: class a and class b.

Class a. Multiple dwellings of class a are dwellings which are occupied more or less permanently for residence purposes by several families and in which the rooms are occupied in apartments, suites or groups, in which each combination of rooms is so arranged and designed as to provide for cooking accommodations and toilet and kitchen sink accommodations within the separate units. This class includes tenement houses, flats, apartment houses, apartment hotels, bachelor apartments, studio apartments, du-

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plex apartments, kitchenette apartments, and all other dwellings similarly occupied whether specifically enumerated herein or not.

Class b. Multiple dwellings of class b are dwellings which are occupied, as a rule transiently, as the more or less temporary abiding place of individuals who are lodged, with or without meals, and in which as a rule the rooms are occupied singly and without any attempt to provide therein or therewith cooking or kitchen accommodations for the individual occupants. This class includes hotels, lodging houses, boarding houses, furnished room houses, club houses, convents, asylums, hospitals, jails and all other dwellings similarly occupied, whether specifically enumerated herein or not.

(3a) Rooming house. A "rooming house" under this act shall be construed to mean any dwelling occupied in such a manner that certain rooms, in excess of those used by the members of the immediate family and occupied as a home or family unit, are leased or rented to persons outside of the family, without any attempt to provide therein or therewith, cooking or kitchen accommodations for individuals leasing or renting rooms. In the case of single and 2 family dwellings the number of such bedrooms leased or rented to roomers shall not exceed 3, unless such dwellings be made to comply in all respects with the provisions of this act relating to multiple dwellings.

(4) Hotel. A "hotel" is a multiple-dwelling of class b in which persons are lodged for hire and in which there are more than 50 sleeping rooms, a public dining room for the accommodation of at least 50 guests, and a general kitchen.

(5) Mixed occupancy. In cases of mixed occupancy where a building is occupied in part as a dwelling, the part so occupied shall be deemed a dwelling for the purposes of this act and shall comply with the provisions thereof relative to dwellings.

(6) Yards. A "rear yard" is an unoccupied space on the same lot with a dwelling, between the extreme rear line of the dwelling and the rear lot line and extending from 1 side lot line to the other side lot line. A "side yard" is an unoccupied space on the same lot with a dwelling between the side lot line and the nearest side line of the dwelling and extending from the extreme rear line of the dwelling to the front lot line. A "front yard" is an unoccupied space on the same lot with a dwelling between the extreme front line of the house and the front lot line and extending from 1 side yard to the other side yard.

(7) Courts. A "court" is an open unoccupied space on the same lot with a dwelling and bounded on 2 or more sides with the walls of the dwelling. A court not extending to the street or front or rear yard is an "inner court". A court extending to the street or front or rear yard is an "outer court".

(8) Corner and interior lots. A "corner lot" is a lot of which at least 2 adjacent sides abut for their full length upon a street. A lot other than a corner lot is an "interior lot."

(9) Front, rear and depth of lot. The front of a lot is that boundary line which borders on the street. In case of a corner lot the owner may elect by statement on his plans either street boundary line as the front. The rear of a lot is the side opposite to the front. In the case of a triangular or gore lot the rear is the boundary line not bordering on a street. The depth of a lot is the dimension measured from the front of the lot to the extreme rear line of the lot. In the case of irregular shaped lots the mean depth shall be taken.

(10) Public hall. A "public hall" is a hall, corridor or passageway not within the exclusive control of 1 family.

(11) Stair hall. A "stair hall" is a public hall and includes the stairs, stair landings and those portions of the building through which it is necessary to pass in going between the entrance floor and the roof.

(12) Basement, cellar, attic, penthouses.

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(a) A "basement" is that portion of a building partly below grade but so located that the vertical distance from grade to the floor is not greater than the vertical distance from the grade to the ceiling: Provided, however, That if the vertical distance from the grade to the ceiling is 5 feet or more such basement shall be counted as a story.

(b) A "cellar" is that portion of a building partly below grade but so located that the vertical distance from the grade to the floor is greater than the vertical distance from the grade to the ceiling: Provided, however, That if the vertical distance from the grade to the ceiling is 5 feet or more such cellar shall be counted as a story. A cellar, except as provided above, shall not be counted as a story. If any portion of a building is in that part the equivalent of a basement or cellar, the provisions of this act relative to basements and cellars shall apply to such portion of the building.

(c) An attic is a portion of a building situated partly or wholly in the roof space. An attic which is used only as a portion of a single or 2 family dwelling shall be not counted as a story, unless there are more than 2 rooms suitable for living purposes on this floor. For the purpose of this paragraph, rooms of 160 square feet or more will be regarded as 2 or more rooms based on each 80 square feet being considered 1 room. Any attic which is occupied by a separate family shall be counted as a story. Any attic used for living purposes in a multiple dwelling shall be counted as a story.

(d) Penthouses. Penthouses are those portions of a building situated above the roof and housing mechanical equipment, service or recreational facilities or used for living purposes. A penthouse shall not be counted as a story if it houses only mechanical equipment or stairways and does not have an area in excess of 200 square feet; nor shall it be counted as a story, when occupied otherwise or when it has an area in excess of 200 square feet, if it complies with the following requirements:

(1) The building and penthouse shall be of fireproof construction if the penthouse houses other than mechanical equipment or stairways.

(2) The penthouse shall be not over 1 story in height.

(3) The exterior walls of the penthouse shall be set back from the exterior walls of the story immediately below by a distance not less than 2/3 of the height of the penthouse above the roof. However, it shall not be necessary to set back the exterior walls of a penthouse if the dimensions of yards and courts are sufficient to meet the requirements of this act for a building if the penthouse is counted as a story.

(4) There shall be access to 2 stairways leading from the roof to grade where penthouses are used for the purposes other than to house mechanical equipment.

(5) The combined area of all penthouses on a building shall not exceed 25 per cent of the gross area of the floor immediately below.

(13) Height. The "height" of a dwelling is the perpendicular distance measured in a straight line from grade to the highest point of the roof beams in the case of flat roofs, and to the average of the height of the gable in the case of pitched roofs.

(14) Grade. "Grade", for buildings adjoining 1 street only, shall be the elevation of the sidewalk at the center of that wall which adjoins the street, except that in case the average elevation of the ground (finished surface) adjacent to the exterior walls of the building is lower than the elevation of the sidewalk, "grade" shall be the average elevation of the ground.

"Grade", for buildings adjoining more than 1 street, shall be the elevation of the sidewalk at the center of the wall adjoining the street having the lowest sidewalk elevation.

"Grade", for buildings having no wall adjoining the street, shall be the average level of the ground (finished surface) adjacent to the exterior walls of the building.

All walls approximately parallel to and not more than 5 feet from a street line shall be considered as adjoining the street. In alleys the surface of the paving shall be con-

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sidered to be the sidewalk elevation. Where the elevation of the sidewalk or alley paving has not been established the city engineer shall determine such elevation for the purpose of this act.

(15) Occupied spaces. Outside stairways, fire escapes, fire towers, porches, platforms, balconies, boiler flues and other projections shall be considered as part of the building and not as a part of the yards or courts or unoccupied spaces. This provision shall not apply to 1 fireplace or 1 chimney projecting not more than 12 inches into side yard space and not more than 8 feet in length, nor to uninclosed outside porches not exceeding 1 story in height which do not extend into the front or rear yard a greater distance than 12 feet from the front or rear walls of the building, nor to 1 such porch which does not extend into the sideyard a greater distance than 6 feet from the side wall of the building nor exceed 12 feet in its other horizontal dimension, or to cornices not exceeding 16 inches in width including the gutter.

(16) Fireproof dwelling. A "fireproof dwelling" is one the exterior walls of which are constructed of brick, stone, concrete, iron or other hard incombustible material not less than 8 inches thick, and in which there are no wood beams or lintels and in which the floors, roofs, stair halls and public halls are built entirely of brick, stone, concrete, iron or other hard incombustible material, and in which no woodwork or other inflammable material is used in any of the partitions, furrings or ceilings. But this definition shall not be construed as prohibiting elsewhere than in the public halls the use of wooden flooring on top of the fireproof floors or the use of wooden sleepers, nor as prohibiting the use of wood, or any other material not more combustible or inflammable than wood, for handrails, doors, windows, and decorative treatment on incombustible surfaces.

All metallic structural members, except lintels unattached to structural frame work and less than 6 feet in span, shall be protected with not less than 2 inches of brick, concrete, gypsum, terra cotta, or any other material that has equivalent properties to resist the action of flame and heat. Steel in reinforced concrete construction shall be protected with a minimum of 3/4 of an inch of concrete unless additional protection is required by the enforcing official.

In dwellings not over 8 stories in height, steel joists may be used for roof and floor construction if protected on the underside with 3/4 of an inch of gypsum or portland cement plaster on metal lath, thickness of said plaster to be measured from the back of the metal lath, and protected on top with a slab of at least 2 inches of concrete in which wood sleepers may be embedded if there is at least 1 and 1/2 inches of concrete under the sleepers.

(17) Wooden buildings. "Wooden building" is a building of which the exterior walls or a portion thereof are of wood. Court walls are exterior walls.

(18) Nuisance. The word "nuisance" shall be held to embrace public nuisance as known at common law or in equity jurisprudence; and whatever is dangerous to human life or detrimental to health; whatever dwelling is overcrowded with occupants or is not provided with adequate ingress and egress to or from the same, or is not sufficiently supported, ventilated, sewered, drained, cleaned or lighted, in reference to its intended or actual use; and whatever renders the air or human food or drink unwholesome, are also severally, in contemplation of this act, nuisances; and all such nuisances are hereby declared illegal.

(19) Construction of certain words. The word "shall" is always mandatory and not directory, and denotes that the dwelling shall be maintained in all respects according to the mandate as long as it continues to be a dwelling. Wherever the words "charter," "ordinances," "regulations," "superintendent of buildings," "health department," "the board of health," "health officer," or such other appropriate public official as the

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mayor may designate "commissioner of public safety," "commissioner of public health," "department charged with the enforcement of this act," "corporation counsel," "mayor," "city treasury," or "fire limits" occur in this act they shall be construed as if followed by the words "of the city or village in which the dwelling is situated." Wherever the words "health department," "health officer," or such other appropriate public official as the mayor may designate, or "duly authorized assistant" or "board of health," "commissioner of public safety," or "commissioner of public health" are employed in this act, such words shall be deemed and construed to mean the official or officials in any city or village to whom is committed the charge of safeguarding the public health. The terms "superintendent of buildings," "building department," and "inspector of buildings" shall embrace the department and the executive head thereof specially charged with the execution of laws and ordinances relating to the construction of buildings. Wherever the terms "superintendent of buildings," "health officer," or such other appropriate public official as the mayor may designate are used in this act they shall be construed to mean the enforcement officials designated in section 111. Wherever the words "occupied" or "used" are employed in this act such words shall be construed as if followed by the words "or is intended, arranged, designed, built, altered, converted to, rented, leased, let or hired out, to be occupied or used." Wherever the words "dwelling," "2 family dwelling," "multiple dwelling," "building," "house," "premises" or "lot" are used in this act, they shall be construed as if followed by the words "or any part thereof." Wherever the words "city water" are used in this act, they shall be construed as meaning any public supply of water through street mains; and wherever the words "public sewer" are used in this act they shall be construed as meaning any part of a system of sewers that is used by the public, whether or not such part was constructed at the public expense. Wherever the word "street" is used in this act it shall be construed as including any public alley 16 feet or more in width. "Approved fireproof material" means as set forth by ordinances, or if not so determined, as approved by the enforcing officer. Where a particular material, device, or type of construction is specified herein, there may be substituted therefor any other material, device or type of construction of a strength, durability, performance and fire resistive qualities, equivalent to the particular material, device or type of construction specified herein, or sufficient for the intended use, and approved as such by the enforcing officer. Perforated gypsum lath 3/8 of an inch thick, with 1/2 inch of gypsum plaster may be substituted wherever metal lath and gypsum or cement plaster is required in this act.

(20) Fire doors. A fire door is a movable fire resistive barrier placed on an opening in a masonry wall or shaft enclosure for the purpose of preventing the passage of fire through the opening. All fire doors, as installed and including frames and hardware shall be capable of passing a fire and water test as herein specified. The fire test shall consist of a flame applied over entire area of door which will gradually raise the temperature of the exposed side to 1400 degrees Fahrenheit during the first 20 minutes of test and which will gradually raise this temperature to 1700 degrees Fahrenheit during the next 40 minutes, concluding the fire test. Immediately thereafter and while the door is still hot, it shall be subjected to the impact of a stream of water under a nozzle pressure of 30 pounds per square inch through a 2 and 1/2 inch fire hose with a 1 and 1/8 inch smooth bore nozzle placed 20 feet from the door and played uniformly over surface of same for a period of at least 45 seconds. To pass this test, a fire door shall maintain its shape and integrity reasonably well so as to be capable of resisting the further application of flame and shall not develop serious structural weakness. The enforcing officer may require that the ability of all fire doors to pass these tests be demonstrated in a recognized testing laboratory, or that satisfactory evidence in the form

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of a label or certificate of test and inspection be submitted showing that the fire doors in question have successfully complied with these requirements.

All fire doors, except those on dumbwaiters and elevators, shall be of the swinging type and shall not be double acting and shall be equipped with an approved device capable of completely and effectually closing the door under all conditions.

Type "a" fire doors shall be solid without glass panels of any kind. Type "a" fire doors may be used wherever type "b" fire doors are required herein.

Type "b" fire doors may contain not over 720 square inches of wire-glass at least 1/4 inch in thickness.

Automatic fire doors, as specified herein, may be normally held in an open position by an apparatus which will automatically allow the door to close whenever the temperature of the air at the top of the door reaches 165 degrees Fahrenheit. Self-closing fire doors, as specified herein, shall be normally kept closed at all times.

All fire doors shall be equipped with an effective locking device which will hold the door in the closed position but which can be unlocked from either side of the door without the use of a key.

All fire doors shall be provided with an incombustible threshold and combustible floor construction or covering shall not extend through the door opening.

Frames for type "a" fire doors shall be made entirely of metal and no combustible material shall be used in their construction or installation.

Frames for type "b" fire doors may be made of metal or of wood covered with metal.

Self-closing equipment shall consist of standard door checks or other similar approved devices which will effectually close the door without slamming.

Self-closing fire door shall be labeled on both sides in a conspicuous manner with the following words: "fire door, keep closed".

HISTORY: Am. 1921, p. 736, Act 401, Eff. Aug. 18;—Am. 1925, p. 722, Act 371, Eff. Aug. 27;—CL 1929, 2488;—Am. 1939, p. 710, Act 303, Eff. Sept. 29;—CL 1948, 125.402.

125.402a Enforcing agency; definition.

Sec. 2a. As used in this act:

"Enforcing agency" means the designated officer or agency charged with responsibility for administration and enforcement of this act.

HISTORY: Add. 1968, p. 487, Act 286, Eff. Nov. 15.

125.403 Buildings converted or altered subject to act; change of class; technical violations by multiple dwellings.

Sec. 3. Buildings converted or altered. A building not a dwelling, if hereafter converted or altered to such use shall thereupon become subject to all the provisions of this act relative to dwellings hereafter erected. A dwelling of 1 class if hereafter altered or converted to another class shall thereupon become subject to all the provisions of this act relative to such class: Provided, however, That in case of a dwelling to be altered to a 2 family or multiple dwelling where such dwelling fails to comply in some few technical respects with the provisions of sections 12, 13, 20, 21, 22 and 35, the head of the department charged with the enforcement of this act may in his discretion grant a permit for the altering of such dwelling: Provided, however, In his opinion the spirit of the law will be observed and no conditions injurious to health or safety will result therefrom. In all such cases he shall file among the public records of his department a statement in writing, duly signed by him, setting forth in detail the respects in which such dwelling fails to conform with the law and his reasons for granting such permit.

HISTORY: Am. 1919, p. 565, Act 326, Imd. Eff. May 13;—CL 1929, 2489; Am. 1939, p. 715, Act 303, Eff. Sept. 29;—CL 1948, 125.403.

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125.404 Buildings hereafter erected; unlawful structure; investigation.

Sec. 4. Alterations and Change in Occupancy. No dwelling hereafter erected shall at any time be altered so as to be in violation of any provision of this act. And no dwelling erected prior to the passage of this act shall at any time be altered so as to be in violation of those provisions of this act applicable to such dwelling. If any dwelling or any part thereof is occupied by more families than provided in this act, or is erected, altered or occupied contrary to law, such dwelling shall be deemed an unlawful structure, and the health officer or such other appropriate public official as the mayor may designate, may cause such dwelling to be vacated. And such dwelling shall not again be occupied until it, or its occupation as the case may be, has been made to conform to the law.

HISTORY: CL 1929, 2490;—CL 1948, 125.404.

COMPILERS' NOTE: The catchlines following the act section numbers of this act were incorporated as a part of the act when enacted.

125.405 Repairing; rebuilding.

Sec. 5. Dwellings damaged. (a) A dwelling damaged by fire, collapse, or an act of God to such an extent that the cost of repair and reconstruction exceeds 3/4 of the assessed valuation of the dwelling at the time the damage occurred, shall not be repaired or reconstructed unless made to comply in all respects with the provisions of this act relative to dwellings hereafter erected.

(b) A dwelling damaged by wear and tear, deterioration, and depreciation to such an extent that the cost of repair and rehabilitation to place it in a safe, sound and sanitary condition exceeds 100 per cent of the assessed valuation at the time when the repairs or rehabilitation are to be made, shall not be so repaired or rehabilitated unless the dwelling is made to comply in all respects with the provisions of this act relative to dwellings hereafter erected. A dwelling so damaged by wear and tear, deterioration, and depreciation to such an extent that the cost of repair and rehabilitation shall exceed the assessed valuation shall be deemed unfit for human habitation unless repaired and rehabilitated pursuant to the provisions of this section, and in case such dwelling so damaged is not so repaired and rehabilitated it shall be vacated and demolished and removed.

HISTORY: Am. 1919, p. 433, Act 244, Eff. Aug. 14;—CL 1929, 2491;—Am. 1939, p. 715, Act 303, Eff. Sept. 29,—CL 1948, 125.405.

125.406 Moving of dwelling; permit.

Sec. 6. Dwellings moved. If any dwelling be hereafter moved from 1 lot to another it shall thereupon be made to conform to all the provisions of this act relative to dwellings hereafter erected: Provided, however, That in cases where such dwelling fails to conform in some technical respects with the provisions of section 12, section 13, section 20, section 21 and section 22 of title 2, the head of the department charged with the enforcement of this act, may in his discretion, grant a permit for the moving of such dwelling: Provided, however, In his opinion the spirit of the law will be observed and no condition injurious to health or safety will result therefrom.

HISTORY: Am. 1919 p. 565, Act 326, Imd. Eff. May 13;—Am. 1925, p. 727, Act 371, Eff. Aug. 27;—CL 1929, 2492,—CL 1948, 125.406.

125.407 Sewer connections and water supply.

Sec. 7. Sewer connections and water supply. The provisions of this act with reference to sewer connections and water supply shall be deemed to apply only where connection with a public sewer and with public water mains is or becomes reasonably accessible. All questions of the practicability of such sewer and water connections shall be decided by the health officer, or by such other appropriate public official as the mayor may designate.

HISTORY: CL 1929, 2493;—CL 1948, 125.407.

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125.408 Minimum requirements; law not to be modified.

Sec. 8. Minimum requirements; law not to be modified. The provisions of the act shall be held to be the minimum requirements adopted for the protection of health, welfare and safety of the community. Nothing herein contained shall be deemed to invalidate existing ordinances or regulations of any city or organized village or the board of health of any such city or village imposing requirements higher than the minimum requirements laid down in this act relative to light, ventilation, sanitation, fire prevention, egress, occupancy, maintenance and uses for dwellings; nor be deemed to prevent any city or organized village or the board of health of any such city or village from enacting and putting in force from time to time ordinances and regulations imposing requirements higher than the minimum requirements laid down in this act; nor shall anything herein contained be deemed to prevent such cities and organized villages or the board of health of any such city or village from prescribing for the enforcement of such ordinances and regulations, remedies and penalties similar to those prescribed herein. And every such city and organized village or the board of health of any such city or village is empowered to enact such ordinances and regulations and to prescribe for their enforcement. No ordinance, regulation, ruling or decision of any municipal body, officer of authority of the board of health of any such city or village shall repeal, amend, modify or dispense with any of the said minimum requirements laid down in this act; except that, in order that the provisions of this act may be reasonably applied, public health and safety secured, and substantial justice done in instances where practical difficulties are encountered or unnecessary and unreasonable hardship result from the application of the strict letter of the law, the decision of a board of appeals, as hereinafter provided and regulated shall be considered as the reasonable application of the intent of this act.

HISTORY: Am. 1925, p. 727, Act 371, Eff. Aug. 27;—CL 1929, 2494;—CL 1948, 125.408.

125.409 State board of health; authority.

Sec. 9. State board of health. The state board of health shall have the power to examine into the enforcement of this act.

HISTORY: CL 1929, 2495;—Am. 1939, p. 716, Act 303, Eff. Sept. 29;—CL 1948, 125.409.

125.410 Time for compliance.

Sec. 10. Time for compliance. All improvements specifically required by this act upon dwellings erected prior to the date of its passage shall be made within 1 year from said date, or at such earlier period as may be fixed by the health officer or other authorized enforcement official.

HISTORY: CL 1929, 2496;—Am. 1939, p. 716, Act 303, Eff. Sept. 29;—CL 1948, 125.410.

125.410a Asylums, jails, institutions; construction.

Sec. 10a. Asylums and jails. All asylums, jails and similar institutions shall be constructed as near as may be practicable according to the provisions of this act, and according to the plans and specifications approved by the enforcing official as to safety, fire protection and fire prevention, and according to the plans and specifications approved by the state board of health as to sanitation, light and ventilation.

HISTORY: Add. 1921, p. 740, Act 401, Eff. Aug. 18;—CL 1929, 2497;—Am. 1939, p. 716, Act 303, Eff. Sept. 29;—CL 1948, 125.410a.

ARTICLE II.

DWELLINGS HEREAFTER ERECTED.

TITLE I.—LIGHT AND VENTILATION.

125.411 Dwellings hereafter erected; height.

Sec. 11. Height. No dwelling hereafter erected shall exceed 1 ½ times the width of the widest street upon which it abuts except that such provision shall not apply to any

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city having a zoning law which regulates the height of dwellings. Such width of street shall be measured from the front line of the building as constructed to the opposite street line. The provisions of this section shall not apply to hotels.

HISTORY: Am. 1919, p. 566, Act 326, Imd. Eff. May 13;—CL 1929, 2498;—CL 1948, 125.411.

125.412 Rear yards; interior lots; front yards; hotels exempt.

Sec. 12. Front and rear yards. Immediately behind every dwelling hereafter erected there shall be, except as hereinafter provided, a rear yard extending across the entire width of the lot. Such yard shall be at every point open and unobstructed from the ground to the sky except as hereinafter provided. Every part of such yard shall be directly accessible from every other part thereof. The depth of said yard shall be measured at right angles from the line of the extreme rear part of the dwelling. In the case of an interior lot the rear yard space shall in no case be less than 16 feet deep for a 1 story dwelling, 18 feet for a 2 story dwelling, 20 feet for a 3 story dwelling, 24 feet for a 4 story dwelling, and shall be increased in depth by 4 feet for each additional story of the dwelling above 4 stories, except that in case there is a public alley or street in the rear of said lot upon which the lot abuts for its full width, the measurement for yard space may be made to the center of such alley or street. In the case of a corner lot abutting on 2 streets, the rear yard space may be 6 feet less in depth than for interior lots. In the case of corner lots abutting on 3 streets, the rear yard need not extend across the full width of the lot but only to its median line.

Where it is impracticable to provide a rear yard of the depth specified above, the board of appeals shall have discretionary authority to reduce the required depth of rear yard: Provided, That in no case shall the rear yard be less than 1/2 the depth required above, that side yards shall be provided, and that the minimum requirements for width of each side yard shall be increased by 6 inches for each 1 foot of reduction in the depth of the rear yard.

In the case of buildings in which there are dwellings and in which the lower stories are not occupied for dwelling purposes, the yard may start at the level of the lowest dwelling story served by such yard. Any portion of a corner lot distant more than 100 feet from the corner line shall be treated as an interior lot. A front yard may be of any depth. The foregoing provisions of this section shall not apply to hotels.

HISTORY: Am. 1919, p. 566, Act 326, Imd. Eff. May 13;—Am. 1921, p. 595, Act 323, Eff. Aug. 18;—CL 1929, 2499,—Am. 1939, p. 716, Act 303, Eff. Sept. 29;—CL 1948, 125.412.

125.413 Side yards.

Sec. 13. Side yards. Dwellings hereafter erected may be built up to the side lot line, if the side wall is of masonry construction not less than 8 inches in thickness without openings. If, however, any side yard is left, it shall be at every point open and unobstructed from the ground to the sky, except as mentioned in paragraph 15 of section 2 and except that in the case of mixed occupancy in which the lower stories are not occupied for dwelling purposes, the side yard may start at the lowest dwelling story served by such yard. The width of the side yard shall be proportionate to the height of the dwelling, and to the length of the side yard. Dwellings fronting on the same street and on a portion of a lot or plot without side lines of record shall be built so that the space between them shall conform to the combined side yard provisions specified in this section. No side yard shall be less in width in any part than as follows:

(a) Multiple dwellings. In the case of all multiple dwellings hereafter erected, 1 story in height and having a side yard, the width of the side yard measured to the side lot line shall be 4 feet. Such side yard shall be increased in width by 1 foot for each additional story above the second, and shall be further increased in width by 3 inches for every 10 feet or fraction thereof that the length of the building is in excess of 50 feet.

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(b) Private dwellings and 2 family dwellings. In the case of private dwellings and 2 family dwellings hereafter erected and having a side yard the width of the side yard measured to the side lot line shall be 1 foot less than that provided for multiple dwellings of the same size and height.

(c) The above minimum widths for side yards, as specified for each story for dwellings 50 feet in length may be observed for any length provided that at least every 50 feet a court of the dimensions specified for inner courts be inserted. Should the distance between the front or rear line of the dwelling to a court or between courts be in excess of 50 feet the side yard width shall be increased by 3 inches for every 10 feet or major fraction thereof that such distance is in excess of 50 feet in length.

HISTORY: Am. 1919, p. 566, Act 328, Imd. Eff. May 13;—Am. 1921, p. 595, Act 323, Eff. Aug. 18;—Am. 1925, p. 728, Act 371, Eff. Aug. 27;—CL 1929, 2500;—Am. 1939, p. 717, Act 303, Eff. Sept. 29;—CL 1948, 125.413.

125.414 Courts; minimum dimensions.

Sec. 14. Courts. The sizes of all courts in dwellings hereafter erected shall be proportionate to the height of the dwelling. The width of a court adjoining a yard shall be measured parallel to the face of the building from which it extends. The minimum width of an outer court for a 1 story dwelling shall be 5 feet, for a 2 story dwelling 6 feet, for a 3 story dwelling 7 feet, and shall increase 2 feet for each additional story above 3 stories. The least dimension of an inner court shall never be less than twice the minimum width prescribed by this section for an outer court. Where the required light for any living room or bedroom is obtained from an inner court, such court shall have a minimum dimension twice that prescribed in this section for inner courts. This provision shall not apply to inner courts 1 story in height. An inner court adjoining a side yard of required size may be of any depth provided when such court of a depth less than the minimum is used to eliminate the increase in side yard width necessitated by the length of the dwelling, such courts shall have an area equal to 150 per cent of the area of a minimum size inner court permitted in the dwelling. The depth of an outer court shall never be greater than 5 times its width. A rectangular outer court bounded on 2 sides by legal yard spaces may be of any size and such court may be used to eliminate the increase in side yard width necessitated by the length of the dwelling provided its longest side is adjoining the side yard and it has an area equal to 150 per cent of the area of a minimum size inner court permitted in the dwelling. The horizontal depth of all courts adjoining the lot line shall be measured to the lot line and not to an opposite building. The minimum dimension of an inner court may be decreased in accordance with the following schedule, provided the area of the resulting court is 10 per cent greater than the square of the minimum dimensions above specified, and that the walls of such courts shall be faced or painted with a light colored material.

Schedule for Modified Courts

1 story courts	25%
2 story courts	20%
3 story courts or over	10%

Outer courts in hotels of strictly fire-proof construction may be of the same width as specified for side yards for the given number of stories provided the depth of such outer court does not exceed 2 times the width thereof.

HISTORY: Am. 1925, p. 728, Act 371, Eff. Aug. 27;—CL 1929, 2501;—Am. 1939, p. 717, Act 303, Eff. Sept. 29;—CL 1948, 125.414.

125.415 Courts open at the top.

Sec. 15. Courts open at the top. No court of a dwelling hereafter erected shall be covered by a roof or skylight. Every such court shall be at every point open from the

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ground to the sky unobstructed. Except that in the case of hotels, courts may start on the floor level of the lowest bedroom story and in the case of other multiple dwellings where there are stores or shops on the lower story or stories, courts may start on the top of such lower story or stories.

HISTORY: CL 1929, 2502;—CL 1948, 125.415.

125.416 Air intakes.

Sec. 16. Air intakes. In all dwellings hereafter erected every inner court extending through more than 2 stories shall be provided with a horizontal air intake at the bottom. Such intake shall always communicate directly with the street or front yard or with the rear yard, and shall consist of a passageway not less than 3 feet wide and 7 feet high, which shall be left open, or be provided with an open gate at each end.

HISTORY: Am. 1919, p. 567, Act 326, Imd. Eff. May 13;—CL 1929, 2503;—CL 1948, 125.416.

125.417 Angles in courts.

Sec. 17. Angles in courts. Nothing contained in the foregoing sections concerning courts shall be construed as preventing the cutting off of not more than 2 adjacent corners of said courts: Provided, That the running length of the wall across the angle of such corner does not exceed 7 feet.

HISTORY: Am. 1925, p. 729, Act 371, Eff. Aug. 27;—CL 1929, 2504;—CL 1948, 125.417.

125.418 Minimum space between buildings; garages; garbage receptacles.

Sec. 18. Buildings on the same lot with a dwelling.

(a) If any building is hereafter placed upon the same lot with a dwelling, there shall always be maintained between said buildings an unoccupied space extending upward from the ground. If such structures are placed at the side of each other, the space between them shall conform to the combined side yard provisions specified in this code for the class of structures considered. If such buildings are placed 1 at the rear of the other, either or both occupied or designed for dwelling purposes, in addition to complying with all requirements for side and rear yards as hereinbefore prescribed, the space between said structures shall be 1 ½ times that specified in this code for rear yards. Both structures shall be provided with at least 1 side yard, of the dimensions specified for dwellings. The highest structure on the lot shall regulate the yard dimensions required. The space between such dwellings or structures shall be unoccupied and free from balconies, porches, garages, sheds or any obstruction whatsoever. No building of any kind shall be hereafter placed upon the same lot with the dwelling so as to decrease the minimum size of yards or courts as hereinbefore prescribed; except that a 1 story private garage not exceeding 15 feet in height, if so located as not to interfere with the light or ventilation of the dwelling, may be erected upon the same lot with the dwelling in such rear yard spaces as are hereinbefore prescribed, (the yard space between dwellings, one at the rear of the other excepted).

(b) No garage not of fireproof construction shall approach closer to any portion of the dwelling or enclosed projection thereof than 6 feet except as provided below:

Storage garages having not more than 500 square feet floor area may be attached to or erected within 6 feet of a dwelling: Provided, That the interior face of all walls, not of masonry construction, and the ceiling of such garage, where the roof is not of fireproof construction, shall be protected with not less than 3/4 of an inch of gypsum or portland cement plaster on metal lath, the thickness of said plaster to be measured from the back of the metal lath.

(c) Storage garages having not more than 400 square feet floor area may be located under a single dwelling: Provided, That the interior face of all walls of the garage not of masonry construction, and the ceiling of such garage, where the floor above is not of fireproof construction, shall be protected with not less than 3/4 of an inch of gypsum or portland cement plaster on metal lath, the thickness of said plaster to be measured

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from the back of the metal lath. Any stairway communicating with the dwelling above and the garage below shall be separated from the garage by a wall protected on the garage side as required for the enclosing walls of the garage, and equipped with a self closing fire door at the garage floor level. Storage garages having not more than 800 square feet floor area may be located under a dwelling: Provided, That the walls of such garage shall be of masonry construction not less than 8 inches thick and that the floor over such garage shall be constructed of steel beams or steel joists, protected on the under side with 3/4 of an inch of gypsum or portland cement plaster on metal lath, thickness of said plaster to be measured from the back of the metal lath, and having a top slab of at least 2 inches of concrete in which wood sleepers may be embedded if there is at least 1 and 1/2 inches of concrete under the sleepers; a reinforced concrete slab may be used as floor construction above such garage. Any stairway communicating with the dwelling above and garage below shall be enclosed with an 8 inch masonry wall and equipped with a self closing fire door at the garage floor level.

(d) The minimum distance between any door or window in the walls of a garage and any door or window in the dwelling shall not be less than 6 feet, except that this shall not apply to windows or doors located in walls of the garage and of the dwelling when such walls are in the same plane or form an angle greater than 90 degrees with each other.

(e) The floor of a garage attached to or located under a dwelling shall be of incombustible material. The garage floor level shall be so placed with respect to the ground line as will provide natural drainage for the elimination of heavier than air vapors, unless adequate mechanical ventilation is provided.

(f) There shall be no basement or cellar or any other portion of a dwelling under garages unless the floor of the garage is an unpierced, 6 inch solid, reinforced concrete slab. Garages described in paragraphs (b) and (c) of this section may communicate with a floor of the dwelling, which must be at least 6 inches above the floor of the garage, through not more than 1 single door opening protected with a swinging metal-clad door with metal-clad frame and equipped with automatic door closer, and at a location where there shall be no connection or communication with the basement or cellar. This door shall be kept closed at all times. The door sill shall be at least 6 inches above the garage floor. Communication may also be provided through a vestibule open to the outer air on 1 side of the door leading from the garage is a swinging metal-clad door with a metal-clad frame and equipped with automatic door closer.

(g) With the approval of the board of appeals, garages over 800 square feet in area, of fireproof construction and used only for storage purposes may be attached to or located under a dwelling of fireproof construction if separated from the dwelling by unpierced masonry walls not less than 8 inches thick and by unpierced masonry floors not less than 8 inches thick: Provided, however, The board of appeals may permit a connection between the garage and the dwelling through a vestibule opening directly to the outer air. The vestibule shall not communicate with the floor above or below and all openings in the interior walls of the vestibule shall be protected with self-closing type "b" fire doors.

(h) Garages attached to a dwelling shall not encroach upon the required side yard for such dwelling. No garage built upon any side lot line shall approach closer to any portion of the dwelling or projection thereof than 3 feet, nor closer to the opposite lot line than 3 feet.

(i) Living quarters may be provided above a private garage: Provided, The yard spaces comply with the provisions of this act: And provided further, That such garage be constructed as hereinbefore provided for garages under dwellings and that there

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shall be at least 1 means of egress from the living quarters leading to grade without passing through the garage.

(j) To insure sufficient space for storage of garbage and refuse receptacles, there shall be provided an open and unoccupied space not less than 5 feet by 10 feet, such space to directly adjoin the street or alley where service is rendered and shall form a portion of a continuous unobstructed passageway not less than 3 feet wide from the dwelling to the street or alley, as the case may be.

HISTORY: Am. 1919, p. 567, Act 326, Imd. Eff. May 13;—Am. 1921, p. 596, Act 323, Eff. Aug. 18;—Am. 1925, p. 729, Act 371, Eff. Aug. 27;—CL 1929, 2505;—Am. 1939, p. 718, Act 303, Eff. Sept. 29;—CL 1948, 125.418.

125.419 Dwellings hereafter erected; rooms, lighting and ventilation.

Sec. 19. Rooms, lighting and ventilation of. In every dwelling hereafter erected every room shall have at least 1 window opening directly upon the street or a public alley or other public space at least 16 feet in width, or upon a yard or court of the dimensions specified in this article and located on the same lot, and such window shall be so located as to properly light all portions of such rooms. This provision shall not, however, apply to rooms used as art galleries, swimming pools, gymnasiums, squash courts, recreation rooms, hotel lobbies and dining rooms, or for similar purposes, provided such rooms are adequately lighted and ventilated, and the provisions of sections 19 and 20 of this act shall not apply to inside hospital rooms adequately lighted and ventilated, which lighting and ventilation shall have the approval of the state department of health and the state department of social welfare.

HISTORY: CL 1929, 2506;—Am. 1939, p. 720, Act 303, Eff. Sept. 29;—Am. 1941, p. 110, Act 91, Imd. Eff. May 16;—CL 1948, 125.419.

125.420 Windows in rooms.

Sec. 20. Windows in rooms. In every dwelling hereafter erected every room shall have at least 1 window, or windows, equal to 1/8 of the superficial floor area of the room, which shall open upon a street or public alley or other public space at least 10 feet wide, or upon a yard or court of the dimensions required by this article and located on the same lot: Provided, If the alley or public space does not equal the yard space required, sufficient space shall be left open to make the alley or public space equal to this required yard. At least 1 such window shall be not less between stop beads than 10 square feet for living rooms, 8 square feet for bedrooms, kitchens or dining rooms and 6 square feet for bathrooms and rooms with water-closets, and 4 square feet for toilet rooms in basements. In all dwellings the top of at least 1 window in each room shall be not less than 6 feet 8 inches above the floor and shall have an area not less than 25 per cent of the required window area for the room. For the purpose of ventilation, not less than 25 per cent of the required window area shall be capable of being opened. A sash door having the glass area required for a window, shall be deemed the equivalent of a window.

HISTORY: Am. 1919, p. 568, Act 326, Imd. Eff. May 13;—CL 1929, 2507;—Am. 1939, p. 720, Act 303, Eff. Sept. 29;—CL 1948, 125.420.

125.421 Rooms; minimum size; built in cabinets and fixtures.

Sec. 21. Rooms, size of. In every dwelling hereafter erected all rooms, except water-closet compartments, and bathrooms, shall be not less than the following minimum sizes: Every room shall contain at least 80 square feet of floor area, except that kitchenettes and dinettes may be 50 square feet in area. In combination dinettes and kitchenettes, where they are separated by cabinets, either room may receive its legal light through the other: Provided, There is window area sufficient to serve both rooms. Where cabinets divide a kitchenette from a dinette and where such cabinets are parallel to the wall in which the windows are located, such cabinets shall not exceed 5 feet in height. In all other cases where cabinets divide a room or rooms into separate parts, such cabinets shall not exceed 3 feet 6 inches in height. No rooms except kitchenettes, dinettes adjoining a kitchenette and communicating directly therewith, and glass en-

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closed main entrance porches, shall be less than 7 feet wide. In multiple dwellings of class a in each apartment, group or suite of rooms there shall be at least 1 room containing not less than 150 square feet of floor area.

Built in cabinet kitchens, designed only deep enough to accommodate fixtures and not large enough to allow standing room within the cabinet, may be constructed in any legally lighted room: Provided, That the lower panels of the doors of such cabinets have a total opening of not less than 120 square inches for ventilating purposes and located near the floor: And provided further, That all such cabinets be tributary to an approved system of mechanical or gravity ventilating ducts of sufficient capacity to insure a complete change of the air content of each cabinet every 10 minutes. Sufficient space shall be provided between doors and built in fixtures, shelves and cupboards to insure adequate circulation of air within the cabinet.

HISTORY: CL 1929, 2508;—Am. 1939, p. 720, Act 303, Eff. Sept. 29;—CL 1948, 125.421.

125.422 Rooms; minimum height.

Sec. 22. Rooms, height of. In every dwelling hereafter erected, every room shall be of the following specified height: In private dwellings no room on the first floor shall be less in height in any part between the finished floor and the finished ceiling than 8 feet, and no room on the second floor shall be less in height in any part between the finished floor and the finished ceiling than 7 feet 6 inches. In 2 family dwellings no room shall be less in height in any part between the finished floor and the finished ceiling than 8 feet. No room in a multiple dwelling hereafter erected shall be less in height in any part between the finished floor and the finished ceiling than 8 feet: Provided, however, That an attic room, in any dwelling, need be but 7 feet 6 inches in height in but 1/2 its area provided that such room shall have a floor area of not less than 100 square feet and is at no point less than 5 feet in height. Parts of a room in excess of the required minimum area may have an unrestricted ceiling height: Provided, The window area is based on the total floor area. In all dwellings, rooms not used for sleeping purposes, dropped or false ceilings may be installed: Provided, The maximum reduction in ceiling height at any point shall not exceed 1 foot and the average reduction shall not exceed 6 inches for the entire area of the room.

HISTORY: Am. 1919, p. 566, Act 326, Imd. Eff. May 13;—CL 1929, 2509;—Am. 1939, p. 721, Act 303, Eff. Sept. 29;—CL 1948, 125.422.

125.423 Alcoves and alcove rooms.

Sec. 23. Alcoves and alcove rooms. In every dwelling hereafter erected an alcove in any room shall be separately lighted and ventilated as provided for rooms in the foregoing sections. Such alcove shall be not less than 80 square feet in area. No part of any room in a dwelling hereafter erected shall be enclosed or subdivided at any time, wholly or in part, by a curtain, portiere, fixed or movable partition or other contrivance or device, unless such part of the room so enclosed or subdivided shall contain a separate window as herein required, and shall have a floor area of not less than 80 square feet.

HISTORY: CL 1929, 2510;—CL 1948, 125.423.

125.424 Privacy; access to water-closets.

Sec. 24. Privacy. In every dwelling hereafter erected, access to every living room and to every bedroom shall be had without passing through a bedroom or through a room containing a water closet. Access to water closets must be possible from all bedrooms without passing through another bedroom or room used as a bedroom. The provisions of this section shall not apply to a sleeping porch, sun-parlor, solarium, or any other enclosed outside porch adjacent to and entered by way of a bedroom.

HISTORY: Am. 1919, p. 569, Act 326, Imd. Eff. May 13;—CL 1929, 2511;—Am. 1939, p. 721, Act 303, Eff. Sept. 29;—CL 1948, 125.424.

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125.425 Water-closet compartments and bathrooms; lighting and ventilation.

Sec. 25. Water-closet compartments and bathrooms, lighting and ventilation thereof. In every dwelling hereafter erected, every water-closet compartment and bathroom shall have at least 1 window opening directly upon the street, or upon a yard or court of the dimensions specified in this article; or if located immediately beneath a roof, a ventilating sky-light, open to the sky, with an opening not less than 6 square feet in area in each toilet, may be used in lieu of the windows required by this section: Provided, That toilet or bathrooms may face upon a 3-foot, unobstructed passageway, open to the sky, between yards or courts, provided the distance between yards or courts does not exceed 40 feet. No bathroom or toilet window shall be less in size than 6 square feet between stop beads. Nothing in this section contained shall be construed so as to prohibit a general toilet room containing several water-closet compartments separated from each other by dwarf partitions: Provided, Such toilet room is adequately lighted and ventilated to outer air as above provided, and that such water-closets are supplemental to the water-closet accommodations required by the provisions of section 35. The above provisions shall not apply to multiple dwellings of class (A) or (B), or to hotels of strictly fire-proof construction, that have a system of forced ventilation so constructed as entirely to change the air in every bathroom, toilet room or water-closet compartment every 7 minutes.

HISTORY: Am. 1919, p. 589, Act 326, Imd. Eff. May 13;—Am. 1925, p. 730, Act 371, Eff. Aug. 27;—CL 1929, 2512;—CL 1948, 125.425.

125.426 Public halls in multiple dwellings; ventilation.

Sec. 26. Public halls. In every multiple dwelling hereafter erected every public hall shall have at each story at least 1 window at each end of such hall opening directly upon the street or alley or upon a yard or court of the dimensions specified in this article and located on the same lot: Provided, That when a hall does not exceed 80 square feet in area, 1 window shall be considered sufficient. Where stairs are enclosed these windows shall not be located in the stair halls. Any part of a public hall which is offset or recessed more than 25 feet or is shut off from any other part of said hall, shall be deemed a separate hall, and the end of such hall shall be separately lighted and ventilated as required in this section.

Ventilation of public halls by means of horizontal air ducts or vertical air shafts may be substituted in the place of any window required above: Provided, That such air ducts or shafts shall conform to the following requirements:

Horizontal air ducts shall extend from a point near the ceiling of the public hall to a street or alley, or to a yard or exterior court of the dimensions specified in this article and located on the same lot. These ducts shall have a minimum area of 4 square feet and shall be of galvanized sheet metal not less than 20 gauge or other incombustible material and if within the floor construction or in contact with combustible material shall be protected with not less than 1 inch of approved incombustible material. Ceiling heights in kitchenettes, bathrooms, or closets may be reduced to a minimum of 7 feet to provide for such ducts.

Vertical air shafts shall connect to public halls at a point near the ceiling and shall extend through the roof. Independent shafts shall be provided to ventilate public halls on each floor. Vertical air shafts shall have an area of not less than 4 square feet and shall have enclosing walls of masonry not less than 4 inches thick. Where these shafts are located in groups the dividing walls between independent shafts may be made of galvanized sheet metal not less than 20 gauge but the group shall be enclosed with masonry walls not less than 4 inches thick.

The board of appeals may approve a system of forced ventilation which, in their

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opinion, will adequately ventilate the public halls, in place of the system herein described.

HISTORY: Am. 1919, p. 569, Act 326, Imd. Eff. May 13;—CL 1929, 2513;—Am. 1939, p. 721, Act 303, Eff. Sept. 29;—CL 1948, 125.426.

125.427 Public halls in multiple dwellings; windows.

Sec. 27. Windows for public halls. In multiple dwellings 3 or more stories in height hereafter erected each of the windows required to light each public hall or part thereof shall have at least 12 square feet of glazed area of which 5 square feet shall be available for ventilating purposes.

HISTORY: Am. 1919, p. 569, Act 326, Imd. Eff. May 13;—CL 1929, 2514;—Am. 1939, p. 722, Act 303, Eff. Sept. 29;—CL 1948, 125.427.

125.428 Stair halls; minimum size of windows.

Sec. 28. Windows for stair halls, size of. In every multiple dwelling hereafter erected there shall be provided for each story at least 1 window to light and ventilate each stair hall, which shall have at least 10 square feet glazed area. A sash door opening to the outer air shall be deemed the equivalent of a window in this and the 2 foregoing sections: Provided, That such door contains the amount of glazed area prescribed for such windows. Over every stairway which does not extend to the roof there shall be provided a scuttle of not less than 10 square feet area or a skylight with not less than 10 square feet of glazed area, both of which shall extend through the roof.

Where stair halls are enclosed as specified in section 44 and all materials used in the construction of such stairs and landings, except handrails, are of incombustible material, stair halls may be so located as to eliminate the windows hereinbefore required, but separate artificial lighting of the stair halls must be maintained at all times.

HISTORY: Am. 1921, p. 406, Act 206, Eff. Aug. 18;—CL 1929, 2515;—Am. 1939, p. 722, Act 303, Eff. Sept. 29;—CL 1948, 125.428.

125.429 Outside porches; interfering with lighting.

Sec. 29. Outside porches. In multiple dwellings hereafter erected, outside porches shall not be so located as to interfere with or diminish the light or ventilation required by this act, except unenclosed outside porches for service stairs only may be erected provided they are not more than 7 feet wide or more than 20 feet long and do not cover more than 2 rooms in each apartment. In private or 2 family dwellings hereafter erected, enclosed or unenclosed outside porches, sun-parlors, solariums and sleeping porches may be built covering required windows of not more than 2 interior rooms provided that in estimating the amount of legal light in an interior room as prescribed in section 20, only 1/2 of the area of the windows between an interior room and said porches, sun-parlors, or solariums may be counted as legal light; and that such porches, sun-parlors or solariums shall have legal yard exposure on at least 2 outside walls with windows so located in the exposed walls that the window area be not less than 1/4 of the floor area of the porch, sun-parlor or solarium nor less than the total combined window area as required above between said porch, sun-parlor or solarium and the adjoining rooms. The term "outside porches" shall include outside platforms, balconies and stairways. All such outside porches shall be considered as part of the building, and not as part of the yards or courts or other unoccupied area.

HISTORY: Am. 1919, p. 570, Act 326, Imd. Eff. May 13;—CL 1929, 2516;—Am. 1939, p. 722, Act 303, Eff. Sept. 29;—CL 1948, 125.429.

TITLE II.—SANITATION.

125.430 Cellar rooms.

Sec. 30. Cellar rooms. In dwellings hereafter erected no room in the cellar shall be occupied for living purposes.

HISTORY: CL 1929, 2517;—CL 1948, 125.430.

125.431 Basement rooms; use for living purposes.

Sec. 31. Basement rooms. In dwellings hereafter erected no room in the basement shall be occupied for living purposes, unless in addition to all the other requirements

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of this act such room shall have 1/2 of its height from floor to ceiling above the ground elevation (finished surface) in the proximity of the windows of the room, shall have sufficient light and ventilation, shall be well drained and dry and shall be fit for human habitation.

Every apartment located in a basement shall be so located that the living room of such apartment faces or abuts upon a public street, yard, court or public park, each of which shall be not less than 30 feet wide.

HISTORY: CL 1929, 2518;—Am. 1939, p. 723, Act 303, Eff. Sept. 29;—CL 1948, 125.431.

125.432 Cellars; water-proofing and lighting.

Sec. 32. Cellars, water-proofing and lighting. Every dwelling hereafter erected shall have a basement, cellar or excavated space under the entire entrance floor, at least 3 feet in depth, or shall be elevated above the ground so that there will be a clear air space of at least 24 inches between the top of the ground and the bottom of said floor so as to insure ventilation and protection from dampness. Such space shall in all cases be enclosed but provided with ample ventilation and properly drained. Every dwelling hereafter erected shall have all walls below the ground level and also the cellar or lowest floor damp-proof and water-proof. When necessary to make such walls and floors damp-proof and water-proof, the damp-proofing and water-proofing shall run through the walls and up the same as high as the ground level and shall be continued throughout the floor, and the said cellar or lowest floor shall be properly constructed so as to prevent dampness or water from entering. Nothing in this section contained shall be construed so as to prohibit the first or entrance floor of a building being built directly on the ground: Provided, That all precautions and necessary measures are taken to protect such floor and the apartments located thereon from dampness as in this section provided. All cellars and basements in dwellings hereafter erected shall be properly lighted and ventilated.

HISTORY: Am. 1919, p. 570, Act 326, Imd. Eff. May 13;—CL 1929, 2519;—CL 1948, 125.432.

125.433 Courts, areas and yards.

Sec. 33. Courts, areas and yards. In every dwelling hereafter erected all courts, areas and yards shall be properly graded and drained and when required by the health officer or such other appropriate public official as the mayor may designate, they shall be properly concreted in whole or in part as may be necessary.

HISTORY: CL 1929, 2520;—CL 1948, 125.433.

125.434 Water supply.

Sec. 34. Water supply. In every dwelling hereafter erected and not exempted in section 7 of this act, there shall be a proper sink or washbowl with running water, exclusive of any risk in the cellar. In 2 family dwellings and in multiple-dwellings of class A there shall be such a sink or washbowl in each apartment, suite or group of rooms.

HISTORY: CL 1929, 2521;—CL 1948, 125.434.

125.435 Water-closet accommodations.

Sec. 35. Water-closet accommodations. In every dwelling hereafter erected there shall be a separate water-closet. Each such water-closet shall be placed in a compartment completely separated from every other water-closet; such compartment shall be not less than 3 feet wide, and shall be enclosed with partitions which shall extend to the ceiling. Every such compartment shall have a window opening directly upon the street or upon a yard or court of the minimum sizes prescribed by this act, and located upon the same lot. Nothing in this section contained shall be construed so as to prohibit a general toilet room containing several water-closet compartments separated from each other by dwarf partitions, provided such toilet room is adequately lighted and ventilated to the outer air as above provided and that such water-closets are supplemental to the water-closet accommodations required by other provisions of this

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section for the tenants of the said house. No drip trays shall be permitted on any water-closet. No water-closet fixture shall be encased with any woodwork. No water-closet shall be placed out of doors. No water-closet shall be placed in a cellar except with written permit from the health officer unless it is an extra water-closet in a private dwelling and is well lighted and ventilated by a window to the outer air. In 2 family dwellings and in multiple dwellings of class A hereafter erected there shall be for each family a separate water-closet constructed and arranged as above provided and located within each apartment, suite, or group of rooms. In multiple dwellings of class B hereafter erected there shall be provided at least 1 water-closet for every 15 occupants or fraction thereof. Every water-closet compartment hereafter placed in any dwelling shall be provided with proper means of lighting the same at night. In multiple dwellings the floor of every such water-closet compartment shall be made water-proof with asphalt, tile, stone, terrazzo or some other non-absorbent water-proof material; and such water-proofing shall extend at least 2 inches above the floor so that the said floor can be washed or flushed out without leaking.

HISTORY: Am. 1919, p. 571, Act 328, Imd. Eff. May 13;—Am. 1921, p. 597, Act 323, Eff. Aug. 18;—CL 1929, 2522;—CL 1948, 125.435.

125.436 Sewer connections.

Sec. 36. Sewer connections. Except where there is no public sewer available, no multiple dwellings shall hereafter be erected on any street unless its plumbing system is connected with a public sewer, or a private sewer connected directly with a public sewer, before such multiple dwelling is occupied. No cesspool or vault or similar means of sewage disposal shall be used in connection with any dwelling where connection with a public sewer is practicable.

HISTORY: CL 1929, 2523;—Am. 1939, p. 723, Act 303, Eff. Sept. 29;—CL 1948, 125.436.

125.437 Plumbing.

Sec. 37. Plumbing. All plumbing work shall be done in accordance with the requirements of the state plumbing code. In all multiple dwellings hereafter erected where plumbing or other pipes pass through floors or partitions, the openings around such pipes shall be sealed or made airtight with incombustible materials, so as to prevent the passage of air or the spread of fire from 1 floor to another or from room to room.

HISTORY: CL 1929, 2524;—Am. 1935, p. 286, Act 183, Imd. Eff. June 6;—Am. 1939, p. 723, Act 303, Eff. Sept. 29;—CL 1948, 125.437.

TITLE III.—FIRE PROTECTION.

125.438 Fire-proof dwellings; when required.

Sec. 38. Fire-proof dwellings, when required. No multiple dwelling shall hereafter be erected exceeding 4 stories in height unless it shall be a fire-proof dwelling; the building, however, may step up to follow the street grade, provided no part of it is over 4 stories in height.

Multiple dwellings exceeding 2 stories in height but not over 4 stories in height may hereafter be erected provided the construction shall conform to the following requirements: All exterior enclosing walls and division walls and all bearing partitions in cellars or basements shall be of masonry at least 8 inches thick. All other bearing or non-bearing partitions enclosing public halls may be of wood studs but shall be covered on both sides with metal lath and not less than 3/4 inch of portland cement or gypsum plaster and all such partitions shall be fire stopped at each floor level with 2 1/4 inches of wood plates or 2 inches of mortar or similar incombustible material. The spaces between the floor joists shall be fire stopped at each side of the public hall with not less than 1 1/2 inches of wood plates. Whenever plastering is applied to wood-furred masonry walls metal lath and portland cement or gypsum plaster shall be used. The under side of all floors and roofs, except those of fireproof construction, shall be covered with metal lath and not less than 3/4 inch of portland cement or gypsum plaster.

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Vertical structural members in cellars or basements in multiple dwellings shall be of metal or masonry, but all other vertical and all horizontal structural members may be of any material structurally suitable for the purpose if not more combustible than wood. Floors may be of wood but all wood floors, other than attic floors, shall consist of at least 2 layers of wood, each not less than 3/4 inch thick or 1 such layer of wood and a layer of incombustible material at least 1/2 inch thick. Roofs may be wood but roof coverings of multiple dwellings exceeding 2 stories in height shall consist of tile, slate, sheet metal, rag felt built up roof covering saturated with coal tar pitch or asphalt and surfaced with not less than 400 pounds of gravel or 300 pounds of slag per 100 square feet, or any other roof covering as resistant to fire as a tar and gravel roof covering as specified herein.

Multiple dwellings of 2 stories or less in height may be constructed of wood or of any other material not more combustible than wood.

Multiple family dwellings, if not of fireproof construction and over 2 stories in height, shall be divided into floor areas not exceeding 4,800 square feet, by masonry walls not less than 8 inches thick. Each opening through such walls shall be protected with a single swinging automatic fire door of type "a." These doors shall be equipped with a hand pull.

This section shall not apply to single or 2 family dwellings.

HISTORY: Am. 1919, p. 571, Act 328, Imd. Eff. May 13;—Am. 1925, p. 731, Act 371, Eff. Aug. 27;—CL 1929, 2525;—Am. 1939, p. 723, Act 303, Eff. Sept. 29;—CL 1948, 125.438.

FIRE PREVENTION: State fire marshal act, see Compilers' §§ 29.1-29.25.

125.439 Means of egress; requirements in multiple dwellings.

Sec. 39. Means of egress.

(a) 2 means of egress or more required. Every floor in multiple dwellings, including the basement or cellar, shall have at least 2 independent means of egress, except as provided under subdivision (b) of this section, both of which shall be accessible to all occupants of the dwelling and either 1 of which is accessible without passing through the other, and large buildings shall have additional means of egress as required below. In all such buildings 3 stories in height or over, all stairs shall be enclosed as required in section 44, except that in buildings not exceeding 3 stories in height of fireproof construction, or having not more than 2 apartments if of class "a" or 10 sleeping rooms if of class "b" on the third floor, 1 means of egress may be an open inside or outside stairway.

In the case of class "a" and "b" multiple dwellings where outside stairways are allowed, the width, risers, and treads shall be the same as required for inside stairs in section 42.

In addition to the requirements above, the number and arrangement of stairs in multiple dwellings shall be such as to meet the following requirements: The distance from the corridor entrance to any apartment or sleeping rooms, measured along the corridor to a stairway or entrance to stair enclosure, shall not be more than 75 feet for non-fireproof buildings or 150 feet for fireproof buildings, and on all floors at least 2 of the required stairways shall be separated by 75 per cent of the longest distance measured along public halls between the 2 most widely separated rooms leading to occupied spaces and served by such halls. There shall be at least 1 stairway for each 60 rooms above the first floor in non-fireproof buildings, and at least 1 stairway for each 150 rooms in fireproof buildings, except that buildings over 6 stories high will not be required to have more stairs than are required for the 6 more densely occupied floors above the first. In interpreting this section the number of rooms shall be the total number of sleeping rooms in class "b" multiple dwellings and the total number of sleeping rooms, living rooms and other rooms over 80 square feet in area in class "a" multiple dwellings.

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(b) 1 means of egress required. Class "a" multiple dwellings not over 2 stories in height divided into sections by unpierced masonry fire walls not less than 8 inches thick may have only 1 means of egress from each section provided the following requirements are complied with: There shall not be more than 2 apartments on any floor in each section. There shall not be more than 2,400 square feet gross area on any floor in each section. The type of construction shall conform to the requirements of section 38 for dwellings exceeding 2 stories in height but not over 4 stories in height, except that if the exterior enclosing walls be of solid masonry not less than 8 inches thick for a distance of not less than 1 foot from intersecting required fire walls, the remaining portion of the exterior walls may be of wood frame construction veneered with not less than 4 inches of masonry. The means of egress shall be a stairway enclosed as required by section 44. Entrances to basements or cellars and to the floors above shall be separate and from the exterior of the building only and not from a common vestibule, and there shall be no connections or openings, except clothes chutes between basements or cellars and stair shafts or the floors above. Such entrances may be protected by a marquise. Class "a" multiple dwellings of fireproof construction not more than 3 stories in height divided into sections by unpierced masonry walls or partitions may have only 1 means of egress from each section provided the following requirements are complied with: There shall not be more than 4 apartments on any floor in each section. There shall not be more than 4,800 square feet gross area on any floor in each section. The means of egress shall be a stairway enclosed as required by section 44. Entrances to basements or cellars and to the floors above shall be separate and from the exterior of the building only and not from a common vestibule, and there shall be no connections or openings between basements or cellars and stair shafts or the floors above. Such entrances may be protected by a marquise.

HISTORY: Am. 1919, p. 571, Act 328, Imd. Eff. May 13;—Am. 1923, p. 440, Act 274, Eff. Aug. 30;—CL 1929, 2526;—Am. 1939, p. 724, Act 303, Eff. Sept. 29;—CL 1948, 125.439.

See also Compilers' §§ 125.495 to 125.497.

125.440 Fire escapes; requirements in multiple dwellings; access.

Sec. 40. Fire escapes. All fire escapes hereafter erected on multiple dwellings shall be open and unenclosed and located and constructed as hereafter specified. All counterbalanced stairs and all fire escapes on buildings over 3 stories in height shall be of steel construction. Such fire escapes shall have a balcony or platform at each floor from which egress is provided and shall not be placed in an inner court. Fire escapes of steel construction may project not more than 4 feet over or into a public highway and in such cases the lowest part of such fire escapes shall be placed not less than 12 feet above the grade of the public highway: Provided, That a counterbalanced drop stair normally maintained at the above specified clearance may be used for travel to the grade from the lowermost balcony or platform. Stairs shall be provided between balconies or platforms. Fixed or counterbalanced drop stairs shall be provided between lowest balcony or platform to the grade. All stairs shall be at least 2 feet in width with treads not less than 7 inches in width, and risers not over 8 inches in height. All stairs shall be placed at an angle of not over 50 degrees with the horizontal. Well openings for stairs shall be of adequate size to provide at least 6 feet, 6 inches clear headroom. All stairs, platforms and balconies shall be provided with adequate railings on all open sides. All parts of fire escapes except treads shall be designed and constructed to safely carry a live load of 100 pounds per square foot. Treads shall be designed and constructed to carry a concentrated live load of 200 pounds. Wooden fire escapes shall be built of material not less than 1 and 5/8 inches minimum thickness, and fire escapes built of steel shall be built of material not less than 3/16 inches minimum thickness. All fire escapes shall be properly painted and protected to pre-

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vent rust or deterioration. Metal tubular chute or spiral type fire escapes may be used if approved by the enforcing official.

Access to fire escapes shall not be obstructed in any way. Access to fire escapes through the outer walls of the building shall be provided by a door or casement window with an opening not less than 2 feet 6 inches in width by 4 feet 6 inches in height. Fire escapes shall be accessible to all occupants of the floor through public spaces without passing through any private room or apartment, except that in buildings not over 3 stories in height access to the fire escape from any floor having not more than 2 families nor 6 sleeping rooms may be through a private apartment or room subject to the following conditions: The entrance door to such room or apartment shall be equipped with a lock which can be opened from the inside without the use of a key. A glass panel of adequate size shall be provided in the door to be broken to permit the unlocking of this door. A suitable instrument shall be permanently provided for breaking this glass and a legible sign shall be provided indicating that access to a fire escape is through this door.

HISTORY: CL 1929, 2527;—Am. 1939, p. 725, Act 303, Eff. Sept. 29;—CL 1948, 125.440.

FIRE ESCAPES: See also Compilers' § 125.495.

125.441 Roof egress; scuttles and bulkheads in multiple dwellings; access.

Sec. 41. Roof egress, scuttles and bulkheads. Every flat-roofed multiple dwelling hereafter erected shall have in the roof a bulkhead or a scuttle not less than 2 feet by 3 feet in size. Such scuttle or bulkhead shall be cut off from any attic space with incombustible material and covered on the outside with incombustible material, and shall be provided with a ladder leading thereto and easily accessible to all occupants of the building.

HISTORY: Am. 1923, p. 441, Act 274, Eff. Aug. 30;—CL 1929, 2528;—Am. 1939, p. 726, Act 303, Eff. Sept. 29;—CL 1948, 125.441.

125.442 Stairs; requirements in multiple dwellings.

Sec. 42. Stairs. All stairs in multiple dwellings shall be continuous to grade from the highest floor used for habitation. Treads and risers of stairs in exit stairways shall be so proportioned that the sum of the height of 2 risers in inches, and the width of 1 tread exclusive of nosing, in inches, is not less than 24 nor more than 25; that no risers shall be greater than 7 and 3/4 inches and no tread less than 9 inches in width, exclusive of nosing. Treads shall be not less than 12 inches in width where flights of less than 3 risers are permitted. Treads less than 10 inches wide shall have nosings. Treads shall be of uniform width and risers of uniform height in any 1 flight.

No flight of stairs shall have a vertical rise of more than 12 feet between floors or landings.

The length and width of landings shall be not less than the width of exit stairways in which they occur: Provided, In straight runs the minimum distance between risers on landings and platforms shall not be required to be more than 44 inches.

No winders shall be used, unless they measure not less than 8 inches at a point 1 foot from the center of rail or newel and not more than 12 inches at a point 2 feet from center of rail or newel. All stairs shall be at least 3 feet wide and in all buildings over 2 stories high or containing more than 4 apartments, if of class "a," or 20 sleeping rooms, if of class "b," the stairs shall be at least 3 feet 6 inches wide, measuring from center to center of hand-rails. Hand-rails shall be provided on both sides of all stairs. Where more than 2 stairs are required in section 39, a stair 7 feet wide may be counted as 1 and 1/2 stairs and there shall be a center hand-rail in such case.

HISTORY: Am. 1919, p. 572, Act 328, Imd. Eff. May 13;—Am. 1923, p. 441, Act 274, Eff. Aug. 30;—CL 1929, 2529;—Am. 1939, p. 726, Act 303, Eff. Sept. 29;—CL 1948, 125.442.

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125.443 Stairs and platforms in multiple dwellings.

Sec. 43. Construction of stairs and platforms. Stairs and platforms in multiple dwellings not more than 4 stories high, may be of wood, but must be protected with metal lath and plaster on the underside in all multiple dwellings over 2 stories high. In all multiple dwellings over 4 stories high the stairs shall be of steel, concrete or other incombustible material.

HISTORY: Am. 1919, p. 572, Act 326, Imd. Eff. May 13;—Am. 1923, p. 441, Act 274, Eff. Aug. 30;—CL 1929, 2530;—CL 1948, 125.443.

125.444 Stair enclosures in multiple dwellings.

Sec. 44. Stair enclosures. Wherever enclosed stairs are required in section 39, the enclosures shall be of brick, terra cotta, tile, gypsum, concrete or concrete blocks, at least 6 inches thick for non-fireproof and 4 inches thick for fireproof buildings, supported on a reinforced concrete or fireproofed steel frame or a self-supporting brick, terra cotta, tile, concrete or concrete block wall, having the upper 3 stories at least 8 inches thick, with an increase of 4 inches in thickness for each 3 stories, measured from the top. Such enclosures shall continue from the ground or from a reinforced concrete slab at or near the level of the outside grade, through the attic space to the underside of the roof boards. If any off-set is made in the stair shaft, it shall be enclosed above and below with a concrete slab supported on masonry walls or on a concrete or fireproof steel frame. The stair enclosure on the entrance floor, in all buildings not of fireproof construction shall continue to an outside wall of the building, giving direct exit to a street, alley or open yard or court. In fireproof buildings, the enclosure of at least 1 stairway accessible from all parts of the buildings, shall be carried to an outside wall on the ground floor, but the enclosure of the other stairs may be terminated between the ground floor and the floor above, provided such stairs empty into an unobstructed lobby or corridor, not over 40 feet from an exit door. In all such cases, self-closing type "b" fire doors shall be provided on a suitable stair landing to close off the shaft above.

All such stair enclosures shall be provided with self-closing type "b" doors not less than 3 feet wide which shall swing only in the direction of egress and which in no case shall be capable of being locked against egress from the buildings. The swing of doors shall in no case reduce the free passageway on landings to less than 18 inches.

All basement doors other than those opening into finished lobbies shall be fire doors of type "a" as defined in section 2, paragraph 20. All shaft doors shall be fire doors of type "b" as defined in section 2, paragraph 20.

In buildings where all stairs required for egress must be enclosed, all other stairways provided must be enclosed as prescribed in this section except that in fireproof buildings public open stairways in excess of stairways required for egress will be allowed to communicate only between the first 2 floors above the basement or cellar. Where a private apartment has rooms on 2 floors, any private stairway within the apartment may be of unenclosed construction.

HISTORY: Am. 1923, p. 442, Act 274, Eff. Aug. 30;—Am. 1925, p. 731, Act 371, Eff. Aug. 27;—CL 1929, 2531;—Am. 1939, p. 727, Act 351, Eff. Sept. 29;—CL 1948, 125.444.

125.445 Public halls in multiple dwellings; requirements; exit doors.

Sec. 45. Public halls. In all multiple dwellings occupied by more than 8 families or having 24 or more sleeping rooms above the first story, the public halls shall not be less than 4 feet wide in the clear, with doors not less than 3 feet wide. In multiple dwellings over 4 stories high public halls shall be not less than 5 feet wide in the clear with doors not less than 3 feet wide. In all other multiple dwellings the public halls shall not be less than 3 feet 6 inches wide in the clear with doors not less than 2 feet 8 inches wide. Any portion of a public hall used exclusively for ventilating purposes may be reduced to not less than 3 feet in width.

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All exit doors from all public halls in buildings of 4,000 square feet or more shall swing in the direction of egress. In all multiple dwellings all exit doors from public halls into stair shafts and all exit doors from the building shall not be capable of being locked against egress: Provided, That when approved by the enforcing official, this shall not preclude exit doors from the building being equipped with a push type panic lock enclosed behind a glass panel if there is provided in the immediate vicinity a means of breaking said glass panel in order to operate the panic lock. Equivalent locking devices may be used if approved by the enforcing official. A legible sign shall be provided in the immediate vicinity indicating instructions for operating this door.

HISTORY: Am. 1919, p. 572, Act 326, Imd. Eff. May 13;—CL 1929, 2532;—Am. 1939, p. 727, Act 303, Eff. Sept. 29;—CL 1948, 125.445.

125.446 Elevator shafts in multiple dwellings; openings; clothes chutes.

Sec. 46. Shafts and openings between floors. In all multiple dwellings, all dumb-waiters and elevator shafts shall be enclosed in the same manner as required for stair enclosures in section 44 with fire doors at all openings. In the case of dumb-waiters such doors shall be self-closing. Clothes chutes shall be lined with metal and shall have all openings equipped with self-closing metal lined doors. All other openings between floors shall be enclosed as required in section 44 except that in fire-proof buildings of class "b" there may be not more than 1 mezzanine or balcony which may be placed between any 2 floors.

HISTORY: Am. 1919, p. 573, Act 326, Imd. Eff. May 13;—CL 1929, 2533;—Am. 1939, p. 728, Act 303, Eff. Sept. 29;—CL 1948, 125.446.

125.447 Basement entrance and cellar stairs in multiple dwellings.

Sec. 47. Basement and cellar stairs. All multiple dwellings shall have an entrance direct to the basement or cellar from the outside of the building and inside cellar and basement stairs shall be enclosed as required in section 44.

HISTORY: CL 1929, 2534;—Am. 1939, p. 728, Act 303, Eff. Sept. 29;—CL 1948, 125.447.

125.448 Closet under stairs in multiple dwellings.

Sec. 48. Closet under stairs. In multiple dwellings hereafter erected no closet of any kind shall be constructed under any staircase.

HISTORY: CL 1929, 2535;—Am. 1939, p. 728, Act 303, Eff. Sept. 29;—CL 1948, 125.448.

125.449 Storage space in multiple dwellings; construction; equipped with adequate fire equipment and sprinkler system; lighting system.

Sec. 49. Storage spaces. In the basement or cellar of every multiple dwelling hereafter erected housing more than 4 families if of class "a" or 20 sleeping rooms if of class "b" in which locker room or space for the storage of belongings, goods, effects or properties of the individual occupants of the dwelling or space for the storage of materials or articles of more than ordinary combustible nature such as papers, rags, paints, oils, furnishings and similar materials is provided or made available, such space shall be protected and constructed according to the following requirements; and no part of any basement or cellar of such multiple dwellings hereafter erected shall be used for such purposes unless it is so protected and constructed.

Such storage space shall be enclosed in masonry walls not less than 4 inches thick. The doors through these walls shall be self-closing fire doors of type "a" and the ceiling over such space, except where floor construction is of fireproof construction, shall be protected with metal lath and portland cement or gypsum plaster not less than 3/4 of an inch thick. There shall be at least 1 window, not less than 2 feet by 3 feet, opening directly to the outside of the building where such space has an area over 100 square feet. If the area exceeds 500 square feet, a fire department siamese connection shall be installed. If such storage space is divided into separate compartments, the dividing partitions shall be of incombustible material. The entire storage space shall be equipped with an adequate sprinkler system with sprinkler heads arranged so as to provide not less than 1 head for each 150 square feet or fraction thereof of area, and in

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any case if the space is divided into separate smaller compartments by any material other than open mesh screening, there shall be not less than 1 head over each separate compartment. An adequate source of water supply shall be provided which may be a connection to the supply main of the building. The distribution system shall be of sufficient capacity to adequately serve the number of heads installed, but it shall not be necessary to be of greater capacity than is sufficient to serve any 5 heads operating at the same time. In lieu of the sprinkler system an approved and self supervised and properly maintained automatic fire alarm system may be provided. The entire storage space or the passageways leading to separate compartments in such space shall be adequately lighted with electrically illuminated lights installed at the ceiling and operated from outside such space, and if the space is divided into separate compartments with any material other than open mesh screening, there shall be provided a separate electrically illuminated light at the ceiling in each compartment. No material shall be piled closer to the ceiling of a storage space than 18 inches.

HISTORY: Am. 1919, p. 573, Act 326, Imd. Eff. May 13;—CL 1929, 2536;—Am. 1939, p. 728, Act 303, Eff. Sept. 29;—CL 1948, 125.449.

125.450 Wooden multiple dwellings; size permitted.

Sec. 50. Wooden multiple dwelling. No wooden multiple dwelling shall hereafter be erected exceeding 2 stories in height or to be occupied by more than 2 families if of class "a" or 10 sleeping rooms if of class "b" on any floor or having not more than 2,400 square feet on any floor: Provided, That if the exterior walls are veneered with 4 inches of masonry there may be not to exceed 4 families if of class "a", 20 sleeping rooms if of class "b" or 4,800 square feet on any floor. So far as fire protective provisions are concerned this shall not prohibit a wooden building not to exceed 2 stories in height housing more than 2 families on any floor: Provided, That the building is separated into sections by an 8 inch unpierced masonry wall extending from foundation to the underside of the roof covering if gable roof and 18 inches above the roof if flat roof, and that there shall not be more than 2 families if of class "a" or 10 sleeping rooms if of class "b" or 2,400 square feet on any floor in a section. The occupancy on any floor in a section may be increased to 4 families if of class "a" or 20 sleeping rooms if of class "b" and there may be not to exceed 4,800 square feet on a floor in a section if the exterior walls are veneered with 4 inches of masonry except for a distance of not less than 1 foot from intersecting fire walls, which section of exterior wall must be solid masonry not less than 8 inches thick.

HISTORY: CL 1929, 2537;—Am. 1939, p. 729, Act 303, Eff. Sept. 29;—CL 1948, 125.450.

125.450a Fire protection.

Sec. 50-a. Fire protection. In every row of 2 or more frame dwellings, the dividing walls shall be made of incombustible material not less than 8 inches in thickness for 2 stories on a 12 inch foundation and carried to the underside of the roof coverings if gable roof and 18 inches through roof if flat roof: Provided, however, That the 8 inch walls do not exceed 35 feet in length. If longer than 35 feet then the thickness must be increased to 12 inches.

HISTORY: CL 1929, 2538;—CL 1948, 125.450a.

ARTICLE III.

ALTERATIONS.

125.451 Remodeling of existing dwellings; size permitted; third floor.

Sec. 51. Remodeling of existing dwellings. No existing wooden building shall be so altered or have its occupancy so changed as to conflict with the provisions of section 50: Provided, however, That the enforcing official may permit the occupancy of the third floor of an existing dwelling by not more than 2 families if of class "a" or 6 sleep-

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ing rooms if of class "b". This permission shall not be granted by the enforcing official unless the following minimum requirements are complied with:

(a) Not less than 2 independent means of egress shall be provided, 1 of which shall be an interior stairway, and the other may be a fire escape or another interior stairway.

(b) Both means of egress shall be directly accessible to all occupants of the third floor, except that access to 1 means of egress may be through a private room or apartment if the access door thereto is provided with a glass panel and equipped as specified in section 40.

(c) All interior stairs shall be enclosed at the third floor to prevent the spread of smoke, and shall be provided with self-closing doors.

(d) All the provisions of sections 20, 21 and 22 shall be complied with: Provided, however, That where the conditions fail to conform in some technical respects with the provisions of these sections, the enforcing officials may, in their discretion, waive the strict requirements of these sections if the spirit of the law will be observed and no condition injurious to health or safety will result.

No dwelling shall hereafter be enlarged or its lot be diminished, or other building placed on the lot, so that the rear yard or side yard shall be less in size than the minimum sizes prescribed in sections 12 and 13 of this act for dwellings hereafter erected except an extension not exceeding a total area of 70 square feet may encroach into only the rear yard space if it is used for bathroom or water-closet.

HISTORY: CL 1929, 2539;—Am. 1939, p. 729, Act 303, Eff. Sept. 29;—CL 1948, 125.451.

125.452 New courts in existing dwellings.

Sec. 52. New courts in existing dwellings. An inner court hereafter constructed in a dwelling erected prior to the passage of this act, if extending only through 1 or 2 stories, shall be not less than 6 feet by 8 feet in size; and if it extends through more than 2 stories, it shall be not less than 8 feet by 10 feet in size, and it shall have an air intake as required for new buildings in section 16. All inner courts shall be open to the sky, without skylight, or roof of any kind.

HISTORY: CL 1929, 2540;—CL 1948, 125.452.

125.453 Additional rooms and halls.

Sec. 53. Additional rooms and halls. Any additional room or hall that is hereafter constructed or created in a dwelling shall comply in all respects with the provisions of article 2 of this act, except that it may be of the same height as the other rooms on the same story of the dwelling.

HISTORY: CL 1929, 2541;—CL 1948, 125.453.

125.454 Lighting and ventilation of rooms and halls.

Sec. 54. Rooms and halls, lighting and ventilation of. No dwelling shall be so altered or its lot diminished that any room or public hall or stairs shall have its light or ventilation diminished in any way not approved by the health officer, or by such other appropriate public official as the mayor may designate.

HISTORY: CL 1929, 2542;—CL 1948, 125.454.

125.455 Multiple dwellings; roof stairs.

Sec. 55. Roof stairs. No stairs leading to the roof in any multiple dwelling shall be removed or be replaced with a ladder.

HISTORY: CL 1929, 2543;—CL 1948, 125.455.

125.456 Multiple dwellings; bulkheads.

Sec. 56. Bulkheads. Every bulkhead hereafter constructed in a multiple-dwelling shall be constructed fireproof or covered with metal on the outside.

HISTORY: CL 1929, 2544;—CL 1948, 125.456.

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125.457 Multiple dwellings; stairways.

Sec. 57. Stairways. No public hall or stairs in a multiple-dwelling shall be reduced in width so as to be less than the minimum width prescribed in sections 42 and 45 of this act.

HISTORY: CL 1929, 2545;—CL 1948, 125.457.

125.458 Multiple dwellings; dumb-waiters and elevators.

Sec. 58. Dumb-waiters and elevators. All dumb-waiters and elevators hereafter constructed in multiple-dwellings shall be enclosed in fire-proof shafts with fire-proof doors at all openings at each story, including the cellar. In the case of dumb-waiter shafts such doors shall be self-closing; and such shafts shall be completely separated from the stairs by walls of approved fireproof material enclosing the same. This section does not apply to dumb-waiter shafts or elevator shafts which are already in existence, but only to new ones which may be installed after the act takes effect both in new dwellings and in existing ones.

HISTORY: CL 1929, 2546;—CL 1948, 125.458.

125.459 Water-closet accommodations.

Sec. 59. Water-closet accommodations. Any water-closet hereafter placed in a dwelling, except one provided to replace a defective or antiquated fixture in the same location, shall comply with the provisions of sections 25, 35 and 37 of this act relative to water-closets in dwellings hereafter erected. In the case of a new water-closet installed on the top floor of an existing dwelling, a ventilating skylight open to the sky may be used in lieu of the windows required by section 25.

HISTORY: CL 1929, 2547;—CL 1948, 125.459.

125.460 Height of dwellings.

Sec. 60. Height. No dwelling shall be increased in height so that the total height exceeds 1 and 1/2 times the width of the widest street on which it abuts.

HISTORY: CL 1929, 2548;—Am. 1939, p. 730, Act 303, Eff. Sept. 29;—CL 1948, 125.460.

125.461 Other alterations.

Sec. 61. Other alterations. Except as specified above, no dwelling shall be so altered nor shall its lot be so diminished, nor shall any building be so placed on the same lot, as to cause the dwelling to be in violation of the requirements of this act for dwellings hereafter erected; nor shall any room, public hall or stairs have its light or ventilation diminished in any way not approved by the health officer, or by such other appropriate public official as the mayor may designate.

HISTORY: CL 1929, 2549;—CL 1948, 125.461.

125.462 Multiple dwellings; skylights.

Sec. 62. Skylights. All new skylights hereafter placed in a multiple-dwelling shall be provided with ridge ventilators having a minimum opening of 40 square inches and also with either fixed or movable louvres or with movable sashes, and shall be of such size as may be determined to be practicable by the health officer, or by such other appropriate public official as the mayor may designate.

HISTORY: CL 1929, 2550;—CL 1948, 125.462.

125.463 Multiple dwellings; fire escapes.

Sec. 63. Fire escapes. All fire escapes hereafter constructed on any multiple-dwelling shall be located and constructed as prescribed in section 40 of this act.

HISTORY: CL 1929, 2551;—CL 1948, 125.463.

125.464 Alcoves and alcove rooms.

Sec. 64. Alcoves and alcove rooms. No part of any room in a dwelling shall hereafter be enclosed or subdivided wholly or in part by a curtain, portiere, fixed or movable partition or other contrivance or device, unless such part of a room so enclosed or sub-

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divided shall contain a window as required by sections 19, 20 and 24 of this act, and have a floor area of not less than 80 square feet.

HISTORY: CL 1929, 2552;—CL 1948, 125.464.

ARTICLE IV.

MAINTENANCE.

125.465 Public halls in multiple dwellings; lighting; exit lights.

Sec. 65. Public halls, lighting at night. In every multiple dwelling all public halls shall be kept adequately lighted at all times by the owner. In every multiple dwelling of class "b", except those of fireproof construction having more than 15 rooms or sleeping accommodations for more than 30 persons, the location of stairways and means of egress shall be designated on each floor by electrically illuminated exit signs having letters at least 4 inches in height. All exit lights shall be on a separate circuit or circuits and wires shall be installed in approved metal raceway.

HISTORY: CL 1929, 2553;—Am. 1939, p. 730, Act 303, Eff. Sept. 29;—CL 1948, 125.465.

125.466 Water closets in cellars.

Sec. 66. Water-closets in cellars. No water-closet shall be maintained in the cellar of any dwelling without a permit in writing from the health officer, who shall have power to make rules and regulations governing the maintenance of such closets. Under no circumstances shall the general water-closet accommodations of any multiple dwelling be permitted in the cellar or basement thereof; this provision, however, shall not be construed so as to prohibit a general toilet room containing several water-closets, provided such water-closets are supplementary to those required by law.

HISTORY: CL 1929, 2554;—CL 1948, 125.466.

125.467 Water closet accommodations.

Sec. 67. Water-closet accommodations. In every dwelling existing prior to the passage of this act there shall be provided at least 1 water-closet for every 2 apartments, groups or suites of rooms, or fraction thereof, except that in multiple-dwellings of class B there shall be provided at least 1 water-closet for every 15 occupants or fraction thereof.

HISTORY: CL 1929, 2555;—CL 1948, 125.467.

125.468 Basement and cellar rooms.

Sec. 68. Basement and cellar rooms. No room in the cellar of any dwelling erected prior to the passage of this act shall be occupied for living purposes. And no room in the basement of any such dwelling shall be so occupied without a written permit from the health officer, which permit shall be kept readily accessible in the main living room of the apartment containing such room. No such room shall hereafter be occupied unless all the following conditions are complied with:

(1) Such room shall be at least 7 feet high in every part from the floor to the ceiling.

(2) The ceiling of such room shall be in every part at least 3 feet 6 inches above the surface of the street or ground outside of or adjoining the same.

(3) There shall be appurtenant to such room the use of a water-closet.

(4) At least 1 of the rooms of the apartment of which such room is an integral part shall have a window opening directly to the street or yard, of at least 12 square feet in size clear of the sash frame, and which shall open readily for purposes of ventilation.

(5) The lowest floor shall be water-proof and damp-proof.

(6) Such room shall have sufficient light and ventilation, shall be well drained and dry, and shall be fit for human habitation.

HISTORY: CL 1929, 2556;—CL 1948, 125.468.

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125.469 Joint use of kitchen by more than one family prohibited.

Sec. 69. Use of kitchens. No kitchen or cooking accommodations shall be permitted or maintained in any room or space of any building for the common or joint use of the individual occupants of a 2 family or multiple family dwelling.

HISTORY: CL 1929, 2557;—Am. 1939, p. 730, Act 303, Eff. Sept. 29;—CL 1948, 125.469.

125.470 Water closets and sinks; floors under and around.

Sec. 70. Water-closets and sinks. In all 2 family dwellings and multiple dwellings the floor or other surface beneath and around water-closets and sinks shall be maintained in good order and repair and if of wood shall be kept well painted with light colored paint.

HISTORY: CL 1929, 2558;—CL 1948, 125.470.

125.471 Repairs and drainage.

Sec. 71. Repairs and drainage. Every dwelling and all the parts thereof including plumbing, heating, ventilating and electrical wiring shall be kept in good repair by the owner. The roof shall be so maintained as not to leak and the rain water shall be drained and conveyed therefrom through proper conduits into the sewerage system in accordance with plumbing regulations so as to avoid dampness in the walls and ceilings and insanitary conditions.

HISTORY: CL 1929, 2559;—Am. 1939, p. 730, Act 303, Eff. Sept. 29;—CL 1948, 125.471.

125.472 Water supply.

Sec. 72. Water supply. Every dwelling not exempted in section 7 of this act shall have within each apartment or family unit at least 1 approved sink with running water furnished in sufficient quantity at all times. The owner shall provide proper and suitable tanks, pumps or other appliances to receive and to distribute an adequate and sufficient supply of such water at each floor in the said dwelling at all times of the year, during all hours of the day and night. But a failure in the general supply of city water shall not be construed to be a failure on the part of such owner, provided proper and suitable appliances to receive and distribute such water have been provided in said dwelling.

HISTORY: CL 1929, 2560;—Am. 1939, p. 730, Act 303, Eff. Sept. 29;—CL 1948, 125.472.

125.473 Catch-basins.

Sec. 73. Catch-basins. In the case of dwellings where, because of lack of city water supply or sewers, sinks with running water are not provided inside the dwellings, 1 or more catch-basins or some other approved convenience for the disposal of waste water, as may be necessary in the opinion of the health officer or such other appropriate public official as the mayor may designate, shall be provided in the yard or court, level with the surface thereof and at a point easy of access to the occupants of such dwelling.

HISTORY: CL 1929, 2561;—CL 1948, 125.473.

125.474 Cleanliness of dwellings.

Sec. 74. Cleanliness of dwellings. Every dwelling and every part thereof shall be kept clean and shall also be kept free from any accumulation of dirt, filth, rubbish, garbage or other matter in or on the same, or in the yards, courts, passages, areas or alleys connected therewith or belonging to the same. The owner of every dwelling shall be responsible for keeping the entire building free from vermin. The owner shall also be responsible for complying with the provisions of this section except that the tenants shall be responsible for the cleanliness of those parts of the premises that they occupy and control.

HISTORY: CL 1929, 2562;—Am. 1939, p. 730, Act 303, Sept. 29;—CL 1948, 125.474.

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125.475 Multiple dwellings; walls of courts.

Sec. 75. Walls of courts. In multiple dwellings the walls of all courts, unless built of a light color brick or stone, shall be thoroughly whitewashed by the owner or shall be painted a light color by him, and shall be so maintained. Such whitewash or paint shall be renewed whenever necessary, as may be required by the health officer, or by such other appropriate public official as the mayor may designate.

HISTORY: CL 1929, 2563;—CL 1948, 125.475.

125.476 Multiple dwellings; walls and ceilings of rooms.

Sec. 76. Walls and ceilings of rooms. In all multiple dwellings the health officer or such other appropriate official as the mayor may designate, may require the walls and ceiling of every room that does not open directly on the street to be kalsomined white or painted with white paint when necessary to improve the lighting of such room and may require this to be renewed as often as may be necessary.

HISTORY: CL 1929, 2564;—CL 1948, 125.476.

125.477 Multiple dwellings; wallpaper.

Sec. 77. Wall paper. No wall paper shall be placed upon a wall or ceiling of any multiple-dwelling unless all wall paper shall be first removed therefrom and said wall and ceiling thoroughly cleaned.

HISTORY: CL 1929, 2565;—CL 1948, 125.477.

125.478 Receptacles for ashes, garbage and rubbish; chutes prohibited.

Sec. 78. Receptacles for ashes, garbage and rubbish. The owner of every multiple dwelling, and in the case of private and 2 family dwellings, the occupant or occupants thereof, shall provide for said dwelling, keep clean and in place, proper covered receptacles of non-absorbent material for holding garbage, refuse, ashes, rubbish and other waste matter. Garbage chutes are prohibited.

HISTORY: CL 1929, 2566;—Am. 1939, p. 731, Act 303, Eff. Sept. 29;—CL 1948, 125.478.

125.479 Prohibited uses.

Sec. 79. Prohibited uses. No horse, cow, calf, swine, sheep, goat, chickens, geese or ducks shall be kept in any dwelling or part thereof. Nor shall any such animal be kept on the same lot or premises with a dwelling except under such conditions as may be prescribed by the health officer. No such animal, except a horse, shall under any circumstances be kept on the same lot or premises with a multiple dwelling. No dwelling or the lot or premises thereof shall be used for the storage or handling of rags or junk.

HISTORY: CL 1929, 2567;—CL 1948, 125.479.

125.480 Storage of combustible materials.

Sec. 80. Combustible materials and storage spaces. No dwelling, nor any part thereof, nor of the lot upon which it is situated, shall be used as a place of storage, keeping or handling of any article dangerous or detrimental to life or health; nor of any combustible article, except under such conditions as may be prescribed by the fire commissioner, or the proper official, under authority of a written permit issued by him. No multiple dwelling nor any part thereof, nor of the lot upon which it is situated, shall be used as a place of storage, keeping or handling of feed, hay, straw, cotton, paper stock, feathers or rags.

All of the provisions of section 49, except the window requirement, prescribing the protection and construction of spaces used for storage purposes in buildings hereafter erected shall apply to all spaces used for such storage purposes in all existing buildings housing more than 8 apartments if of class "a" or 40 sleeping rooms if of class "b". Where a required window cannot be provided, there shall be a siamese fire department connection.

HISTORY: CL 1929, 2568;—Am. 1939, p. 731, Act 303, Eff. Sept. 29;—CL 1948, 125.480.

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125.481 Storage of combustible materials; openings between storage room and public hall.

Sec. 81. Certain dangerous businesses. There shall be no transom, window or door opening into a public hall from any part of a multiple dwelling where paint, oil, or inflammable liquids are stored or kept for the purpose of sale or otherwise.

HISTORY: Am. 1921, p. 526, Act 281, Eff. Aug. 18;—CL 1929, 2569;—Am. 1939, p. 731, Act 303, Eff. Sept. 29;—CL 1948, 125.481.

125.482 Fire prevention and safety requirements.

Sec. 82. Supervision and safety provisions. In any multiple dwelling housing more than 8 families, in which the owner thereof does not reside, there shall be a responsible person, or persons, designated as such by the owner. Every multiple dwelling of class "b" containing over 75 sleeping rooms or sleeping accommodations for 150 persons or more above the first floor, which is not of fireproof construction, or not protected with an approved sprinkler system or an approved and self supervised and properly maintained automatic fire alarm system, shall have adequate watch service, reporting each 1 hour between the hours of 10:00 p.m. and 7:00 a.m. on each floor at locations designated by the enforcing official on a suitable recording device.

In addition every multiple dwelling of class "b", not of fireproof construction, or not protected with an approved sprinkler system or an approved and self supervised and properly maintained automatic fire alarm system, having sleeping accommodations for over 50 persons above the first floor, shall have on duty at all times at least 1 employe and more if necessary, so that there shall be 1 employe on duty at all times for each 100 persons, or major fraction thereof, of the normal capacity of the building.

In all multiple dwellings of class "b", not of fireproof construction, having sleeping accommodations for over 25 persons there shall be provided a bell, gong, siren or other approved alarm, of sufficient size and adequacy to be heard in every room or apartment of the building by a person of normal auditory perception, on each floor of the building, such warning device to be manually controlled from locations designated by the enforcing official.

All employes of multiple dwellings shall be regularly instructed and drilled relative to the proper proceeding in case of fire or panic by a person whose qualifications are approved by the enforcing officer. All employes of multiple dwellings shall be instructed as to the location of the fire alarm boxes or other devices for notifying the fire department. In case of fire in the building it shall be the duty of such employes to forthwith and immediately notify the fire department of the existence of such fire through the surest and quickest means of notification available. Such employes shall then proceed to warn or notify the occupants of the building of the existence of such fire and to assist them in the immediate evacuation of the building in the quickest and safest manner possible.

The owners or manager of every multiple dwelling of class "b" shall maintain a register or list of guests and tenants which shall be kept and safeguarded so as to be available at all times.

HISTORY: CL 1929, 2570;—Am. 1939, p. 731, Act 303, Eff. Sept. 29;—CL 1948, 125.482.

125.483 Overcrowding; minimum space requirements.

Sec. 83. Overcrowding. No bedroom or room used as a bedroom in any class "b" multiple dwelling shall be so occupied as to provide less than 500 cubic feet of air space per occupant, exclusive of the cubic air space of bathrooms, toilet rooms and closets. No room, suite or group of rooms, comprising a family dwelling unit, in any single, 2 family or class "a" multiple dwelling shall be so occupied as to provide less than 800 cubic feet of air space per occupant exclusive of the cubic air space of bathrooms, toilet rooms and closets. No bedroom or room used as a bedroom in any single, 2 family or class "a" multiple dwelling shall be so occupied as to provide less than 300

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cubic feet of air space per occupant, exclusive of the cubic air space of bathrooms, toilet rooms and closets.

HISTORY: CL 1929, 2571;—Am. 1939, p. 732, Act 303, Eff. Sept. 29;—CL 1948, 125.483.

125.484 Multiple dwellings; regulation; application; lodgers prohibited.

Sec. 84. Lodgers prohibited. The health officer or such other appropriate public official as the mayor may designate may prohibit in any multiple dwelling the letting of lodgings therein by any of the tenants occupying such multiple dwelling, and may prescribe conditions under which lodgers or boarders may be taken in multiple-dwellings. It shall be the duty of the owner in the case of multiple-dwellings to see that the requirements of the health officer or such other appropriate public official as the mayor may designate in this regard are at all times complied with, and a failure to so comply on the part of any tenant, after due and proper notice from said owner or from the health officer or such other appropriate public official as the mayor may designate shall be deemed sufficient cause for the summary eviction of such tenant and the cancellation of his lease. The provisions of this section may be extended to private dwellings, and 2 family dwellings, as may be found necessary by the health officer, or by such other appropriate public official as the mayor may designate.

HISTORY: CL 1929, 2572;—CL 1948, 125.484.

125.485 Health order; infected and uninhabitable dwellings to be vacated.

Sec. 85. Infected and uninhabitable dwellings to be vacated. Whenever it shall be certified by an inspector or officer of the health department that a dwelling is infected with contagious disease or that it is unfit for human habitation, or dangerous to life or health by reason of want of repair, or of defects in the drainage, plumbing, lighting, ventilation, or the construction of the same, or by reason of the existence on the premises of a nuisance likely to cause sickness among the occupants of said dwelling, or for any cause, the health officer or such other appropriate public official as the mayor may designate, may issue an order requiring all persons therein to vacate such house within not less than 24 hours nor more than 10 days for the reasons to be mentioned in said order. In case such order is not complied with within the time specified, the health officer or such other appropriate public official as the mayor may designate may cause said dwelling to be vacated. The health officer or such other appropriate public official as the mayor may designate whenever he is satisfied that the danger from said dwelling has ceased to exist, or that it is fit for human habitation may revoke said order or may extend the time within which to comply with the same.

HISTORY: CL 1929, 2573;—CL 1948, 125.485.

125.486 Health order; repairs to buildings, other structures.

Sec. 86. Repairs to buildings, etc. Whenever any dwelling or any building, structure, excavation, business pursuit, matter or thing, in or about a dwelling, or the lot on which it is situated, or the plumbing, sewerage, drainage, light or ventilation thereof, is in the opinion of the health officer or such other appropriate public official as the mayor may designate in a condition or in effect dangerous or detrimental to life or health, the health officer of such other appropriate public official as the mayor may designate may declare that the same to the extent he may specify is a public nuisance, and may order the same to be removed, abated, suspended, altered or otherwise improved or purified as the order shall specify.

HISTORY: CL 1929, 2574;—CL 1948, 125.486.

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125.487 Fire escape maintenance.

Sec. 87. Maintenance of fire escapes. All fire escapes shall be kept in a safe and sound condition and shall be properly painted and repaired to maintain this condition. No incumbrance or obstruction shall be placed or maintained on any part of any fire escape or in any means of access to a fire escape.

HISTORY: CL 1929, 2575;—Am. 1939, p. 732, Act 303, Eff. Sept. 29;—CL 1948, 125.487.

125.488 Scuttles, bulkheads, ladders and stairs in multiple dwellings.

Sec. 88. Scuttles, bulkheads, ladders and stairs. In all multiple dwellings where there are scuttles or bulkheads, they and all stairs or ladders leading thereto shall be easily accessible to all occupants of the building and shall be kept free from incumbrance and ready for use at all times. No scuttle and no bulkhead door shall at any time be locked with a key, but either may be fastened on the inside by movable bolts or hooks.

HISTORY: CL 1929, 2576;—CL 1948, 125.488.

ARTICLE V.

IMPROVEMENTS.

125.489 Rooms; lighting and ventilation.

Sec. 89. Rooms, lighting and ventilation of. No room except water-closet compartments in a dwelling erected prior to the passage of this act shall hereafter be occupied unless it shall have a window or windows of an area equal to not less than 1/10 of the floor area opening directly upon the street, or upon a rear yard not less than 10 feet deep, or above the roof of an adjoining building, or upon a court located on the same lot with the dwelling or on an adjoining lot and having an area not less than 50 square feet and a minimum dimension not less than 3 feet and being open and unobstructed from the window sill to the sky, or upon a side yard located on the same lot with the dwelling or on an adjoining lot and having a minimum width not less than 2 feet, except that a room located on the top floor may be lighted by means of a skylight if the skylight has an area equal to not less than 1/10 of the floor area and is ventilated directly to the outer air by an opening or openings having an area equal to not less than 1 per cent of the floor area. A room which cannot be made to comply with the above provisions may be occupied if provided with a window having an area not less than 1/8 of the floor area of such room, 40 per cent of the area of which window shall be capable of being opened, opening into an adjoining room in the same apartment or group or suite of rooms which latter room has a window or windows of area equal to not less than 1/6 of the area of the larger of the 2 rooms involved, 40 per cent of the area of which windows shall be capable of being opened, opening directly on a street or on a rear yard of the above dimensions. In so far as possible the windows between the 2 rooms shall be in line with windows in the outer room so as to afford a maximum of light and ventilation.

HISTORY: CL 1929, 2577;—Am. 1939, p. 732, Act 303, Eff. Sept. 29;—CL 1948, 125.489.

125.490 Multiple dwellings; public halls and stairs, lighting and ventilation.

Sec. 90. Public halls and stairs, lighting and ventilation of. In all multiple-dwellings erected prior to the passage of this act the public halls and stairs shall be provided with as much light and ventilation to the outer air as may be deemed practicable by the health officer or by such other appropriate public official as the mayor may designate, who may order the cutting in of windows and skylights and such other improvements and alterations in said dwellings as in his judgment may be necessary and ap-

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propriate to accomplish this result. All new skylights hereafter placed in such dwellings shall be in accordance with section 27 of this act and shall be of such size as may be determined to be practicable by said health officer, or by such other appropriate public official as the mayor may designate.

HISTORY: CL 1929, 2578;—CL 1948, 125.490.

125.491 Plumbing fixtures.

Sec. 91. Plumbing fixtures. In all dwellings, plumbing fixtures shall be so arranged and maintained as to prevent the wetting of the supporting or surrounding framework which may cause an insanitary condition. The space beneath such fixtures shall be accessible and shall not be so enclosed as to prevent ventilation sufficient to maintain dry and sanitary conditions. The floor and wall surfaces beneath and adjacent to all plumbing fixtures shall be maintained in a sound and sanitary condition. The health officer, or such other appropriate public official as the mayor may designate, may order plumbing fixtures to be supported by metal brackets, and the space beneath left entirely open, when it is indicated that the woodwork has become damp and insanitary and cannot be properly maintained. Defective and insanitary plumbing fixtures, which cannot be repaired, shall be replaced by approved fixtures.

HISTORY: CL 1929, 2579;—Am. 1939, p. 733, Act 303, Eff. Sept. 29;—CL 1948, 125.491.

125.492 Privy vaults, school-sinks and water closets.

Sec. 92. Privy vaults, school-sinks and water-closets. Whenever a connection with a sewer is possible, all privy vaults, school-sinks, cesspools or other receptacles used to receive fecal matter, urine or sewage, shall with their contents, be completely removed and the place where they were located properly disinfected under the direction of the health officer. Such appliances shall be replaced by individual water-closets of durable non-absorbent material, properly sewer-connected, and with individual traps and properly connected flush tanks providing an ample flush of water to thoroughly cleanse the bowl. Each such water-closet shall be located inside the dwelling or other building in connection with which it is to be used in a compartment completely separated from every other water-closet, and such compartment shall contain a window of not less than 4 square feet in area opening directly to the street, or rear yard or on a side yard or court of the minimum sizes prescribed in sections 13 and 14 of this act. The floors of the water-closet compartments shall be as provided in section 35 of this act. Such water-closets shall be provided in such numbers as required by section 67 of this act. Such water-closets and all plumbing in connection therewith shall be sanitary in every respect and, except as in this act otherwise provided, shall be in accordance with the local ordinances and regulations in relation to plumbing and drainage. Pan plunger, frostproof and long hopper closets will not be permitted except upon written permit of the health officer, or such other appropriate public official as the mayor may designate. No water-closet shall be placed out of doors.

HISTORY: CL 1929, 2580;—Am. 1939, p. 733, Act 303, Eff. Sept. 29;—CL 1948, 125.492.

125.493 Protection of basements and cellars.

Sec. 93. Protection of basement and cellars. Every multiple dwelling of class "b" having 20 or more sleeping rooms and exceeding 2 stories in height and having a basement or cellar, the floor above which is not of fireproof construction, shall have its basement or cellar ceiling protected with metal lath and 3/4 of an inch of portland cement or gypsum plaster, or the basement or cellar shall be protected with an approved automatic sprinkler system or an approved and self supervised and properly maintained automatic fire alarm system. The floor of the cellar or lowest floor of every dwelling shall be free from dampness, and, when necessary in the judgment of the health officer or such other appropriate public official as the mayor may designate,

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shall be concreted with not less than 3 inches of concrete of good quality and with a finished surface.

HISTORY: CL 1929, 2581;—Am. 1939, p. 733, Act 303, Eff. Sept. 29;—CL 1948, 125.493.

125.494 Shafts and courts; openings.

Sec. 94. Shafts and courts. In every dwelling where there is a court or shaft of any kind, there shall be at the bottom of every such shaft and court a door giving sufficient access to such shaft or court to enable it to be properly cleaned out: Provided, That where there is already a window giving proper access, it shall be deemed sufficient.

In all multiple dwellings of class "b" not of fireproof construction, or not protected with an approved sprinkler system or an approved and self supervised and properly maintained automatic fire alarm system, exceeding 2 stories in height, and having sleeping accommodations for 50 or more persons in which stairways and shafts are not made to comply with sections 39 and 46, the interior stairs, dumb waiters, elevators, clothes chutes, rubbish and all other inside shafts or openings between the various floors or stories of the building shall be enclosed or cut off with a fire resistive enclosure so as to prevent or restrict the vertical spreading of fire or smoke. All stairway shafts or openings between the cellar or basement and the story above in class "b" multiple dwellings shall be enclosed or cut off in the basement or cellar as mentioned above. Such enclosure shall be made of metal lath and 3/4 of an inch of gypsum or portland cement plaster on wood or metal studs, hollow metal, kalomine or other partitions of equivalent fire resistance. Fixed wire glass panels or wire glass windows in steel or metal covered frames may be placed in such enclosures. All door openings in such enclosures shall be protected with self closing fire doors.

HISTORY: CL 1929, 2582;—Am. 1939, p. 734, Act 303, Eff. Sept. 29;—CL 1948, 125.494.

125.495 Egress; means above first floor.

Sec. 95. Egress. All parts of every multiple dwelling, above the first story, shall have access to 2 independent means of egress either of which is accessible without passing through the other. In the case of multiple dwellings erected after the passage of this act the construction and arrangement of these means of egress shall conform to provisions of section 39. In the case of multiple dwellings erected prior to the passage of this act, wherein all parts are not supplied with the means of egress specified herein, deficiencies in exit facilities may be corrected by the erection of fire escapes constructed and arranged in accordance with the provisions of section 40. Access to existing fire escapes shall be equivalent to the standards established in section 40 for fire escapes. Where there are not more than 2 apartments or 6 sleeping rooms on a floor, access to 1 means of egress may be had through a private room or apartment providing the door to such room or apartment, through which such access is to be had, is equipped with a glass panel and other appurtenances as specified in section 40 for similar access doors to fire escapes.

HISTORY: CL 1929, 2583;—Am. 1939, p. 734, Act 303, Eff. Sept. 29;—CL 1948, 125.495.

FIRE ESCAPES: See Compilers' § 125.440.

125.496 Egress; other means.

Sec. 96. Additional means of egress. Whenever any multiple dwelling is not provided with means of egress conforming to the provisions of section 95, the enforcing officer shall order the installation of such additional means of egress as may be necessary to comply with the requirements of that section.

HISTORY: CL 1929, 2584;—Am. 1939, p. 734, Act 303, Eff. Sept. 29;—CL 1948, 125.496.

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125.497 Roof egress in multiple dwellings.

Sec. 97. Roof egress; scuttles and bulkheads. Every flat roof multiple-dwelling, exceeding 1 story in height, shall have at least 1 convenient and permanent means of access to the roof located in a public part of the building and not in a room or closet.

HISTORY: CL 1929, 2585;—Am. 1939, p. 735, Act 303, Eff. Sept. 29;—CL 1948, 125.497.

ARTICLE VI.

REQUIREMENTS AND REMEDIES.

125.498-125.519 Repealed. 1968, p. 493, Act 286, Eff. Nov. 15.

Sections related to housing law, requirements, procedures, remedies, enforcement and penalties.

ARTICLE VII

ENFORCEMENT

125.521 Construction or alteration; plans, statements, filing, contents, public records.

Sec. 121. Before construction or alteration of a dwelling, or alteration or conversion of a building for use as a dwelling is commenced and before construction or alteration of a building or structure on the same lot with a dwelling, the owner, or his agent or architect, shall submit to the health officer or other appropriate public official as the mayor may designate, on forms to be furnished by them, a detailed statement in writing, verified by the affidavit of the person making it, of the specifications for the dwelling or building, and full and complete copies of the plans of such work. With the statement there shall be submitted a plat of the lot showing the dimensions, the location of the proposed building and all other buildings on the lot. The statement shall give in full the name and residence, by street and number, of the owner or owners of such dwelling or building and the purposes for which such dwelling or building will be used. If the construction, alteration or conversion is proposed to be made by a person other than the owner of the land in fee, the statement shall contain the full name and residence, by street and number, not only of the owner of the land but of every person interested in the dwelling, either as owner, lessee or in any representative capacity. The affidavit shall allege that the specifications and plans are true and contain a correct description of the dwelling, building, structure, lot and proposed work. The statements and affidavits may be made by the owner, his agent or architect, or by the person who proposes to make the construction, alteration or conversion or by the agent or architect of such person. No one, however, shall be recognized as the agent of the owner or of such person unless he files with the health officer or such other appropriate public official as the mayor may designate, a written instrument signed by the owner or person, designating him as such agent. False swearing in a material point in an affidavit is perjury. The specifications, plans and statements shall be filed in the health department and be public records, but no specifications, plans or statements shall be removed from the health department.

HISTORY: Add. 1968, p. 487, Act 286, Eff. Nov. 15.

125.522 Examination of plans; approval; changes; certificate; expiration, revocation.

Sec. 122. (1) The health officer or such other appropriate public official as the mayor may designate, shall cause such plans and specifications to be examined. If the plans and specifications conform to the provisions of this act, the health officer or such other appropriate public official as the mayor may designate, or his duly authorized assistant, shall approve them and a written certificate to that effect shall be issued by him to the person submitting them. The health officer or such other appropriate public official as the mayor may designate may approve changes in plans and specifica-

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tions previously approved by him, if the plans and specifications when so changed are in conformity with law. The construction, alteration or conversion of a dwelling, building or structure, or any part thereof, shall not be commenced until the filing and approval of the specifications, plans and statements. A permit shall not be granted and no plan approved by the department of buildings, where such exists, for the construction or alteration of a dwelling or for the alteration or conversion of any building for use as a dwelling until there has been filed in the office of the department of buildings a certificate of the health officer or such other appropriate public official as the mayor may designate, to the effect that the dwelling conforms to the provisions of this act. The construction, alteration or conversion of a dwelling, building or structure shall be in accordance with the approved specifications and plans.

(2) A permit or approval which may be issued by the health officer or such other appropriate public official as the mayor may designate, but under which no work has been done above the foundation walls within 1 year from the time of the issuance of the permit or approval shall expire by limitation. The health officer or such other appropriate public official as the mayor may designate or his duly authorized assistant may revoke or cancel a permit or approval in case of failure or neglect to comply with any provision of this act, or in case any false statement or representation is made in specifications, plans or statements submitted or filed for such permit or approval.

HISTORY: Add. 1968, p. 488, Act 286, Eff. Nov. 15.

125.523 Administration of act; joint administration and enforcement agreement.

Sec. 123. The governing body of a municipality to which this act by its terms applies, or the governing body of a municipality which adopts the provisions of this act by reference, shall designate a local officer or agency which shall administer the provisions of the act, and if no such officer or agency is designated then the local governing body shall be responsible for administration of the act. Municipalities may provide, by agreement, for the joint administration and enforcement of this act where such joint enforcement is practicable.

HISTORY: Add. 1968, p. 488, Act 286, Eff. Nov. 15.

125.525 Registry of owners and premises.

Sec. 125. (1) A registry of owners and premises shall be maintained by the enforcing agency.

(2) The owners of a multiple dwelling or rooming house containing units which will be offered to let, or to hire, for more than 6 months of a calendar year, shall register their names and places of residence or usual places of business and the location of the premises regulated by this act with the enforcing agency. The owners shall register within 60 days following the day on which any part of the premises is offered for occupancy. Owners of multiple dwellings or rooming houses containing units which are occupied or offered for occupancy at the time this act becomes effective shall register within 90 days after the effective date of this article.

(3) If the premises are managed or operated by an agent, the agent's name and place of business shall be placed with the name of the owner in the registry.

HISTORY: Add. 1968, p. 488, Act 286, Eff. Nov. 15.

125.526 Inspection; intervals; basis; inspectors; hours of inspection; fees.

Sec. 126. (1) The enforcing agency shall inspect, on a periodic basis, multiple dwellings and rooming houses regulated by this act. In no event shall the period between inspections be longer than 2 years. All other dwellings regulated by this act may be inspected at reasonable intervals.

(2) An inspection shall be conducted in the manner best calculated to secure com-

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pliance with the act and appropriate to the needs of the community. Inspections may be on 1 of the following bases:

(a) An area basis, such that all the regulated premises in a predetermined geographical area will be inspected simultaneously, or within a short period of time.

(b) A complaint basis, such that complaints of violations will be inspected within a reasonable time.

(c) A recurrent violation basis, such that those premises which are found to have a high incidence of recurrent or uncorrected violations will be inspected more frequently.

(3) An inspection shall be carried out by the enforcing agency, or by the enforcing agency and such representatives of other agencies as may form a team to undertake an inspection under this and other applicable acts.

(4) An inspector, or team of inspectors, may request permission to enter all premises regulated by this act at reasonable hours to undertake an inspection. Upon an emergency, as defined under rules promulgated by the enforcing agency, the inspector or team of inspectors shall have the right to enter at any time.

(5) The enforcing agency may establish and charge a reasonable fee for inspections conducted under this act.

History: Add. 1968, p. 489, Act 286, Eff. Nov. 15.

125.527 Inspection; warrants for nonemergency situation; no warrant required in emergency.

Sec. 127. (1) In a nonemergency situation where the owner or occupant demands a warrant for inspection of the premises, the enforcing agency shall obtain a warrant from a court of competent jurisdiction. The enforcing agency shall prepare the warrant, stating the address of the building to be inspected, the nature of the inspection, as defined in this or other applicable acts, and the reasons for the inspection. It shall be appropriate and sufficient to set forth the basis for inspection (e.g. complaint, area or recurrent violation basis) established in this section, in other applicable acts or in rules or regulations. The warrant shall also state that it is issued pursuant to this section, and that it is for the purposes set forth in this and other acts which require that inspections be conducted.

(2) If the court finds that the warrant is in proper form and in accord with this section, it shall be issued forthwith.

(3) In the event of an emergency no warrant shall be required.

HISTORY: Add. 1968, p. 489, Act 286, Eff. Nov. 15.

125.528 Inspections; public policy; records; checklist of violations.

Sec. 128. (1) It is the policy of this state that the inspection procedures set forth in this article are established in the public interest, to secure the health and safety of the occupants of dwellings and of the general public.

(2) The enforcing agency shall keep a record of all inspections.

(3) The enforcing agency shall make available to the general public a checklist of commonly recurring violations for use in examining premises offered for occupancy.

HISTORY: Add. 1968, p. 489, Act 286, Eff. Nov. 15.

125.529 Certificate of compliance; issuance; inspection.

Sec. 129. (1) Units in multiple dwellings or rooming houses shall not be occupied unless a certificate of compliance has been issued by the enforcing agency. The certificates shall be issued only upon an inspection of the premises by the enforcing agency, except as provided in section 131. The certificate shall be issued within 15 days after written application therefor if the dwelling at the date of the application is entitled thereto.

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(2) A violation of this act shall not prevent the issuance of a certificate, but the enforcing agency shall not issue a certificate when the existing conditions constitute a hazard to the health or safety of those who may occupy the premises.

(3) Inspections shall be made prior to first occupancy of multiple dwellings and rooming houses, if the construction or alteration is completed and first occupancy will occur after the effective date of this article. Where first occupancy will occur before the effective date of this article, inspection shall be made within 1 year after the effective date of this article. Upon a finding that there is no condition that would constitute a hazard to the health and safety of the occupants, and that the premises are otherwise fit for occupancy, the certificate shall be issued. If the finding is of a condition that would constitute a hazard to health or safety, no certificate shall be issued, and an order to comply with the act shall be issued immediately and served upon the owner in accordance with section 132. On reinspection and proof of compliance, the order shall be rescinded and a certificate issued.

History: Add. 1968, p. 489, Act 286, Eff. Nov. 15.

125.530 Certificate withheld; premises not to be occupied; conditions of issuance; suspension of rent payments, escrow; account for rent and possession.

Sec. 130. (1) When a certificate is withheld pending compliance, no premises which have not been occupied for dwelling or rooming purposes shall be so occupied, and those premises which have been or are occupied for dwelling or rooming purposes may be ordered vacated until reinspection and proof of compliance in the discretion of the enforcing agency.

(2) A certificate of compliance shall be issued on condition that the premises remain in safe, healthful and fit condition for occupancy. If upon reinspection the enforcing agency determines that conditions exist which constitute a hazard to health or safety, the certificate shall be immediately suspended as to affected areas, and the areas may be vacated as provided in subsection (1).

(3) The duty to pay rent in accordance with the terms of any lease or agreement or under the provisions of any statute shall be suspended and the suspended rentals shall be paid into an escrow account as provided in subsection (4), during that period when the premises have not been issued a certificate of compliance, or when such certificate, once issued, has been suspended. This subsection does not apply until the owner has had a reasonable time after the effective date of this article or after notice of violations to make application for a temporary certificate, as provided in section 131. Nor does this subsection apply where the owner establishes that the conditions which constitute a hazard to health or safety were caused by the occupant or occupants. The rent, once suspended, shall again become due in accordance with the terms of the lease or agreement or statute from and after the time of reinstatement of the certificate, or where a temporary certificate has been issued, as provided in section 131.

(4) Rents due for the period during which rent is suspended shall be paid into an escrow account established by the enforcing officer or agency, to be paid thereafter to the landlord or any other party authorized to make repairs, to defray the cost of correcting the violations. The enforcing agency shall return any unexpended part of sums paid under this section, attributable to the unexpired portion of the rental period, where the occupant terminates his tenancy or right to occupy prior to the undertaking to repair.

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(5) When the certificate of compliance has been suspended, or has not been issued, and the rents thereafter withheld are not paid into the escrow account, actions for rent and for possession of the premises for nonpayment of rent may be maintained, subject to such defenses as the tenant or occupant may have upon the lease or contract.

History: Add. 1968, p. 490, Act 286, Eff. Nov. 15.

125.531 Certificate; application; temporary certificates; fee.

Sec. 131. (1) An owner shall apply for a certificate of compliance. Inspection and issuance of certificates shall be in accordance with the requirements of this act and with procedures established by the enforcing agency. The enforcing agency may authorize the issuance of temporary certificates without inspection for those premises in which there are no violations of record as of the effective date of this article, and shall issue such temporary certificates upon application in cases where inspections are not conducted within a reasonable time. Temporary certificates shall also be issued for premises with violations of record, whether existing before or after the effective date of this article, when the owner can show proof of having undertaken to correct such conditions, or when the municipality has been authorized to make repairs, or when a receiver has been appointed, or when an owner rehabilitation plan has been accepted by the court.

(2) An application for a certificate shall be made when the owners, or any of them, enroll in the registry of owners and premises. If the owner fails to register, any occupant of unregistered or uncertified premises may make application.

(3) A fee of $10.00 shall be paid by the applicant at the time the certificate is issued.

HISTORY: Add. 1968, p. 490, Act 286, Eff. Nov. 15.

125.532 Violations; recording; notice; order to correct, reasonable time; reinspection.

Sec. 132. (1) If, upon inspection, the premises or any part thereof are found to be in violation of any provision of this act, the violation shall be recorded by the enforcing agency in the registry of owners and premises.

(2) The owner, and in the discretion of the enforcing agency the occupant, shall be notified in writing of the existence of the violation. The notice shall state the date of the inspection, the name of the inspector, the nature of the violation and the time within which the correction shall be completed.

(3) A violation which is determined by the inspector to constitute a hazard to the health or safety of the occupants, under circumstances where the premises cannot be vacated, shall be ordered corrected within the shortest reasonable time and notice of having begun compliance shall be given the enforcing agency by the owner within 3 days. All other violations shall be corrected within a reasonable time.

(4) The enforcing agency shall reinspect after such reasonable time for the purpose of ascertaining whether the violations have been corrected.

HISTORY: Add. 1968, p. 491, Act 286, Eff. Nov. 15.

125.533 Compliance by owner and occupant.

Sec. 133. (1) The owner of premises regulated by this act shall comply with all applicable provisions of the act.

(2) The occupant of premises regulated by this act shall comply with provisions of the act specifically applicable to him.

HISTORY: Add. 1968, p. 491, Act 286, Eff. Nov. 15.

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125.534 Violations; failure to correct, court actions; injunction; service of complaint; decrees; removal or repair, lien.

Sec. 134. (1) If the owner or occupant fails to comply with the order contained in the notice of violation, the enforcing agency may bring an action to enforce the provisions of this act and to abate or enjoin the violation.

(2) An owner or occupant of the premises upon which any violation exists may bring an action to enforce the provisions of this act in his own name. Upon application by the enforcing agency, or upon motion of the party filing the complaint, the local enforcing agency may be substituted for, or joined with, the complainant in the discretion of the court.

(3) When the violation is uncorrected and creates an imminent danger to the health and safety of the occupants of the premises, the enforcing agency shall file a motion for a preliminary injunction or other temporary relief appropriate to remove such danger during the pendency of the action.

(4) Owners and lienholders of record or who are found by the complainant upon the exercise of reasonable diligence shall be served with a copy of the complaint and a summons. The complainant shall also file a notice of the pendency of the suit in the office of the register of deeds for the county in which the premises are located.

(5) The court, having obtained jurisdiction, shall make such orders and determinations as are consistent with the objectives of this act. The court may enjoin the maintenance of any unsafe, unhealthy or unsanitary condition, or any violations of this act, and may order the defendant to make repairs or corrections necessary to abate the conditions. The court may authorize the enforcing agency to make repairs or to remove the structure. When an occupant is not the cause of any unsafe, unhealthy or unsanitary condition, or any violation of this act, and is the complainant, the court may authorize the occupant to correct the violation and deduct the cost thereof from the rent upon such terms as the court determines to be just. Whenever the court shall find that said occupant is the cause of any unsafe, unhealthy or unsanitary condition, or any violation of this act, then the court may authorize the owner to correct the violation and assess the cost thereof against the occupant or his security deposit.

(6) No building shall be removed unless the cost of repair of the building will be greater than the state equalized value of the building.

(7) When the expenses of repair or removal are not otherwise provided for, the court may enter an order approving the expenses and providing that there shall be a lien on the real property for the payment thereof. The order may establish the priority of the lien and may provide that it shall be a lien senior to all other liens, except taxes and assessments; except that a mortgage of record having a recording date prior to all other liens of record shall retain its first priority if, at the time of recording of such mortgage or at any time subsequent thereto, a certificate of compliance as provided for in this article is in effect on the subject property. The order may also specify the time and manner for foreclosure of the lien if not satisfied. A true copy of the order shall be filed in the office of the register of deeds for the county where the real property is located within 10 days after entry thereof in order to perfect the lien granted in the order.

HISTORY: Add. 1968, p. 491, Act 286, Eff. Nov. 15.

125.535 Receiver; appointment, termination; purpose; powers; expenses.

Sec. 135. (1) When a suit has been brought to enforce this act against the owner the court may appoint a receiver of the premises.

(2) When the court finds that there are adequate grounds for the appointment of a receiver, it shall appoint the municipality or a proper local agency or officer, or any

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competent person, as receiver. In the discretion of the court no bond need be required. The receivership shall terminate at the discretion of the court.

(3) The purpose of a receivership shall be to repair, renovate and rehabilitate the premises as needed to make the building comply with the provisions of this act, and where ordered by the court, to remove a building. The receiver shall promptly comply with the charge upon him in his official capacity and restore the premises to a safe, decent and sanitary condition, or remove the building.

(4) Subject to the control of the court the receiver shall have full and complete powers necessary to make the building comply with the provisions of this act. He may collect rents, and other revenue, hold them against the claim of prior assignees of such rents, and other revenue, and apply them to the expenses of making the building comply with the provisions of this act. He may manage and let rental units, issue receivership certificates, contract for all construction and rehabilitation as needed to make the building comply with the provisions of this act, and exercise other powers the court deems proper to the effective administration of the receivership.

(5) When expenses of the receivership are not otherwise provided for, the court may enter an order approving the expenses and providing that there shall be a lien on the real property for the payment thereof. The provisions of subsection (7) of section 134 as to the contents and filing of an order are applicable to the order herein provided for.

HISTORY: Add. 1968, p. 492, Act 286, Eff. Nov. 15.

125.536 Additional remedies; occupant's action; concurrent remedies.

Sec. 136. (1) When the owner of a dwelling regulated by this act permits unsafe, unsanitary or unhealthful conditions to exist unabated in any portion of the dwelling, whether a portion designated for the exclusive use and occupation of residents or a part of the common areas, where such condition exists in violation of this act, any occupant, after notice to the owner and a failure thereafter to make the necessary corrections, shall have an action against the owner for such damages he has actually suffered as a consequence of the condition. When the condition is a continuing interference with the use and occupation of the premises, the occupant shall also have injunctive and other relief appropriate to the abatement of the condition.

(2) Remedies under this section shall be in addition to such other relief as may be obtained by seeking enforcement of the section authorizing suits by a local enforcement agency. The remedies shall be concurrent. When several remedies are available hereunder, the court may order any relief not inconsistent with the objectives of this act, and calculated to achieve compliance with it.

HISTORY: Add. 1968, p. 492, Act 286, Eff. Nov. 15.

125.537 Common law rights retained.

Sec. 137. The enumeration of rights of action under this article shall not limit or derogate rights of action at common law.

HISTORY: Add. 1968, p. 493, Act 286, Eff. Nov. 15.

125.538 Dangerous building prohibited.

Sec. 138. It is unlawful for any owner or agent thereof to keep or maintain any dwelling or part thereof which is a dangerous building as defined in section 139.

HISTORY: Add. 1969, p. 110, Act 61, Eff. Sep. 1.

125.539 Dangerous building; definition.

Sec. 139. As used in sections 138 to 142, "dangerous building" means any building or structure which has any of the following defects or is in any of the following conditions:

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(a) Whenever any door, aisle, passageway, stairway or other means of exit does not conform to the approved fire code of the community wherein the property lies, it shall be considered that such dwelling does not meet the requirements of this act.

(b) Whenever any portion has been damaged by fire, wind, flood, or by any other cause in such a manner that the structural strength or stability is appreciably less than it was before such catastrophe and is less than the minimum requirements of this act or any building code of the city, village or township wherein the building is located for a new building or similar structure, purpose or location.

(c) Whenever any portion or member or appurtenance is likely to fall or to become detached or dislodged, or to collapse and thereby injure persons or damage property.

(d) Whenever any portion has settled to such an extent that walls or other structural portions have materially less resistance to winds than is required in the case of new construction by this act or the building code of the city, village or township where the building is located.

(e) Whenever the building or structure or any part, because of dilapidation, deterioration, decay, faulty construction, or because of the removal or movement of some portion of the ground necessary for the purpose of supporting such building or portion thereof, or for other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning is likely to fall or give way.

(f) Whenever for any reason whatsoever the building or structure or any portion is manifestly unsafe for the purpose for which it is used.

(g) Whenever the building or structure has been so damaged by fire, wind or flood, or has become so dilapidated or deteriorated as to become an attractive nuisance to children who might play therein to their danger, or as to afford a harbor for vagrants, criminals or immoral persons, or as to enable persons to resort thereto for the purpose of committing a nuisance or unlawful or immoral acts.

(h) Whenever a building or structure used or intended to be used for dwelling purposes, because of dilapidation, decay, damage or faulty construction or arrangement or otherwise, is unsanitary or unfit for human habitation or is in a condition that is likely to cause sickness or disease when so determined by the health officer, or is likely to work injury to the health, safety or general welfare of those living within.

(i) Whenever any building becomes vacant, dilapidated and open at door or window, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers.

HISTORY: Add. 1969, p. 110, Act 61, Eff. Sep. 1.

125.540 Notice of unsafe or dangerous conditions; contents; hearing officer; service.

Sec. 140. (1) Notwithstanding any other provision of this act, when the whole or any part of any building or structure is found to be in a dangerous or unsafe condition, the enforcing agency shall issue a notice of the dangerous and unsafe condition.

(2) Such notice shall be directed to the owner, agent or lessee registered with the enforcing agency in accordance with section 125. If no owner, agent or lessee has been registered, then the notice shall be directed to each owner of or party in interest in the building in whose name the property appears on the last local tax assessment records.

(3) The notice shall specify the time and place of a hearing on the condition of the building or structure at which time and place the person to whom the notice is directed shall have the opportunity to show cause why the building or structure should not be ordered to be demolished or otherwise made safe.

(4) The hearing officer shall be appointed by the mayor, village president or township supervisor to serve at his pleasure. The enforcing agency shall file a copy of the notice of the dangerous and unsafe condition with the hearing officer.

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(5) All notices shall be in writing and shall be served upon the person to whom they are directed personally, or in lieu of personal service may be mailed by certified mail—return receipt requested addressed to such owner or party in interest at the address shown on the tax records, at least 10 days before the date of the hearing described in the notice. If any person to whom a notice is directed is not personally served, in addition to mailing the notice, a copy thereof shall be posted upon a conspicuous part of the building or structure.

HISTORY: Add. 1969, p. 111, Act 61, Eff. Sep. 1.

125.541 Hearing; testimony; determination to close proceedings or order building demolished or made safe, compliance, hearing, cost of compliance as lien, collection.

Sec. 141. (1) The hearing officer shall take testimony of the enforcing agency, the owner of the property and any interested party. The hearing officer shall render his decision either closing the proceedings or ordering the building to be demolished or otherwise made safe.

(2) If it is determined by the hearing officer that the building or structure should be demolished or otherwise made safe, he shall so order, fixing a time in the order for the owner, agent or lessee to comply therewith.

(3) If the owner, agent or lessee fails to appear or neglects or refuses to comply with the order, the hearing officer shall file a report of his findings and a copy of his order with the legislative body of the city, village or township and request that the necessary action be taken to demolish or otherwise make safe the building or structure. A copy of the findings and order of the hearing officer shall be served on the owner, agent or lessee in the manner prescribed in section 140.

(4) The legislative body of the city, village or township shall fix a date for hearing, reviewing the findings and order of the hearing officer and shall give notice to the owner, agent or lessee in the manner prescribed in section 140 of the time and place of the hearing. At the hearing the owner, agent or lessee shall be given the opportunity to show cause why the building should not be demolished or otherwise made safe and the legislative body of the city, village or township shall either approve, disapprove or modify the order for the demolition or making safe of the building or structure.

(5) The cost of the demolition or making the building safe shall be a lien against the real property and shall be reported to the assessing officer of the city, village or township who shall assess the cost against the property on which the building or structure is located.

(6) The owner or party in interest in whose name the property appears upon the last local tax assessment records shall be notified of the amount of such cost by first class mail at the address shown on the records. If he fails to pay the same within 30 days after mailing by the assessor of the notice of the amount thereof, the assessor shall add the same to the next tax roll of such city, village or township and the same shall be collected in the same manner in all respects as provided by law for the collection of taxes by such city, village or township.

HISTORY: Add. 1969, p. 111, Act 61, Eff. Sep. 1.

125.542 Appeals.

Sec. 142. An owner aggrieved by any final decision or order of the legislative body under section 141 may appeal the decision or order to the circuit court by filing a petition for an order of superintending control within 20 days from the date of the decision.

HISTORY: Add. 1969, p. 112, Act 61, Eff. Sep. 1.

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125.543 Adoption of housing law not required.

Sec. 143. Nothing herein contained shall require any city, village or township to adopt Act No. 167 of the Public Acts of 1917, as amended, being the housing law of Michigan.

HISTORY: Add. 1969, p. 112, Act 61, Eff. Sep. 1.

Act 319, 1929, p. 889; Imd. Eff. May 28.

AN ACT to regulate the use, handling, storage and sale of fuel oil, and the arrangement, design, construction and installation of burners, tanks and other equipment for the burning of fuel oil for heating purposes in cities and villages adopting the provisions of this act.

The People of the State of Michigan enact:

125.551 Fuel oil; adoption of act; scope of act restricted.

Sec. 1. This act shall be in force and effect in such cities and villages as may, by a majority vote of the legislative body thereof, adopt its provisions. The provisions of this act relative to the storage, handling and sale of fuel oil having a flash point above 130 degrees Fahrenheit, shall apply only to the use of such fuel oil for oil burners as is specified herein.

HISTORY: CL 1929, 2608;—CL 1948, 125.551.

125.552 Fuel oil; definitions.

Sec. 2. For the purposes of this act:

(a) "Fuel oil" shall mean any liquid used as fuel and having a flash point above 130 degrees Fahrenheit;

(b) "Fuel oil burners" shall mean any device, including burners, motors, piping, valves and other equipment designed and arranged for the purpose of burning fuel oil for heating purposes;

(c) "Tank" shall mean any container for such fuel oil, having a capacity of more than 25 gallons and directly or indirectly connected with such fuel oil burners;

(d) "Auxiliary tank" shall mean any tank between the storage tank and the burner delivering oil by gravity or pressure to the fuel oil burner or blower;

(e) "Storage tank" shall mean any tank for the storage of oil, connected through some approved means of suction feed, directly to the fuel oil burner or indirectly connected to the fuel oil burner through approved auxiliary tank;

(f) "Department of buildings and safety engineering" shall mean the department of buildings and safety engineering of such city, or such other department as may be designated by the legislative body thereof;

(g) "Bureau of safety engineering" shall mean the bureau of safety engineering of the department of buildings and safety engineering of such city, or such other bureau as may be designated by the legislative body thereof.

HISTORY: CL 1929, 2609;—CL 1948, 125.552.

125.553 Installation permit; temporary tag; inspection; existing plants; fees.

Sec. 3. Before any fuel oil burners, tanks and other equipment pertaining thereto shall be installed within such city, the owner of such premises or his agent, shall obtain from the permit department of the department of buildings and safety engineering, a permit for the installation of such fuel oil burners and equipment and for the storage and use of fuel oil for the operation thereof. Upon issuing such permit the said department shall issue therewith a temporary tag to be attached to the fill pipe of the tank of

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such equipment until the bureau of safety engineering shall cause such equipment to be inspected, and if found to conform with this act, a permanent metal tag, properly numbered, shall be affixed by the inspector. The owners or occupants of premises on which fuel oil burners have been installed previous to the date on which this act becomes effective shall obtain from the department of buildings and safety engineering within 6 months thereafter a permit for the storage and use of fuel oil for the operation thereof. Such permits shall be issued by the department of buildings and safety engineering when such fuel oil burners shall have been inspected by the bureau of safety engineering and found to be reasonably safe. The fees for permits required under the provisions hereof shall be designated by the board of rules.

HISTORY: CL 1929, 2610;—CL 1948, 125.553.

125.554 Prohibited furnishing of fuel oil.

Sec. 4. No person or persons, firm or corporation, shall supply with fuel oil any tanks or containers for fuel oil burners unless such fuel oil burners and equipment shall have been approved as provided herein and permit tag attached to the filler pipe of such tank or containers in the manner herein specified.

HISTORY: CL 1929, 2611;—CL 1948, 125.554.

125.555 Flash point; tester; mixing; waste oil.

Sec. 5. Fuel oil for equipment installed under this act shall have a flash point of not less than 130 degrees Fahrenheit and no oil or liquid may be used, which when tested in the open air at a temperature below 130 degrees Fahrenheit, or below 125 degrees Fahrenheit when tested in a closed cup tester, gives forth inflammable vapor or gas. In determining the flash point of oil, a tester as required by the department of buildings and safety engineering shall be authoritative. Fuel oil shall not be mixed or blended except at a storage plant under competent supervision, nor shall waste oil be used except with the approval of the bureau of safety engineering.

HISTORY: CL 1929, 2612;—CL 1948, 125.555.

125.556 Scope of tests.

Sec. 6. The tests and investigations made by the department of buildings and safety engineering shall cover arrangement of parts, suitability of material, strength of parts, electrical control, thermostatic arrangement, sensitiveness of automatic features, positiveness of ignition, safeguards against flooding, possibilities of explosion and hydrostatic or air pressure testing of storage tanks.

HISTORY: CL 1929, 2613;—CL 1948, 125.556.

125.557 Oil burners; equipment.

Sec. 7. Oil burners shall be equipped with such approved device, mechanical or electrical, which will automatically prevent the overflowing or flooding of the burner. Burners shall be designed to prevent excessive carbonization and shall be securely attached and supported.

HISTORY: CL 1929, 2614;—CL 1948, 125.557.

125.558 Oil burners; automatic ignition.

Sec. 8. All burners subject to automatic ignition must be provided with permanent automatic device, so designed that oil, upon being turned into the combustion chamber, will become ignited or automatically shut off.

HISTORY: CL 1929, 2615;—CL 1948, 125.558.

125.559 Pipes; joints; valves; packing gland.

Sec. 9. Standard full weight wrought iron, galvanized iron or steel or copper pipe, shall be used throughout. Underground piping shall be galvanized or copper or brass. The supply pipe or pipes shall be not less than 1/4 inch in diameter. Unions shall be ground type with conical seating with faces of metal. Flanged or packed joints shall

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not be used. Valves shall be constructed so that the stem cannot be withdrawn by continual operation of hand wheel. The packing gland shall be provided with a separate shouldered unthreaded follower having a beveled contact space for the compression of the packing. All threaded joints shall be made with glycerine and litharge, or shellac, or other approved compound. All pipes shall be rigidly supported and protected against mechanical injury. Gas supply pipes must be provided with shut-off valves.

HISTORY: CL 1929, 2616;—CL 1948, 125.559.

125.560 Electrical installations.

Sec. 10. Electrical installations used in connection with oil burning devices shall be installed in accordance with the rules adopted by such city and be inspected and approved by the department of buildings and safety engineering.

HISTORY: CL 1929, 2617;—CL 1948, 125.560.

125.561 Dampers; ventilation; instructions, posting; extinguisher.

Sec. 11. No damper shall be permitted in the smoke pipe or chimney from the device heated that may restrict to a dangerous extent the passage of fumes or gases. Ventilation shall be provided to prevent the accumulation of any trapped vapors below the combustion chamber. Complete instructions in regard to care and operation of the oil burning equipment shall be posted near the apparatus installed. The instruction sheet so posted shall include the specifications for the gravity and limiting flash point of oil suitable for use in the burner. All cards of instructions must be posted at time of installation. Near the entrance to the furnace room, and so located as to be convenient for use in emergency, there shall be provided a suitable hand extinguisher of approved type.

HISTORY: CL 1929, 2618;—CL 1948, 125.561.

125.562 Oil storage tanks; construction, user; storage limit.

Sec. 12. Oil storage tanks on the inside of any building shall be located in the lowest story, cellar or basement. A total storage of 550 gallons shall be permitted inside of any building but not more than 275 gallons shall be permitted in any 1 storage tank. Where more than 1 storage tank is installed such tanks shall be connected to the main feed pipe leading to the auxiliary tank, or if no auxiliary tank is used, such storage tanks shall be connected with the main feed pipe leading to the burner, with a manually operated three-way valve so that not more than 1 tank can in any way discharge its contents at one time. In cases where conditions make it impossible to install tanks outside buildings, it shall be permissible to install tanks of larger capacity inside buildings subject to the regulations of section 13 hereof. Tanks shall be constructed of galvanized iron or basic open hearth steel or wrought iron, not less than 14 gauge. All joints shall be welded, brazed or riveted. The tanks shall be reinforced with a welded or riveted pad or flange where connections are made. All tanks shall be made tight and tested at 5 pounds air pressure and with soapy water without showing leaks. Tanks shall have rigid and incombustible support and shall not be located less than 5 feet, measured horizontally, from any fire or flame, and shall be placed on an incombustible floor. Glass gauging devices, or any others, the breakage or derangement of which would permit the escape of oil, shall not be used. Fuel oil shall not be forced from such storage tanks by positive air pressure.

HISTORY: CL 1929, 2619;—CL 1948, 125.562.

125.563 Oil storage tanks; fill pipe; vent pipe.

Sec. 13. The fill pipe for such tank or tanks shall be galvanized iron or steel not less than 1 ½ inches in diameter, extending to the outside of any building, and shall be properly capped at all times. All storage tanks for fuel oil shall be provided with a vent pipe not less than 3/4 inch in diameter with a return bend on the open or exposed end, and the outside opening of such vent pipe, or manhole in outside tanks, shall be

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covered by a non-corrodible wire screen of 30 by 30 mesh: Provided, however, That vent pipe of such storage tank inside of any building shall terminate on the outside of the building, not less than 10 feet above the source of supply, and that vent pipes from underground storage tanks outside of any building shall not be less than 1 ¼ inches inside diameter and shall terminate not less than 2 feet above grade line. The vent pipe from 2 or more tanks may be connected to 1 upright provided they be connected at a point at least 12 inches above the source of supply.

HISTORY: CL 1929, 2620;—CL 1948, 125.563.

125.564 Oil storage; limitations.

Sec. 14. Except as otherwise permitted in this act, the storage of fuel oil in excess of 550 gallons shall be outside of any building in underground tanks. Storage of oil in tanks above ground of more than 550 gallons shall not be permitted without special permit from the board of rules of the department of buildings and safety engineering.

HISTORY: CL 1929, 2621;—CL 1948, 125.564.

125.565 Tanks located underground.

Sec. 15. Tanks located underground shall have the top of tank at least 3 feet below the surface of the ground, and below the level of the lowest pipe leading into the building to be supplied. Tanks may be permitted underneath a building if buried at least 3 feet below the lowest floor, or they may be placed 24 inches below the lowest floor and covered with 15 inches of earth and 9 inches of brick or concrete.

HISTORY: CL 1929, 2622;—CL 1948, 125.565.

125.566 Installation of inside tanks.

Sec. 16. Where it is impractical to bury tanks, the chief inspector of the department of buildings and safety engineering may allow them to be installed inside of a building when completely incased in 12 inches of concrete and 6 inches of sand.

HISTORY: CL 1929, 2623;—CL 1948, 125.566.

125.567 Underground tanks incased.

Sec. 17. Underground tanks located within 10 feet of a basement or pit lower than the top of such tank, shall be completely incased in 6 inches of concrete of a 1, 3 and 5 mixture.

HISTORY: CL 1929, 2624;—CL 1948, 125.567.

125.568 Measuring devices.

Sec. 18. Measuring devices on tanks beneath buildings and previously described encased tanks, shall be of approved wall gauge type.

HISTORY: CL 1929, 2625;—CL 1948, 125.568.

125.569 Metal gauge.

Sec. 19. The metal used in all tanks shall be of a minimum gauge, U.S. standard, depending upon the capacity or size as given in the following table:

Capacity (Gallons)	Thickness of material
1 to 500	14 gauge
501 to 1100	12 gauge
1101 to 4000	7 gauge
4001 to 10500	1/4 inch
10501 to 20000	5/16 inch
20001 to 30000	3/8 inch

HISTORY: CL 1929, 2626;—CL 1948, 125.569.

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125.570 Tanks; construction, testing; underwriter's label.

Sec. 20. All such tanks shall be welded, brazed or riveted and shall be heavily coated outside with asphaltum or other rust-resisting material. All tanks shall be tested for leakage and shall be tight at 5 pounds air pressure. All tanks having a capacity in excess of 275 gallons shall bear the underwriter's label.

HISTORY: CL 1929, 2627;—CL 1948, 125.570.

125.571 Required equipment; gravity, water pressure or suction burners.

Sec. 21. All oil burners operating by gravity or water pressure, shall be equipped with approved automatic device or devices for the control of the flow of oil in case of failure of the oil to properly ignite. All oil burners of the suction or force feed type shall be equipped with approved anti-siphoning device. Where a pump is used between the storage tank and the auxiliary tank a pressure relief valve shall be installed in the supply line, so arranged as to return any surplus oil to the storage tank. Suction pipes must extend to within not less than 2 inches from the bottom of the tank and must be provided with an accessible control valve inside the building between the tanks and the burner. All pipe connections, except for gravity flow, shall be made from the top of the tank.

HISTORY: CL 1929, 2628;—CL 1948, 125.571.

125.572 Required equipment; burners connected with heating system.

Sec. 22. All fuel oil burners used in connection with hot water and steam heating systems shall be equipped with a pressurestat or some approved automatic device to reduce or extinguish the fire in the event of undue pressure within the boiler.

HISTORY: CL 1929, 2629;—CL 1948, 125.572.

125.573 Gases prohibited in gas pilot.

Sec. 23. The use of acetylene or any other gas possessing a wider range of explosiveness in admixture with air than coal gas, or water gas, is prohibited for use in the gas pilot of any fuel oil burner.

HISTORY: CL 1929, 2630;—CL 1948, 125.573.

125.574 Scope of act restricted.

Sec. 24. This act shall not apply in the case of manufacturing plants except for heating buildings or generating steam for power.

HISTORY: CL 1929, 2631;—CL 1948, 125.574.

125.575 Violation of act; penalty.

Sec. 25. Any person, firm or corporation who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not to exceed 100 dollars or by imprisonment for a period of not to exceed 90 days, or by both such fine and imprisonment, and each day that a violation of this act shall be permitted to exist shall constitute a separate and distinct offense.

HISTORY: CL 1929, 2632;—CL 1948, 125.575.

Act 207, 1921, p. 402; Imd. Eff. May 17.

AN ACT to provide for the establishment in cities and villages of districts or zones within which the use of land and structures, the height, the area, the size and location of buildings may be regulated by ordinance, and within which districts regulations shall be established for the light and ventilation of such buildings, and within which districts or zones the density of population may be regulated by ordinance: to provide by ordinance for the acquisition by purchase, condemnation or otherwise of private property which does not conform to the regulations and restrictions of the various zones or districts so provided; to provide for the administering of this act; to provide for amendments, supplements or changes hereto; to provide for conflict with the state

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housing code or other acts, ordinances or regulations; to provide penalties for the violation of the terms hereof and to give immediate effect hereto. Am. 1947, p. 429, Act 272, Eff. Oct. 11.

The People of the State of Michigan enact:

125.581 Location of trades and buildings; use; regulation by local bodies.

Sec. 1. The legislative body of cities and villages may regulate and restrict the location of trades and industries and the location of buildings designed for specified uses and for such purposes divide any city or village into districts of such number, shape and area as may be deemed best suited to carry out the provisions of this section. For each of such districts regulations may be imposed designating the uses for which buildings or structures shall or shall not be erected or altered, and designating the trades and industries that shall be permitted or excluded or subjected to special regulations. Such regulations shall be made in accordance with a plan designed to lessen congestion on the public streets, to promote public health, safety and general welfare, and shall be made with reasonable consideration, among other things, to the character of the district, its peculiar suitability for particular uses, the conservation of property values and the general trend and character of building and population development.

HISTORY: CL 1929, 2633;—CL 1948, 125.581.
Title Am. 1947, p. 429, Act 272, Eff. Oct. 11.

125.582 Regulation of buildings; authority to zone.

Sec. 2. The legislative body of cities and villages may regulate and limit the height and bulk of buildings hereafter erected, and regulate and determine the area of yards, courts, and other open spaces, and for such purposes divide any city or village into districts of such number, shape and area as may be deemed best suited to carry out the purposes of this section. Such regulations shall be uniform for each class of buildings throughout each district, but the regulations in 1 district may differ from those in other districts. Such regulations shall be made in accordance with a plan designed to lessen congestion on the public streets, to promote public health, safety and general welfare, and shall be made with reasonable consideration, among other things to the character of the district, its peculiar suitability for particular uses, the conservation of property values and the general trend and character of building and population development.

HISTORY: CL 1929, 2634;—CL 1948, 125.582.

125.583 Regulation of congested areas.

Sec. 3. The legislative body of cities and villages may limit and restrict the maximum number of families which may be housed in dwellings hereafter erected or altered, and for such purposes divide any city or village into districts of such number, shape and area as may be deemed best suited to carry out the purposes of this section. Such regulations shall be uniform throughout any specified district, but may differ from the regulations adopted for other districts. Such regulations shall be designed to limit the overcrowding of land, to avoid undue congestion of population, to facilitate adequate provision for a system of transportation, sewage disposal, water, education, recreation and other public requirements, and to promote public health, safety and general welfare.

HISTORY: CL 1929, 2635;—CL 1948 125.583.

125.583a Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property.

Sec. 3a. The lawful use of land or a structure exactly as such existed at the time of the enactment of the ordinance affecting them, may be continued, except as herein-

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after provided, although such use or structure does not conform with the provisions of such ordinance. The legislative body may in its discretion provide by ordinance for the resumption, restoration, reconstruction, extension or substitution of non-conforming uses or structures upon such terms and conditions as may be provided in the ordinance. In addition to the power granted in this section, cities and villages may acquire by purchase, condemnation or otherwise private property for the removal of non-conforming uses and structures: Provided, The property shall not be used for public housing. The legislative body may in its discretion provide that the cost and expense of acquiring such private property be paid from general funds, or the cost and expense or any portion thereof be assessed to a special district. The elimination of such non-conforming uses and structures in a zoned district as herein provided is hereby declared to be for a public purpose and for a public use. The legislative body shall have authority to institute and prosecute proceedings for the condemnation of non-conforming uses and structures under the power of eminent domain in accordance with the laws of the state or provisions of any city or village charter relative to condemnation.

HISTORY: Add. 1947, p. 429, Act 272, Eff. Oct. 11;—CL 1948, 125.583a.

125.584 City zoning ordinances; public hearing, notice; report of planning commission; amendment; vote required.

Sec. 4. The legislative body of any city or village may provide by ordinance for the manner in which such regulations and boundaries of districts or zones shall be determined and enforced, or from time to time amended, supplemented or changed: Provided, however, That a public hearing shall be held before any such regulations shall become effective: And provided further, That not less than 15 days' notice of the time and place of such public hearing shall first be published in an official paper or a paper of general circulation in such city or village, and that not less than 15 days' notice of the time and place of such public hearing shall first be given by registered United States mail to each public utility company and to each railroad company owning or operating any public utility or railroad within the districts or zones affected, and a hearing be granted any person interested at the time and place specified. In cities having a population of 25,000 or more according to the last federal or state census, the legislative body may appoint a commission to recommend in the first instance the boundaries of districts and appropriate regulations to be enforced therein. Such commission shall thereupon make a tentative report and hold public hearings thereon at such times and places as the legislative body shall require before submitting its final report. In cities having a population of 25,000 or more according to the last federal or state census, said legislative body shall not in the first instance determine the boundaries of districts nor impose regulations until after the final report of a commission so appointed. In cities having a population of 25,000 or more according to the last federal or state census, the hearing as above provided before the legislative body shall not take place until such final report of such commission has been received, nor shall the ordinance or maps be amended after they are adopted in the first instance until the proposed amendment has been submitted to such commission and it has made report thereon. In either case the legislative body may adopt such ordinance and maps with or without amendments, or refer same again to the commission for a further report. Where a city has a city plan commission or corresponding commission the legislative body may appoint such commission to perform the duties above specified. After the ordinance and maps have in the first instance been approved by the legislative body of a city or village, amendments or supplements thereto may be made from time to time as above provided, but in case a protest against a proposed amendment, supplement or change be presented, duly signed by the owners of 20 per centum or more of the frontage proposed to be altered, or by the owners of 20 per centum or more of the fron-

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tage immediately in the rear thereof, or by the owners of 20 per centum of the frontage directly opposite the frontage proposed to be altered, such amendment shall not be passed except by the 3/4 vote of such legislative body.

HISTORY: CL 1929, 2636;—Am. 1941, p. 497, Act 287, Eff. Jan. 10, 1942;—Am. 1941, p. 532, Act 306, Eff. Jan. 10, 1942;—CL 1948, 125.584.

125.585 Board of appeals; appointment; duties, procedure.

Sec. 5. (a) The legislative body of any city or village may act as a board of appeals upon all questions arising under a zoning ordinance, and in such event the said legislative body may fix rules and regulations to govern its procedure sitting as such a board of appeals. In the event that the legislative body of any city or village so desires, it may appoint a board of appeals consisting of not less than 5 members, each to be appointed for a term of 3 years. Appointments for the first year shall be for a period of 1, 2 and 3 years, respectively, so as nearly as may be to provide for the appointment of an equal number each year, depending on the number of members, thereafter each member to hold office for the full 3 year term. Such board of appeals shall hear and decide appeals from and review any order, requirements, decision or determination made by an administrative official charged with the enforcement of any ordinance adopted pursuant to the provisions of this act. They shall also hear and decide all matters referred to them or upon which they are required to pass under any ordinance of the legislative body adopted pursuant to this act. The concurring vote of 2/3 of the members of the board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant any matter upon which they are required to pass under any such ordinance or to effect any variation in such ordinance. Such appeal may be taken by any person aggrieved or by any officer, department, board or bureau of the city or village. Wherever any city or village has created or may create a board of rules or board of building appeals, such board may be enlarged to consist of not less than 5 members, and these may be appointed as the board of appeals as herein provided.

Appeals, how taken.

(b) Such appeal shall be taken within such time as shall be prescribed by the board of appeals by general rule, by the filing with the officer from whom the appeal is taken and with the board of appeals of a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board, all the papers constituting the record upon which the action appealed from was taken.

Stay of proceedings; exception.

(c) An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the board of appeals after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of appeals or by the circuit court, on application, on notice to the officer from whom the appeal is taken and on due cause shown.

Hearing; notice; decision; per diem.

(d) The board of appeals shall fix a reasonable time for the hearing of the appeal and give due notice thereof to all persons to whom any real property within 300 feet of the premises in question shall be assessed, and to the occupants of all single and 2-family dwellings within 300 feet, such notice to be delivered personally or by mail addressed to the respective owners and tenants at the address given in the last assessment roll, and shall decide the same within a reasonable time. If the tenant's name is not known, the term occupant may be used. Upon the hearing, any party may appear in person or by agent or by attorney. The board of appeals may reverse or affirm, wholly or partly,

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or may modify the order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end shall have all the powers of the officer from whom the appeal is taken. Where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of such ordinance, the board of appeals shall have power in passing upon appeals to vary or modify any of its rules, regulations or provisions relating to the construction, structural changes in, equipment, or alteration of buildings or structures, or the use of land, buildings or structures, so that the spirit of the ordinance shall be observed, public safety secured and substantial justice done. The decision of such board shall not become final until the expiration of 5 days from the date of entry of such order unless the board shall find the immediate effect of such order is necessary for the preservation of property or personal rights and shall so certify on the record. The legislative body of any city or village may authorize the payment of not to exceed $5.00 per members for attendance at regular meetings of such boards. The foregoing limitation on payments to members shall not apply in any city now or hereafter having a population of 90,000 or more.

HISTORY: CL 1929, 2637;—Am. 1941, p. 533, Act 306, Eff. Jan. 10, 1942;—Am. 1947, p. 430, Act 272, Eff. Oct. 11;—CL 1948, 125.585;—Am. 1952, p. 108, Act 97, Eff. Sep. 18;—Am. 1968, p. 297, Act 202, Eff. Nov. 15.

125.586 Conflicting laws; governing law.

Sec. 6. Wherever the provision of any ordinance or regulations, adopted by the legislative body of any city or village under the provisions of this act, impose requirements for lower heights of buildings, or a less percentage of lot that may be occupied, or require wider or larger courts or deeper yards than are imposed or required by existing provisions of law or ordinance, the provisions of such local ordinance or regulation adopted under the provisions of this act shall govern. Where, however, the provisions of the state housing code or other ordinances or regulations of any city or village impose requirements for lower heights of buildings or less percentage of lot that may be occupied, or require wider or larger courts or deeper yards than are required by any ordinance or regulation which may be adopted by the legislative body of any city or village under the provisions of this act, the provisions of said state housing code or other ordinance or regulations shall govern.

HISTORY: CL 1929, 2638;—CL 1948, 125.586.

HOUSING LAW: See Compilers' § 125.401 et seq.

125.587 Violation; abatement.

Sec. 7. Buildings erected, altered, razed or converted, or uses carried on in violation of any provision of local ordinances or regulations made under the authority of this act are hereby declared to be a nuisance per se. The court shall order such nuisance abated and the owner and or agent in charge of such building or land shall be adjudged guilty of maintaining a nuisance per se. The legislative body shall in the ordinance enacted under the provisions of this act, designate the proper officials whose duty it shall be to enforce the provisions of such ordinance and provide penalties for the violation thereof.

HISTORY: CL 1929, 2639;—CL 1948, 125.587.

Sec. 8. (This was a severing clause section.)

HISTORY: CL 1929, 2640;—Rep. 1945, p. 413, Act 267, Imd. Eff. May 25.

125.589 Declaration of necessity.

Sec. 9. The provisions of this act are hereby declared to be immediately necessary for the preservation of the public peace, health and safety and are hereby given immediate effect.

HISTORY: CL 1929, 2641;—CL 1948, 125.589.

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125.590 Review by circuit courts; appeals to supreme court; procedure.

Sec. 10. Any party aggrieved by any order, determination or decision of any officer, agency, board, commission, board of appeals, or the legislative body of any city or village, made pursuant to the provisions of section 3a of this act may obtain a review thereof both on the facts and the law, in the circuit court for the county wherein the property involved or some part thereof, is situated: Provided, That application is made to the court within 30 days after delivery of a copy of such order, determination or decision, by certiorari or by any other method permissible under the rules and practices of the circuit courts of this state. On such review the courts shall have jurisdiction to make such further orders in respect thereto as justice may require. An appeal may be had from the decision of any circuit court or condemnation court to the supreme court in the same manner as provided by the laws of this state with respect to appeals from circuit courts; and in the event of such appeal, the issue of non-conformity may be reviewed as an issue of law in the supreme court.

HISTORY: Add. 1947, p. 431, Act 272, Eff. Oct. 11;—CL 1948, 125.590.

125.591 Actions for review; proper and necessary parties, notice, failure to appear.

Sec. 11. Any person required to be given notice under the provisions of subsection (d) of section 5, shall be a proper and necessary party to any action for review instituted under the provisions of section 10 and shall be given due notice personally or by registered or certified mail of any such proceedings in the same manner as provided in subsection (d) of section 5. If any person receiving notice under the provisions of this section fails within 20 days of receiving such notice to enter an appearance in the court in which the proceedings were instituted, no further notice to such person of subsequent proceedings is required and the court may thereupon proceed to determine the issues.

HISTORY: Add. 1967, p. 330, Act 225, Eff. Nov. 2.

Act 293, 1937, p. 542; Eff. Oct. 29.

AN ACT to authorize cities, incorporated villages, metropolitan districts, counties, and other public bodies to aid housing projects of housing authorities, housing commissions and the federal government by furnishing parks, playgrounds, streets, and other improvements and facilities, by exercising certain other powers and by making agreements relating to such aid; to authorize cities, incorporated villages, metropolitan districts, counties and other political subdivisions to contract with respect to the sums to be paid them for improvements, services and facilities to be provided for the benefit of housing projects and the occupants thereof, to make agreements respecting the exercise of the powers of such public bodies relating to the remedying or elimination of unfit dwellings, and to make other agreements with respect to housing projects; to prescribe the form and nature of agreements by a city, incorporated village or county with respect to a housing project of the housing commission created for such city, incorporated village or county; to require cities, incorporated villages, metropolitan districts, and counties to make an appropriation for the first year's administrative expenses of housing commissions or housing authorities; to authorize certain cities, incorporated villages, metropolitan districts and counties to pay moneys to housing commissions or housing authorities; to regulate the selection and payment of the personnel of housing commissions; and to declare an emergency requiring that this act take effect immediately. Am. 1938, Ex. Ses., p. 16, Act 6, Imd. Eff. Sep. 8.

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The People of the State of Michigan enact:

125.601 Housing cooperation law; short title.

Sec. 1. Short title. This act may be referred to as the "Housing cooperation law."

HISTORY: CL 1948, 125.601.

COMPILERS' NOTE: The catchlines following the act section numbers were incorporated as part of the act as enacted.

125.602 Declaration of necessity.

Sec. 2. Finding and declaration of necessity. It is hereby found and declared that there exist in the state unsafe and insanitary housing conditions and a shortage of safe and sanitary dwelling accommodations for persons of low income; that these conditions necessitate excessive and disproportionate expenditures of public funds for crime prevention and punishment, public health and safety, fire and accident protection, and other public services and facilities; and that the public interest requires the remedying of these conditions. It is hereby found and declared that the assistance herein provided for the remedying of these conditions constitutes a public use and purpose and an essential governmental function for which public moneys may be spent, and other aid given; that it is a proper public purpose for any state public body to aid any housing commission or housing authority operating within its boundaries or jurisdiction or any housing project located therein, as the state public body derives immediate benefits and advantages from such housing commission or housing authority or project; and that the provisions hereinafter enacted are necessary in the public interest.

HISTORY: CL 1948, 125.602.

125.603 Housing cooperation law; definitions.

Sec. 3. Definitions. The following terms whenever used or referred to in this act shall have the following respective meanings, unless a different meaning clearly appears from the context:

(a) "Housing commission" shall mean any housing commission now or hereafter created pursuant to Act No. 18 of the Public Acts of the extra session of 1933, as amended.

(b) "Housing authority" shall mean any housing authority organized as a body corporate and politic which is created or authorized to be created by any law of this state now in force or hereafter enacted.

(c) "Housing project" shall mean any work or undertaking of a city or incorporated village or housing commission pursuant to Act No. 18 of the Public Acts of the extra session of 1933, as amended, or any similar work or undertaking of a housing authority or of the federal government.

(d) "State public body" shall mean any city, town, incorporated village, county, metropolitan district, or other subdivision or public body of the state.

(e) "Governing body" shall mean the council, board of commissioners, board, or other body having charge of the fiscal affairs of the state public body.

(f) "Federal government" shall mean the United States of America, the federal emergency administration of public works, or any other agency or instrumentality, corporate or otherwise, of the United States of America.

(g) An "agreement" of a city, incorporated village or county authorized by this act shall, with respect to a housing project to be constructed by the housing commission created for such city, incorporated village or county, mean a resolution or resolutions of the governing body of such city, incorporated village or county, setting forth the action to be taken or the matter determined. Such resolutions shall be deemed to be agreements made for the benefit of the holders of bonds then outstanding or thereafter issued in connection with such project and for the benefit of any person, firm, corpora-

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tion, state public body or the federal government which has agreed or thereafter agrees to make a grant or annual contribution for or in aid of such project.

HISTORY: Am. 1938, Ex. Ses., p. 16, Act 6, Imd. Eff. Sept. 8;—CL 1948, 125.603.

NOTE: Act 18, 1933, Ex. Ses., above referred to, is Compilers' § 125.651 et seq.

Section 2 of Act 6, 1938, Ex. Ses., reads as follows:

"Section 2. The powers conferred by this act shall be in addition and supplemental to the powers conferred by any other law."

125.604 Cooperation in housing projects; powers.

Sec. 4. Cooperation in undertaking housing projects. For the purpose of aiding and cooperating in the planning, undertaking, construction or operation of housing projects located within the area in which it is authorized to act, any state public body may upon such terms, with or without consideration, as it may determine in the manner prescribed in section 7 hereof:

(a) Dedicate, sell, convey or lease any of its property to a housing commission, housing authority or the federal government;

(b) Cause parks, playgrounds, recreational, community, educational, water, sewage or drainage facilities, or any other works which it is otherwise empowered to undertake, to be furnished adjacent to or in connection with housing projects;

(c) Furnish, dedicate, close, pave, install, grade, regrade, plan or replan streets, roads, roadways, alleys, sidewalks or other places which it is otherwise empowered to undertake;

(d) Plan or replan, zone or rezone any part of such state public body; make exceptions from building regulations and ordinances; any city or town also may change its map;

(e) Enter into agreements, which may extend over any period, notwithstanding any provision or rule of law to the contrary, with a housing commission, housing authority or the federal government respecting action to be taken by such state public body pursuant to any of the powers granted by this act;

(f) Do any and all things, necessary or convenient to aid and cooperate in the planning, undertaking, construction or operation of such housing projects;

(g) Cause services to be furnished with respect to a housing project of the character which such state public body is otherwise empowered to furnish;

(h) Enter into agreements with respect to the exercise by such state public body of its powers relating to the repair, elimination or closing of unsafe, insanitary or unfit dwellings; and

(i) With respect to a housing project of a housing commission created for a state public body such state public body may enter into the agreements referred to in section 27 of Act No. 18 of the Public Acts of the extra session of 1933, as amended, regarding the amount, if any, of the reserve for taxation purposes.

(j) With respect to any housing project which a housing commission, housing authority or state public body has acquired or taken over from the federal government and which the housing authority, housing commission or state public body by resolution has found and declared to have been constructed in a manner that will promote the public interest and afford necessary safety, sanitation and other protection, no state public body shall require any changes to be made in the housing project or the manner of its construction or take any other action relating to such construction.

(k) In connection with any public improvements made by a state public body in exercising the powers herein granted, such state public body may incur the entire expense thereof. Any law or statute to the contrary notwithstanding, any sale, conveyance, lease or agreement provided for in this section may be made by a state public body without appraisal, public notice, advertisement or public bidding.

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(l) In order to insure proper employment of qualified personnel by housing commissions, any state public body for which a housing commission has been created may prescribe, notwithstanding any laws to the contrary, by resolution of the governing body the method of selection and payment of the employees of such commission.

HISTORY: Am. 1938, Ex. Ses., p. 17, Act 6, Imd. Eff. Sept. 8;—CL 1948, 125.604.

NOTE: Sec. 27, Act 18, 1933, Ex. Ses., above referred to, is Compilers' § 125.677.

Section 2 of Act 6, 1938, Ex. Ses., reads as follows:

"Section 2. The powers conferred by this act shall be in addition and supplemental to the powers conferred by any other law."

125.605 Contract powers for payment for services.

Sec. 5. Contract for payments for services. In connection with any housing project located wholly or partly within the area in which it is authorized to act, any state public body may contract with a housing commission, housing authority or the federal government with respect to the sum or sums, if any, which the housing commission, housing authority or the federal government may agree to pay, during any year or period of years, to the state public body for the improvements, services and facilities to be furnished by it for the benefit of said housing project, but in no event shall the amount of such payments exceed the estimated cost to the state public body of the improvements, services or facilities to be so furnished: Provided, however, That the absence of a contract for such payment shall in no way relieve any state public body from the duty to furnish, for the benefit of said housing project all such services and facilities as such state public body usually furnishes without a service fee.

HISTORY: CL 1948, 125.605.

125.606 Advances to housing authority.

Sec. 6. Advances to housing authority. When any housing commission or housing authority which is created for any state public body becomes authorized to transact business and exercise its powers therein, the governing body of such state public body, shall immediately make an estimate of the amount of money necessary for the administrative expenses and overhead of such housing commission or housing authority during the first year thereafter, and shall appropriate such amount to the housing commission or housing authority out of any moneys in the treasury of such state public body not appropriated to some other purposes. The moneys so appropriated shall be paid to the housing commission or housing authority as a donation. Any state body located in whole or in part within the area of operation of a housing commission or housing authority shall have the power from time to time to lend or donate money to the housing commission or housing authority or to agree to take such action. The housing commission or housing authority, when it has money available therefor, shall make reimbursements for all such loans made to it.

HISTORY: CL 1948, 125.606.

125.607 Powers; procedure for exercising.

Sec. 7. Procedure for exercising powers. The exercise of a state public body of the powers herein granted shall be by resolution or ordinance in the manner and with such notice as is now or hereafter may be prescribed by the city or village charter or the law of this state.

HISTORY: Am. 1938, Ex. Ses., p. 18, Act 6, Imd. Eff. Sept. 8;—CL 1948, 125.607.

NOTE: Section 2 of Act 6, 1938, Ex. Ses., reads as follows: Section 2. The powers conferred by this act shall be in addition and supplemental to the powers conferred by any other law.

125.608 Supplemental nature of act.

Sec. 8. Supplemental nature of act. The powers conferred by this act shall be in addition and supplemental to the powers conferred by any other law.

HISTORY: CL 1948, 125.608.

Sec. 9. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 415, Act 287, Imd. Eff. May 25.

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125.610 Emergency clause.

Sec. 10. Emergency clause. It is hereby declared that this act is immediately necessary for the protection of the public health and safety.

HISTORY: CL 1948, 125.610.

Act 18, 1933 (Ex. Ses.), p. 46; Imd. Eff. Jan. 9, 1934.

AN ACT to authorize any city, village, township or county to purchase, acquire, construct, maintain, operate, improve, extend and repair housing facilities; to eliminate housing conditions which are detrimental to the public peace, health, safety, morals or welfare; and for any such purposes to authorize any such city, village, township or county to create a commission with power to effectuate said purposes, and to prescribe the powers and duties of such commission and of such city, village, township or county; and for any such purposes to authorize any such city, village, township or county to issue notes and revenue bonds; to regulate the issuance, sale, retirement and refunding of such notes and bonds; to regulate the rentals of such projects and the use of the revenues of the projects; to prescribe the manner of selecting tenants for such projects; to provide for condemnation of private property for such projects; to confer certain powers upon such cities, villages, townships and counties in relation to such projects, including the power to receive aid and cooperation of the federal government; to provide for a referendum thereon; to create a board of tenant affairs in any city of 1,000,000 or over having a housing commission and operating 1 or more housing projects; to define the powers and duties of such board; to provide for the right of appeal from its determinations; to provide for cooperative financing by 2 or more cities, villages, townships or counties or any combination thereof; to provide for the issuance, sale and retirement of revenue bonds and special obligation notes for such purposes; to provide for financing agreements between cooperating borrowers; to provide for other matters relative to the bonds and notes and methods of cooperative financing; and for other purposes. Am. 1937, p. 480, Act 265, Imd. Eff. Jul. 22;—Am. 1938, Ex. Ses., p. 9, Act 5, Imd. Eff. Sep. 8;—Am. 1959, p. 206, Act 145, Imd. Eff. Jul. 15;—Am. 1968, p. 665, Act 344, Eff. Oct. 1;—Am. 1969, p. 740, Act 327, Eff. Mar. 20, 1970;—Am. 1970, p. 668, Act 249, Imd. Eff. Dec. 30.

The People of the State of Michigan enact:

125.651 Municipal housing facilities; definitions.

Sec. 1. As used in this act:

(a) "Borrower" means the city, village, township or county operating under this act.

(b) "Governing body" means in the case of a city, the council or commission of the city; in the case of a village, the council, commission or board of trustees of the village; in the case of a township, the township board; and in the case of a county, the board of supervisors or county commissioners.

(c) "Commission" means the housing commission appointed hereunder.

(d) "Township" means a township having a population over 100.

HISTORY: Am. 1935, p. 132, Act 80, Imd. Eff. May 24,—CL 1948, 125.651;—Am. 1959, p. 206, Act 145, Imd. Eff. Jul. 15,—Am. 1961, p. 336, Act 202, Imd. Eff. Jun. 6,—Am. 1964, p. 36, Act 31, Imd. Eff. May 1,—Am. 1965, p. 605, Act 319, Eff. Mar. 31, 1966,—Am. 1969, p. 740, Act 327, Eff. Mar. 20, 1970.

CITED IN OTHER SECTIONS: Sections 125.651 to 125.698 are cited in §§ 125.731, 125.971, and 600.5634.

125.652 Cities, villages, townships, counties; housing facilities and conditions, powers.

Sec. 2. Any city, village, township or county of the state of Michigan may purchase, acquire, construct, maintain, operate, improve, extend or repair housing facilities and

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eliminate housing conditions which are detrimental to the public peace, health, safety, morals or welfare.

HISTORY: Am. 1937, p. 480, Act 265, Imd. Eff. July 22;—Am. 1938, Ex. Ses., p. 9, Act 5, Imd. Eff. Sept. 8;—CL 1948, 125.652;—Am. 1969, p. 206, Act 145, Imd. Eff. Jul. 15;—Am. 1969, p. 741, Act 327, Eff. Mar. 20, 1970.

Act 265 of 1937 and Act 5 of the Extra Session of 1938 each contained a section 4 reading as follows:

"Section 4. Insofar as the provisions of this act are inconsistent with the provisions of any other law, the provisions of this act shall be controlling."

125.653 Municipal housing commission; creation, referendum.

Sec. 3. (a) Any city, village, township or county may create by ordinance, a commission with power to accomplish the purposes set forth in section 2 of this act. Any ordinance hereafter enacted shall not go into effect until 15 days after it has been published in a newspaper of general circulation in such city, village, township or county and posted in 3 public places in such city, village, township or county. If there is no newspaper of general circulation in any such city, village or township such publication may be had in any newspaper having general circulation in the county in which the city, village, or township is situated. If, before such ordinance goes into effect, a petition signed by a number of the qualified electors of such city, village, township or county equal to at least 3% of the number of voters registered for the last regular city, village, township or county election is filed with the clerk of the city, village, township or county requesting that the question of the creation of such commission be submitted to the voters of the city, village, township or county, the clerk of the city, village, township or county shall immediately call a special election for that purpose, unless a general election is to be held in such city, village, township or county within 30 days from the date of the filing of the petition, in which event the question shall be submitted at such general election. In the event the question is to be submitted at a special election, such election shall be held within 15 days from the date of the filing of the petition. The manner of conducting any such special election shall conform as nearly as may be to the manner of conducting elections of members of the governing body of the city, village, township or county and votes cast on the question shall be counted, canvassed and returned as nearly as may be in the same manner as at such elections. The question, whether submitted at a general or special election, shall be in substantially the following form:

"Shall the ordinance passed by the (name of governing body) on the ..... day of ....., 19...., providing for the creation of a housing commission, go into effect?

"Yes ( )

"No ( )."

Rejection, effect.

(b) If, at such election, a majority of the voters voting on the question do not vote in favor of the question, the ordinance shall not go into effect and the governing body of such city, village, township or county shall not pass any other ordinance providing for the creation of a housing commission for 1 year from the date of such election.

Township commission, powers.

(c) A commission created by a township, within its territorial jurisdiction, shall have all the functions, rights, powers, duties and liabilities provided in this act for a commission created by a city or village, and the provisions of this act shall apply to such commission in the same manner and to the same extent as this act applies to a commission created by such city or village. The township board shall perform the functions herein required or permitted to be performed by the governing body for a commission created by a city or village; and the township supervisor shall perform such functions as are required or permitted by this act to be performed by the chief administrative officer of a city or village.

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County commission, powers.

(d) A commission created by a county, within an unincorporated area of the county, shall have all the functions, rights, powers, duties and liabilities provided in this act for a commission created by a city or village, and the provisions of this act shall apply to such commission in the same manner and to the same extent as this act applies to a commission created by such city or village. A commission created by a county, within an incorporated area of the county, shall have such functions, rights, powers, duties and liabilities as may be provided by contractual agreement between the county and such incorporated area. The county board of supervisors or county commissioners shall perform the functions herein required or permitted to be performed by the governing body for a commission created by a city or village; and the chairman of the board of supervisors, or county executive, shall perform such functions as are required or permitted by this act to be performed by the chief administrative officer of a city or village.

HISTORY: Am. 1937, p. 480, Act 265, Imd. Eff. Jul. 22;—Am. 1938, Ex. Ses., p. 10, Act 5, Imd. Eff. Sep. 8;—CL 1948, 125.653,—Am. 1959, p. 206, Act 145, Imd. Eff. Jul. 15;—Am. 1969, p. 741, Act 327, Eff. Mar. 20, 1970.

125.654 Municipal housing commission; membership, appointment, term, compensation, vacancies.

Sec. 4. The commission shall consist of 5 members to be appointed by the chief administrative officer of the city or incorporated village. The term of office of members of the commission shall be 5 years. Members of the first commission existing hereunder shall be appointed for the terms of 1 year, 2 years, 3 years, 4 years and 5 years respectively, and annually thereafter 1 member shall be appointed for the term of 5 years. In any city having a population of 1,000,000 or more, the commission shall consist of 9 members. Five of the members shall be appointed by the chief administrative officer of the city. The term of office of all members appointed by the chief administrative officer subsequent to the expiration of the term of office of current members shall be for 3 years. Two members shall be selected by the board of tenant affairs to represent residents of public housing projects and 2 members shall be selected by the coordinating council on community redevelopment to represent residents of urban renewal areas. The term of office of the members selected by the board of tenant affairs and by the coordinating council on community redevelopment shall be 2 years, except that 1 initial appointment made by the board of tenant affairs and 1 initial appointment made by the coordinating council on community redevelopment shall be for 1 year. Members of the commission shall serve without compensation and may be removed from office by the appointing authority. Any vacancy in office shall be filled by the appointing authority for the remainder of the unexpired term.

HISTORY: Am. 1935, p. 133, Act 80, Imd. Eff. May 24;—CL 1948, 125.654;—Am. 1969, p. 742, Act 327, Eff. Mar. 20, 1970.

125.655 Municipal housing commission; meetings, rules, record, quorum, officers, employees.

Sec. 5. The commission shall meet at regular intervals, said meetings to be public. It shall adopt its own rules of procedure, and shall keep a record of the proceedings. Three members shall constitute a quorum for the transaction of business. A president and vice-president shall be elected by the commission. The commission may appoint a director who may also serve as secretary, and such other employes or officers as shall be necessary. The commission shall prescribe the duties of all of its officers and employes and may, with the approval of the appointing authority, fix their compensation. The commission may from time to time as necessary, employ engineers, architects and consultants.

HISTORY: Am. 1935, p. 133, Act 80, Imd. Eff. May 24;—CL 1948, 125.655.

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125.656 Municipal housing commission; funds for operation.

Sec. 6. Funds for the operation of the commission may be provided by the governing body of the city or village but the commission shall as soon as possible reimburse the city or village for all moneys expended by it for the commission from revenues received from the sale of bonds.

HISTORY: Am. 1935, p. 133, Act 80, Imd. Eff. May 24;—CL 1948, 125.656.

125.657 Municipal housing commission; powers and duties.

Sec. 7. Such commission shall have the following enumerated powers and duties:

(a) To determine in what areas of the city or village it is necessary to provide proper sanitary housing facilities for families of low income and for the elimination of housing conditions which are detrimental to the public peace, health, safety, morals, and/or welfare;

(b) To purchase, lease, sell, exchange, transfer, assign and mortgage any property, real or personal, or any interest therein, or acquire the same by gift, bequest or under the power of eminent domain; to own, hold, clear and improve property; to engage in or to contract for the design and construction, reconstruction, alteration, improvement, extension, and/or repair of any housing project or projects or parts thereof; to lease and/or operate any housing project or projects;

(c) To control and supervise all parks and playgrounds forming a part of such housing development but may contract with existing departments of the city or village for operation or maintenance of either or both;

(d) To establish and revise rents of any housing project or projects, but shall rent all property for such sums as will make them self-supporting, including all charges for maintenance and operation, for principal and interest on loans and bonds, and for taxes;

(e) To rent only to such tenants as are unable to pay for more expensive housing accommodations;

(f) To call upon other departments for assistance in the performance of its duties, but said departments shall be reimbursed for any added expense incurred therefor.

(g) It shall have such other powers relating to said housing facilities project as may be prescribed by ordinance or resolution of the governing body of the city or village or as may be necessary to carry out the purposes of this act.

HISTORY: CL 1948, 125.657.

125.658 Municipal housing commission; interest of members, officers, employees in contracts.

Sec. 8. No member of the housing commission or any of its officers or employes shall have any interest directly or indirectly in any contract for property, materials or services to be acquired by said commission.

HISTORY: CL 1948, 125.658.

125.659 Municipal housing commission; report to governing body.

Sec. 9. The commission shall make an annual report of its activities to the governing body of the city or village and shall make such other reports as said governing body may from time to time require.

HISTORY: CL 1948, 125.659.

125.660 Municipal housing commission; proceedings under power of eminent domain.

Sec. 10. (a) The housing commission may recommend to the governing body the institution and prosecution of proceedings under the power of eminent domain in accordance with the laws of the state, and/or provisions of a local charter relative to condemnation. Housing projects contemplated by this act are hereby declared to be

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for public purposes within the meaning of the constitution, state laws and charters relative to the power of eminent domain.

(b) The governing body of a county may, by the exercise of the power of eminent domain, acquire private property lying within the corporate boundaries of cities, villages and townships within the county, for purposes of this act, upon the consent, by resolution, of the legislative body of the city, village or township in which the property is located. The resolution shall be adopted by a majority of the members of the legislative body elected and serving on the question.

HISTORY: CL 1948, 125.660;—Am. 1969, p. 742, Act 327, Eff. Mar. 20, 1970.

125.661 Municipal housing commission; deeds, contracts, leases, purchases.

Sec. 11. All deeds, contracts, leases, or purchases entered into by the commission shall be in the name of the city or village and shall be approved by the governing body of said city or village. Contracts for the purchase of necessary materials, leases with tenants and options need not be so approved.

HISTORY: CL 1948, 125.661.

125.662 Municipal housing commission; control of project.

Sec. 12. The commission shall have complete control of the entire housing project or projects including the construction, maintenance and operation as fully and completely as if said commission represented private owners. Contracts for construction or purchase of materials entered into by the commission shall not be required to be made through any city or village purchasing department.

HISTORY: CL 1948, 125.662.

125.663 Claims against project; damages.

Sec. 13. All claims that may arise in connection with said housing project or projects shall be presented as are ordinary claims against the city or village: Provided, That written notice of all claims based upon injury to persons or property must be served upon the city or village clerk within 60 days from the happening of the injury, but the disposition thereof shall rest in the discretion of said commission and the cost of investigation, attorneys' fees, all claims that may be allowed and final judgments obtained from said claims, shall be paid only from the operating revenue of said housing project or projects.

HISTORY: CL 1948, 125.663.

125.664 Claims against project; contractual.

Sec. 14. The notes, bonds, or other obligations or any claims of whatever nature against said housing project or projects, shall not be debts or charges against the city or village nor against any members of the commission and no individual liability shall attach for any official act done by any member of such commission.

HISTORY: CL 1948, 125.664.

125.665 Preliminary estimate of costs.

Sec. 15. Whenever the commission shall determine to purchase, acquire, construct, improve, enlarge, extend, operate, and/or repair any housing facility or facilities under the provisions of this act, it shall first cause an estimate to be made of the cost thereof, and the fact that such estimate has been made and the amount thereof shall appear in the ordinance authorizing and providing for the issuance of the bonds.

HISTORY: CL 1948, 125.665.

125.666 Enabling ordinances.

Sec. 16. For the purposes of this act any borrower is authorized to adopt or enact an ordinance or ordinances providing for the issuance, and sale of revenue bonds as herein stated, and any and all other appropriate ordinances and resolutions deemed

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necessary or desirable to effectuate the full intent and purposes of this act: Provided, That the manner and procedure of enacting any such ordinances or resolutions shall be as provided by law, except as may be hereinafter expressly provided for.

HISTORY: CL 1948, 125.666.

125.667 Revenue bonds, terms, tax exemption, negotiability.

Sec. 17. For the purpose of defraying the cost of purchasing, acquiring, constructing, improving, enlarging, extending or repairing any housing project or combined projects, any such borrower may borrow money and issue revenue bonds therefor: Provided, That no such bonds shall be issued unless and until authorized by an ordinance which shall set forth a brief description of the contemplated housing project or combined projects and the site or sites thereof, time and place of payment, and other details in connection with the issuance and sale of the bonds. Such bonds may be issued in such series, shall be in such denominations, shall bear interest at such rate not to exceed 6 per cent per annum payable semi-annually, shall be payable at such times and at such places, shall have such rank or priority, and shall be subject to such terms of redemption (with or without premium), as shall be prescribed in the authorizing ordinance. The bonds and coupons shall be executed in such manner and shall be substantially in the form provided in the authorizing ordinance. The bonds shall be sold at public sale at not less than par: Provided, That such bonds may be sold to the United States housing authority or any successor thereof, at private sale at not less than par and, in the event less than all of the bonds authorized in connection with any project or combined projects are so sold to the United States housing authority or any successor thereof the balance of such bonds may also be sold at private sale at an interest cost to the borrower of not to exceed the interest cost to the borrower of the portion of the bonds sold to the United States of America or any agency or instrumentality thereof: Provided, further, That bonds sold at public sale shall be sold in accordance with the provisions of section 7 of Act No. 273 of the Public Acts of 1925 as amended. Any notes issued in connection with a housing project or combined projects prior to the issuance of bonds therefor may be accepted in payment of bonds sold in connection with such housing project or combined projects if such notes so provide. In no event shall any of the bonds be sold on a basis to yield more than 6 per cent per annum from the date of sale to the date of average maturity of the bonds sold: Provided, however, That in any contract for the purchase, acquisition or construction of any housing facility or for the improvement, enlargement, extension or repair of any such project or projects, provision may be made that payment therefor shall be made in such bonds. Such bonds and their coupons may be made payable in such funds as are on the respective dates of payment of interest and principal upon the bonds, legal tender for debts due the United States of America and shall be exempt from any and all state, county and municipal taxation whatsoever. Such bonds shall mature annually and the first installment thereof shall be made payable not more than 5 years from the date of such bonds. The principal of and interest upon such bonds shall be payable solely from the revenue derived from the operation of the housing project or combined projects, for the purchase, acquisition, construction, improvement, enlargement, extension or repair of which the same are issued, and from any contributions received for or in aid of such project or combined projects, from whatever source derived. Such contributions may be pledged to the payment of any or all bonds issued in connection with such project or combined projects, as the governing body may provide. No bonds or coupons issued pursuant to this act shall constitute an indebtedness of such borrower within the meaning of any state constitutional provisions or statutory limitations. There shall be plainly stated on the face of each such bond substantially as follows:

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"This bond is a revenue bond and the principal of and interest on this bond are exempt from any and all state, county, city, village or other taxation whatsoever under the laws of the state of Michigan and are secured by the statutory lien created by this act and payable solely from contributions received for or in aid of the project or combined projects in connection with which the bonds are issued or from the revenues of such project or combined projects or from both the revenues and contributions, as the case may be, and are not a general obligation of the borrower."

Such bonds shall have all the qualities of negotiable instruments under the law merchant and the negotiable instruments law. The authorizing ordinance may provide that the bonds shall be issued pursuant to a trust indenture, the authorized form of which shall be set forth in the ordinance, and any provision required or permitted by this act to appear in the authorizing ordinance shall be deemed to be included therein if set forth in the said trust indenture. Any borrower may also issue refunding bonds to refund any bonds previously issued by it pursuant to this act.

HISTORY: Am. 1938, Ex. Ses., p. 10, Act 5, Imd. Eff. Sept. 8;—CL 1948, 125.667.

Act 5 of the Extra Session of 1938 contained a section 4 reading as follows:

"Section 4. Insofar as the provisions of this act are inconsistent with the provisions of any other law, the provisions of this act shall be controlling."

NOTE: Act No. 273, 1925, above referred to, has been repealed and superseded by Act 202, 1943, being Compilers' § 131.1 et seq.

125.668 Bondholder's lien; contributions contract.

Sec. 18. The authorizing ordinance shall create a first lien which by this act is made a statutory first lien upon the revenue of any such housing facility, to, and in favor of the holders of the bonds and each of them and to and in favor of the holders of the coupons of the bonds, and each of them. If bonds are issued for the purposes of cooperative financing, holders of the bonds also have a statutory first lien on the specific portion of the annual contributions payable to the cooperating borrowers or their agencies and authorized to be pledged to the payment of bonds and the interest thereon, pursuant to certain contracts between the cooperating borrowers or their agents and the United States which contracts shall be described in any ordinance authorizing any such bonds and are herein collectively called the "annual contributions contract". The holders of the bonds shall have as additional security the contractual obligations specified by the financing agreement as hereinafter provided.

HISTORY: CL 1948, 125.668;—Am. 1970, p. 668, Act 249, Imd. Eff. Dec. 30.

125.669 Bondholder's lien upon revenue; enforcement.

Sec. 19. Revenue from and any amount due under any annual contributions contracts pertaining to such project or combined projects so purchased, acquired, constructed, improved, enlarged, extended or repaired, shall be and remain subject to the statutory lien until the payment in full of the principal of and interest upon the bonds. The holder or holders of the bonds or coupons representing in the aggregate not less than 20 per cent of the entire issue then outstanding may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce such statutory lien and may, by suit, action, mandamus or other proceeding enforce and compel performance of all duties of the officials of the borrower, including the fixing of sufficient rents, the collection of revenues, the proper segregation of the revenues of the project or combined projects and the proper application thereof. However, such statutory lien shall not be construed to give any holder or owner of any bond or coupon authority to compel the sale of such project or combined projects or any part thereof.

HISTORY: CL 1948, 125.669;—Am. 1970, p. 668, Act 249, Imd. Eff. Dec. 30.

125.670 Receiver; appointment; powers and duties.

Sec. 20. If there shall be any default in the payment of the principal of or interest upon any such bonds authorized pursuant to this act, any court having jurisdiction in any proper action may appoint a receiver to administer and operate the project or

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combined projects on behalf of the borrower, under the direction of the court and by and with the approval of the court, to fix and charge rents and collect revenues sufficient to provide for the payment of any bonds or other obligations outstanding against the project or combined projects and for the payment of the expense of operating and maintaining the same and to apply the revenues of the project or combined projects in conformity with this act and the ordinance providing for the issuance of such bonds and in accordance with such orders as the court shall make.

HISTORY: CL 1948, 125.670;—Am. 1970, p. 669, Act 249, Imd. Eff. Dec. 30.

125.671 Bonds; inapplicability of other laws.

Sec. 21. The bonds authorized hereunder shall not be subject to any limitations or provisions provided by the laws of the state of Michigan for cities or incorporated villages now in force or hereafter amended, other than as provided for in this act.

HISTORY: CL 1948, 125.671.

125.672 Bonds; depository; segregation of funds.

Sec. 22. The governing body, where practicable, shall require that the proceeds of the sale of bonds issued under the provisions of this act be deposited in a special account or accounts in a bank which is or banks which are a member or members of the federal reserve system, either within or without the state, such deposit or deposits to be set apart by such bank and impressed with a trust or deposited under an escrow agreement so that the funds shall not be commingled with other funds or assets of the bank.

HISTORY: Am. 1938, Ex. Ses., p. 12, Act 5, Imd. Eff. Sept. 8;—CL 1948, 125.672.

Act 5 of the Extra Session of 1938 contained a section 4 reading as follows:

"Section 4. Insofar as the provisions of this act are inconsistent with the provisions of any other law, the provisions of this act shall be controlling."

Sec. 23.

HISTORY: Rep. 1938, Ex. Ses., p. 15, Act 5, Imd. Eff. Sept. 8.

This section provided for use of proceeds of bonds.

125.674 Bonds; signatures.

Sec. 24. In case any of the officers whose signatures or countersignatures appear on the bonds or coupons shall cease to be such officers before delivery of such bonds, such signatures or countersignatures shall nevertheless be valid and sufficient for all purposes the same as if they had remained in office until such delivery.

HISTORY: CL 1948, 125.674.

125.675 Free services.

Sec. 25. No free services or rental shall be furnished by any such project or combined projects to the city or village or any state agency or to any agency, instrumentality, person, firm or corporation.

HISTORY: CL 1948, 125.675.

125.676 Additional bonds.

Sec. 26. Any borrower purchasing, acquiring, constructing, improving, enlarging, or repairing any such project or combined projects assumed by the provisions of this act, may at the time of the authorization of such bond for any such purpose or purposes, provide in the authorizing ordinance for additional bonds for other extensions and permanent improvements, which additional bonds may be issued and negotiated from time to time as such proceeds for such purpose may be necessary. Such bonds, when so negotiated, shall have equal standing with the bonds of the same issue.

HISTORY: CL 1948, 125.676.

125.677 Rent schedule; policy of state, basis.

Sec. 27. It is hereby declared to be the policy of this state that each commission shall manage and operate its housing projects in an efficient manner so as to enable it

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to fix the rentals for dwelling accommodations at the lowest possible rates consistent with its providing decent, safe and sanitary dwelling accommodations, and that no commission shall construct or operate any such project for profit. To this end the commission shall fix the rentals for dwellings in projects at no higher rates than it shall find to be necessary in order to produce revenues which, together with all other moneys, revenues, income and receipts from whatever sources derived available for such purposes, will be sufficient (a) to pay, as the same become due, the principal and interest on the bonds issued for such project; (b) to meet the cost of, and to provide for, administration, operation and maintenance of the projects, including the cost of any insurance on the projects or on bonds issued therefor; (c) to create, during not less than the 6 years immediately succeeding its issuance of any bonds, a reserve sufficient to meet the largest principal and interest payments which will be due on such bonds in any 1 year thereafter and to maintain such reserve; and (d) (1) to make payments in lieu of taxes of at least 5 per cent of the shelter rentals of the project for any 1 year (or such other amount as may be agreed upon with the borrower), which sum, if any, shall be paid to the municipality and other taxing units in proportion to the amount of taxes levied for such unit in the year previous to the acquiring of the site for the housing project or (2) to pay to the municipality and other taxing units a sum annually in lieu of taxes equal to the amount of taxes last levied against the project site, prior to the acquiring by the commission of such project site.

HISTORY: Am. 1937, p. 480, Act 265, Imd. Eff. July 22;—Am. 1938, Ex. Ses., p. 12, Act 5, Imd. Eff. Sept. 8;—Am. 1947, p. 56, Act 51, Eff. Oct. 11;—CL 1948, 125.677.

Act 265 of 1937 and Act 5 of the Extra Session of 1938 each contained a section 4 reading as follows:

"Section 4. Insofar as the provisions of this act are inconsistent with the provisions of any other law, the provisions of this act shall be controlling."

Sec. 28.

HISTORY: Rep. 1938, Ex. Ses., p. 15, Act 5, Imd. Eff. Sept. 8.

This section provided for special funds.

Sec. 29.

HISTORY: Rep. 1938, Ex. Ses., p. 15, Act 5, Imd. Eff. Sept. 8.

This section provided for operation and maintenance funds.

Sec. 30.

HISTORY: Rep. 1938, Ex. Ses., p. 15, Act 5, Imd. Eff. Sept. 8.

This section provided for a contingent fund.

125.681 Income from sources other than operation; use.

Sec. 31. Nothing in this act shall be construed to prohibit the borrower from appropriating and using any part of its available income or revenue derived from any source other than from the operation of such project or combined projects in paying any immediate expenses of operation or maintenance of any such project or combined projects, but nothing in this act shall be construed to require the borrower to do so.

HISTORY: CL 1948, 125.681.

Sec. 32.

HISTORY: Rep. 1938, Ex. Ses., p. 15, Act 5, Imd. Eff. Sept. 8.

This section provided for a custodian of funds and trust accounts.

125.683 Operating year.

Sec. 33. The ordinance authorizing the issuance of such bonds shall definitely determine whether such project or combined projects shall be operated upon a calendar, operating or fiscal year basis, and the dates of the beginning and ending of the same.

HISTORY: CL 1948, 125.683.

125.684 Rents; supervision; state department of health.

Sec. 34. Rents charged for the services furnished by any project or combined projects purchased, acquired, constructed, improved, enlarged, extended, operated or repaired, under the provisions of this act, shall not be subject to supervision or regulation by any state bureau, board, commission or other like instrumentality or agency

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thereof and it shall not be necessary for any borrower operating under the provisions of this act to obtain any franchise or other permit from any state bureau, board, commission or other instrumentality thereof in order to construct, improve, enlarge, extend, repair or operate any project or combined projects named in this act: Provided, however, That the functions, powers and duties of the state department of health shall remain unaffected by this act.

HISTORY: CL 1948, 125.684.

125.685 Records, accounts; inspection.

Sec. 35. The commission of any borrower issuing revenue bonds under the provisions of this act shall install, maintain and keep proper books of record and account, separate entirely from other records and accounts of such borrower, in which full and accurate entries shall be made of all dealings or transactions of, or in relation to the properties, business and affairs of the project or combined projects. The commission, not later than 3 months after the close of any calendar, operating or fiscal year, shall cause to be prepared a balance sheet and an income and surplus account, showing respectively, in reasonable detail, the financial condition of the project or combined projects at the close of such preceding calendar, operating or fiscal year, and the financial operations thereof during such year. Said balance sheets and income and surplus accounts shall at all reasonable times during usual business hours be open to examination and inspection by any taxpayer, renter of the property of the project or combined projects, or any holder or owner of bonds issued under the provisions of this act or anyone acting for or on behalf of such taxpayer, renter or bondholder.

HISTORY: CL 1948, 125.685.

Sec. 36.

HISTORY: Rep. 1938, Ex. Ses., p. 15, Act 5, Imd. Eff. Sept. 8.

This section provided for the call of bonds before maturity.

125.687 Construction of act.

Sec. 37. This act shall be construed as authorizing the creation of the commission and the issuance of such bonds provided for herein without submitting the proposition for the approval of same to the voters of the borrower. Where bonds have been authorized under this act it shall not be necessary to make publication of any ordinance, resolution, notice or proceeding relating thereto: Provided, That nothing in this act shall be construed to prohibit the governing body from making such publication as it may deem necessary in relation thereto.

HISTORY: CL 1948, 125.687.

Sec. 38. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 414, Act 287, Imd. Eff. May 25.

125.689 Authority conferred.

Sec. 39. This act shall, without reference to any other statute or to any charter, be deemed full authority for the purposes herein provided for and for the issuance and sale of the bonds by this act authorized, and shall be construed as an additional and alternative method therefor and for the financing thereof, any provisions of the general laws of the state or of any charter to the contrary notwithstanding.

HISTORY: CL 1948, 125.689.

125.690 Declaration of necessity; liberal construction.

Sec. 40. This act, being necessary for and to secure the public peace, health, safety, convenience and welfare of the cities and incorporated villages and the people of the state of Michigan, shall be liberally construed to effect the purposes thereof.

HISTORY: CL 1948, 125.690.

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Sec. 41.

HISTORY: Rep. 1937, p. 481, Act 265, Imd. Eff. July 22;—Rep. 1938, Ex. Ses., p. 15, Act 5, Imd. Eff. Sept. 8.

This section provided that tax exemptions in Compilers' § 211.7, subd. 3, did not apply to housing facilities.

125.692 Slum clearance and housing projects as public purposes.

Sec. 42. Slum clearance and housing projects contemplated by this act are hereby declared to be for public purposes within the meaning of the constitution, state laws and charters relative to the powers of cities and villages.

HISTORY: CL 1948, 125.692.

125.693 Immediate necessity.

Sec. 43. The necessity for the immediate effective date of this act lies in the fact that, whereas there is a demand in congested sections of Michigan for housing of families of low income and for the reconstruction of slum areas, and whereas no existing laws or charters of the state of Michigan provide for the organization and operation of public housing commissions as contemplated in the National Industrial Recovery Act which would enable Michigan cities and villages to secure grants and loans from the United States government for the purpose of providing housing for families of low income, and whereas such laws are in existence in other states, which will enable such states to obtain a grant and borrow money from the United States government, and whereas such funds secured from the United States government by public housing commissions will make possible the beginning immediately of building projects which will furnish employment of Michigan citizens. Therefore, this act is hereby declared to be immediately necessary for the preservation of the public peace, health, safety, convenience and welfare of the people of the state of Michigan.

HISTORY: CL 1948, 125.693.

125.694 Duties of operation and management; rentals and selection of tenants.

Sec. 44. In the operation or management of housing projects a commission shall at all times observe the following duties with respect to rentals and tenant selection: (a) it may rent or lease the dwelling accommodations therein only to persons of low income; (b) it may rent or lease the dwelling accommodations therein only at rentals within the financial reach of such persons of low income; (c) it may rent or lease to a tenant dwelling accommodations consisting of the number of rooms, but no greater number, which it deems necessary to provide safe and sanitary accommodations to the proposed occupants thereof, without overcrowding; (d) it shall not accept any person as a tenant in any housing project if the person or persons who would occupy the dwelling accommodations have an aggregate annual net income in excess of any maximum allowed by the federal government pursuant to federal law or regulation in any contract for financial assistance; (e) it shall prohibit subletting by tenants.

Receivers; freedom from restrictions.

Nothing contained in this section or in section 27 shall be construed as limiting the power of a borrower to vest in an obligee or trustee the right, in the event of a default by the borrower, to cause the appointment of a receiver thereof, free from all the restrictions imposed by this section or by section 27.

HISTORY: Add. 1937, p. 481, Act 265, Imd. Eff. July 22;—Am. 1938, Ex. Ses., p. 12, Act 5, Imd. Eff. Sept. 8;—CL 1948, 125.694;—Am. 1960, p. 17, Act 18, Eff. Aug. 17.

Act 265 of 1937 and Act 5 of the Extra Session of 1938 each contained a section 4 reading as follows:

"Section 4. Insofar as the provisions of this act are inconsistent with the provisions of any other law, the provisions of this act shall be controlling."

125.694a Tenancy or contract right to occupy housing; termination; just cause.

Sec. 44a. (1) No tenancy or contract right to occupy housing in a project or facilities operated by any city, village, township or other unit of local government, as provided

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by this act, shall be terminated by the project management or the local housing commission except for just cause.

(2) Just cause to terminate a tenancy or contract right to occupy housing includes, but is not limited to: a failure to comply with the obligations of the lease or the lawful rules and regulations of the housing commission, the use of a unit for any unlawful purpose; the maintenance of any unsafe, unsanitary or unhealthful condition in any dwelling unit or in any of the common areas; and ineligibility for continued occupancy by reason of overincome.

HISTORY: Add. 1968, p. 465, Act 287, Eff. Oct. 1.

125.694b Municipal housing commission; rules, adoption, promulgation, publication.

Sec. 44b. (1) To the extent not inconsistent with federal law or regulation, state law or local ordinance, the housing commission shall adopt and promulgate reasonable rules which establish:

(a) Eligibility requirements for admission to housing.

(b) Obligations of tenants, including regulations for the use and occupation of housing units and common areas.

(c) Just cause for the termination of the right of use and occupation, so that a tenant may be clearly apprised of the precise reasons for a termination.

(d) Conditions for continued occupancy, taking account of such factors as family size and changes therein, fluctuations in income, availability of standard accommodations elsewhere, and other relevant matters.

(2) The commission may adopt such other rules which are necessary to the just and effective administration of local housing projects constructed and operated as provided by this act.

(3) All rules to be valid shall be published in a conspicuous place in each housing project operated by the commission.

HISTORY: Add. 1968, p. 665, Act 344, Eff. Oct. 1.

125.695 Minimum wages and maximum hours; contract provisions.

Sec. 45. Any borrower or commission shall have the power, notwithstanding anything to the contrary contained in this act or in any other provision of law, to include in any contract let in connection with a housing project, stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum wages and maximum hours of labor, and with any conditions which the federal government may have attached to its financial aid of such project.

HISTORY: Add. 1937, p. 481, Act 265, Imd. Eff. July 22;—CL 1948, 125.695.

Act 265 of 1937 contained a section 4 reading as follows:

"Section 4. Insofar as the provisions of this act are inconsistent with the provisions of any other law, the provisions of this act shall be controlling."

125.696 Additional powers; intent of act.

Sec. 46. In addition to the powers conferred by other provisions of this act, any borrower shall have power to borrow money or accept grants or other financial assistance from the federal government for or in aid of any housing project, to procure or agree to the procurement of insurance or guarantees from the federal government of the payment of any bonds or parts thereof issued by such borrower, including the power to pay premiums on any such insurance, to take over or lease or manage any housing facilities, project, or undertaking constructed or owned by the federal government, and to these ends, to comply with such conditions and enter into such trust indentures, leases or agreements as may be necessary, convenient or desirable. It is the purpose and intent of this act to authorize every borrower or commission created by such borrower to do any and all things necessary or desirable to secure the financial aid or co-

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operation of the federal government in the purchasing, acquiring, constructing, maintaining, operating, improving, extending and/or repairing of housing facilities and/or the elimination of housing conditions which are detrimental to the public peace, health, safety, morals and/or welfare.

HISTORY: Add. 1937, p. 481, Act 265, Imd. Eff. July 22;—CL 1948, 125.696.

Act 265 of 1937 contained a section 4 reading as follows:

"Section 4. Insofar as the provisions of this act are inconsistent with the provisions of any other law, the provisions of this act shall be controlling."

125.697 Promissory notes; authorization, interest rate; obligation of commission.

Sec. 47. For the purpose of providing funds for expenses and costs involved in the development of a housing project or combined projects prior to the issuance of bonds therefor, any borrower shall have the power, in addition to all other powers granted herein, to borrow money and issue its negotiable promissory notes therefor, which notes may be issued as herein provided, notwithstanding the provisions of any other law now in existence or hereafter enacted with respect to the issuance of notes, bonds or other obligations of the borrower. Such notes may be authorized by resolution of the governing body, may bear interest at such rate not exceeding 6 per centum per annum, be payable at such times and places, mature on such dates or on demand, be in such form, with such privileges for exchange for definitive bonds issued in connection with the project or combined projects in connection with which such notes are issued, and be executed and sold in such manner as shall be set forth in the authorizing resolution. Such notes shall be made payable solely out of property or funds held by or for, or to be acquired by or for the housing commission of the borrower (including the proceeds of such notes and property acquired or to be acquired therewith) which is not pledged for the payment of other obligations issued in connection with any housing project of such commission, and/or the proceeds of the sale of bonds issued to finance the development of the project or combined projects in connection with which the notes were issued, and shall in no event be payable out of any other funds of the borrower or from taxes. The principal of and interest upon such notes issued pursuant to this act shall not constitute an indebtedness of such borrower within the meaning of any state constitutional provisions or statutory limitation, and the notes shall so state on their face. Any borrower may also issue refunding notes to refund any notes issued by it pursuant to this act.

HISTORY: Add. 1938, Ex. Ses., p. 13, Act 5, Imd. Eff. Sept. 8;—CL 1948, 125.697.

Act 5 of the Extra Session of 1938 contained a section 4 reading as follows:

"Section 4. Insofar as the provisions of this act are inconsistent with the provisions of any other law, the provisions of this act shall be controlling."

125.698 Bonds; powers of borrower.

Sec. 48. In connection with the issuance of bonds or the incurring of obligations under leases and in order to secure the payment of such bonds or obligations, a borrower, in addition to its other powers, shall have power:

(a) To pledge all or any part of the gross or net rents, fees or revenues of the project or combined projects with respect to which the bonds are issued or the obligations incurred, whether or not such rents, fees or revenues are then in existence or may thereafter come into existence.

(b) To mortgage all or any part of such project or combined projects, whether consisting of real or personal property, and whether then owned or thereafter to be acquired in connection with such project or combined projects.

(c) To covenant against pledging all or any part of the rents, fees and revenues of such project or combined projects, or against mortgaging all or any part of such project or combined projects, to which its or the commission's right or title then exists or may thereafter come into existence or against permitting or suffering any lien on such

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revenues or project or combined projects or any part thereof; to covenant with respect to limitations on its or the commission's right to sell, lease or otherwise dispose of such project or combined projects or any part thereof; and to covenant as to what other, or additional obligations may be incurred by it in connection with such project or combined projects.

(d) To pledge for the payment of any or all of such bonds or obligations all or any part of any contributions received or to be received for or in aid of the project or combined projects with respect to which the bonds are issued or the obligations incurred or to covenant against pledging all or any part of any contributions.

(e) To covenant as to the bonds to be issued and as to the issuance of such bonds in escrow or otherwise, and as to the use and disposition of the proceeds thereof; to provide for the replacement of lost, destroyed or mutilated bonds; to covenant against extending the time for the payment of such bonds or interest thereon; and to redeem the bonds, and to covenant for their redemption and to provide the terms and conditions thereof.

(f) To covenant (subject to the limitations contained in this act) as to the rents and fees to be charged in the operation of a housing project, whether constructed as a single project or as part of a combined project, the amount to be raised each year or other period of time by rents, fees and other revenues, and as to the use and disposition to be made thereof; to create or to authorize the creation of special funds for moneys held for construction or operating costs, debt service, reserves, or other purposes, and to covenant as to the use and disposition of the moneys held in such funds.

(g) To prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given.

(h) To covenant as to the use of any or all of the real or personal property held or to be held in connection with such project or combined projects; and to covenant as to the maintenance of such project or combined projects, the replacement of any part thereof, the insurance to be carried thereon and the use and disposition of the insurance moneys.

(i) To covenant as to the rights, liabilities, powers and duties arising upon the breach of any covenant, condition or obligation pertaining to such project or combined projects or to the bonds issued or obligations incurred in connection therewith; and to covenant and prescribe as to events of default and terms and conditions upon which any or all of such bonds or obligations shall become or may be declared due before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived.

(j) To vest in a trustee or trustees or the holders of bonds or any proportion of them the right to enforce the payment of the bonds or any covenants securing or relating to the bonds; to vest in a trustee or trustees the right, in the event of a default, to take possession and use, operate and manage such housing project or combined projects or part thereof, and to collect the rents and revenues arising therefrom and to dispose of such moneys in accordance with the agreement with said trustee; to provide for the powers and duties of a trustee or trustees and to limit the liabilities thereof; and to provide the terms and conditions upon which the trustee or trustees or the holders of bonds or any proportion of them may enforce any covenant or rights securing or relating to the bonds.

(k) To exercise all or any part or combination of the powers herein granted; to make covenants other than and in addition to the covenants herein expressly authorized, of like or different character; to make such covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds, or,

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in the absolute discretion of the borrower, as will tend to make the bonds more marketable notwithstanding that such covenants, acts or things may not be enumerated herein.

HISTORY: Add. 1938, Ex. Ses., p. 13, Act 5, Imd. Eff. Sept. 8;—CL 1948, 125.698.

Act 5 of the Extra Session of 1938 contained a section 4 reading as follows:

"Section 4. Insofar as the provisions of this act are inconsistent with the provisions of any other law, the provisions of this act shall be controlling."

125.699 Board of tenant affairs; creation.

Sec. 49. There is created a board of tenant affairs for each city, village or township having a housing commission and operating 1 or more housing projects as provided by this act.

HISTORY: Add. 1968, p. 685, Act 344, Eff. Oct. 1.

125.700 Board of tenant affairs; members; size; composition; terms; qualifications; nomination.

Sec. 50. The board shall consist of not less than 8 nor more than 20 persons. The mayor or chief executive upon the approval of the legislative body of the local units shall determine the size of the board. One-half of the members shall be elected from among the tenants occupying local housing projects on a proportional basis. The remaining members of the board shall be appointed by the mayor or chief executive upon the approval of the legislative body from the local unit. The terms of members shall be for 1 year, and no person shall serve more than 2 consecutive terms. The term of a tenant member shall terminate when he is no longer a tenant of a public housing project, and a new tenant member shall be elected in the same manner as provided for the election of original tenant members.

(a) The tenant members must be citizens of the United States and have attained the age of 21 years and have resided in this state 6 months. They shall meet the requirements of local residence provided by local election laws, and shall be electors and qualified to vote in the city, village, township or county in which they reside.

(b) Nomination of tenant member candidates to be elected to the tenant affairs board shall be by nominating petition. Such nominating petition may be prepared by typewriter or by long hand, in ink. The signatures of 20 qualified, registered tenants are required to nominate a candidate for election to the tenant affairs board.

(c) Nominating petitions shall be filed with the appointed members of the tenant affairs board not less than 30 days preceding the election of the tenant members of the tenant affairs board.

HISTORY: Add. 1968, p. 685, Act 344, Eff. Oct. 1.

125.701 Board of tenant affairs; members, meeting, rules of procedure, record, quorum, staff.

Sec. 51. The members of the board appointed by the mayor or chief executive of the local unit shall meet within 30 days of the effective date of this section and determine procedures for the election of the tenant members. Election of tenant members, under the supervision of members appointed by the mayor or chief executive of the local unit, shall be completed and the first organizational meeting of the board held within 90 days of the effective date of this section. The board shall meet thereafter not less than twice each month and at such other times as the demands of business require. The board shall adopt its own rules of procedure and shall keep a record of its proceedings. A majority of the members shall constitute a quorum for the transaction of business. Clerical and secretarial staff shall be supplied by the local housing commission.

HISTORY: Add. 1968, p. 686, Act 344, Eff. Oct. 1.

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125.702 Board of tenant affairs; powers and duties.

Sec. 52. (1) The board shall:

(a) Advise the housing commission on matters concerning the general welfare of the tenants of local projects and facilities.

(b) Review and may veto rules of the housing commission promulgated in accord with section 44(b) prior to publication.

(c) Hear and determine, as a board of review, complaints arising under section 53, except that a complainant shall not serve as a member of the board of review in matters relating to his complaint.

(2) Final determinations reached on matters heard by way of review shall be binding on the local housing commission.

(3) The power of review and veto shall be exercised by a 2/3 affirmative vote of the members of the board.

HISTORY: Add. 1968, p. 666, Act 344, Eff. Oct. 1.

125.703 Hearing and review; notice; petition; waiver; right to be represented by counsel.

Sec. 53. (1) The tenant or applicant affected shall have a right to a hearing and review by the board where a determination is made by the project management or by the housing commission:

(a) That an applicant shall be denied admission to public housing.

(b) That a tenant's right of use and occupation shall thereafter be terminated.

(c) That any obligation of a tenant shall be increased or otherwise altered.

(2) The tenant or applicant shall be given written notice of any determination affecting his status and the reasons therefor, and notice of his right to a hearing. Within 7 days of delivery of the notice, the tenant or occupant may petition the board, in writing, for a hearing and review. Upon such notice, the board shall set a date for the hearing and shall inform the tenant or applicant of the date, time and place of the hearing.

(3) If the tenant or applicant fails to petition for a hearing within 7 days, he will be held to have waived his right to such hearing but he will not be held to have waived his right to contest the propriety of the commission's action in any later court proceeding.

(4) The tenant or applicant shall be entitled to a fair hearing before the board and shall have the right to be represented by counsel.

HISTORY: Add. 1968, p. 666, Act 344, Eff. Oct. 1.

125.704 Hearing and review; termination of right of occupation; action to regain possession of premises.

Sec. 54. If a decision to terminate a right of use and occupation is upheld by the board upon review, an action to regain possession of the premises shall not be brought thereafter until the right of use and occupation has been terminated by lawful notice. If an action to regain possession of the premises is brought by the commission, the tenant shall have a right to a trial de novo on the issue of whether there was just cause to terminate his right of use and occupancy.

HISTORY: Add. 1968, p. 667, Act 344, Eff. Oct. 1.

125.705 Application of act.

Sec. 55. Nothing in this act shall preclude the creation by the housing commission of any city, village or township of individual boards of tenant affairs or tenant advisory councils in individual housing projects operated by the commission.

HISTORY: Add. 1968, p. 667, Act 344, Eff. Oct. 1.

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125.706 Cooperative action by borrowers; scope.

Sec. 56. Any 2 or more borrowers which are to receive a federal grant or assistance contemplated by section 46 may join or cooperate in the exercise, either jointly or otherwise, of any power herein conferred for the purpose of financing including the issuance of bonds, notes or other obligations and giving security therefor with respect to housing facilities. For such purposes a cooperating borrower by resolution may agree to so cooperate and authorize any other cooperating borrower, so joining or cooperating with it, to act on its behalf with respect to any power, as its agent or otherwise, in its own name.

HISTORY: Add. 1970, p. 669, Act 249, Imd. Eff. Dec. 30.

125.707 Cooperative financing arrangement; resolution; agent borrower.

Sec. 57. A borrower desiring to join in a cooperating financing arrangement with any other borrower shall adopt a resolution determining to enter into a cooperative financing arrangement and designating 1 of the cooperating borrowers as agent borrower. The agent borrower by resolution shall agree to accept the designation and act in the capacity of agent borrower and direct the preparation of a financing agreement.

HISTORY: Add. 1970, p. 669, Act 249, Imd. Eff. Dec. 30.

125.708 Financing agreement; preparation, terms.

Sec. 58. The agent borrower shall cause to be prepared and executed by the cooperating borrowers a financing agreement. The agreement shall provide for:

(a) The authority of the agent borrower to undertake such financing on a continuing basis but only to the extent of the aggregate estimated total development costs of projects of the agent borrower and the cooperating borrowers under their annual contributions contracts with the federal government as such contracts may be modified or amended from time to time, by the issuance and sale of special obligation notes or revenue bonds.

(b) The agent borrower's responsibilities relative to the issuance and sale of notes and bonds.

(c) The punctual payment of any such notes and bonds and an irrevocable promise for the payment of principal of and interest due on the notes and bonds.

(d) The purposes to which the proceeds of the notes and bonds shall be applied.

(e) The adoption of a resolution by each cooperating borrower desiring to participate in a note or bond issue of the agent borrower, authorizing and directing the agent borrower to issue in behalf of the cooperating borrower the principal amount of notes or bonds specified therein.

(f) All of the things appropriate and suitable to the issuance of notes and bonds and the responsibilities of all cooperating borrowers and the agent borrower thereto.

(g) The procedures whereby cooperating borrowers may withdraw from the financing agreement and borrowers desiring to participate in the cooperative management may join in and become parties to the financing agreement.

HISTORY: Add. 1970, p. 669, Act 249, Imd. Eff. Dec. 30.

125.709 Special obligation notes or revenue bonds; authorization; issuance.

Sec. 59. (1) For the purpose of defraying the cost of purchasing, acquiring, constructing, improving, enlarging, extending or repairing a housing project for any cooperating borrower in a cooperative financing arrangement, the agent borrower may borrow money and issue its special obligation notes or revenue bonds therefor from time to time in behalf of the agent borrower and all cooperating borrowers in accordance with the financing agreement between the agent borrower and cooperating borrowers.

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(2) If bonds are to be issued for the purpose of cooperative financing, the same shall not be issued until authorized by an ordinance adopted by the governing body of the agent borrower which shall set forth a brief description of all housing projects contemplated by the agent borrower and cooperating borrowers and the sites thereof, time and place of payment, and other details in connection with the issuance and sale of the bonds. The bonds shall be issued pursuant to and in accordance with the provisions of section 17. On the face of each bond shall be plainly stated substantially as follows: "This bond is a revenue bond and the principal of and interest on this bond are exempt from all state, county, city, village or other taxation under the laws of Michigan and are a special obligation of the borrower and are secured by statutory lien created by this act and payable solely from contractual obligations specified by a certain financing agreement dated ..... and entered into by and between ....."

(3) If notes are to be issued for the purpose of cooperative financing, they may be authorized by a resolution adopted by the governing body of the agent borrower which shall set forth the time and place of payment and other details relating to the form, content, issuance and sale of the notes.

(4) The bond ordinance or note resolution shall also make all other necessary statements which are appropriate to and suitable for the issuance of the revenue bonds or special obligation notes.

(5) The notes or bonds may be issued as herein provided notwithstanding the provisions of any other law or charter of the agent borrower or the cooperating borrowers now in existence or hereinafter enacted with respect to notes, bonds or other obligations of the agent borrower.

HISTORY: Add. 1970, p. 670, Act 249, Imd. Eff. Dec. 30.

125.709a Bond authorizing ordinance; fiscal agent; contract.

Sec. 59a. (1) The bond authorizing ordinance shall provide for appointment of a fiscal agent and may provide for appointment of successor fiscal agents and alternate paying agents and such fiscal agents so designated shall be qualified to act as such under the laws of this state or the United States. The ordinance shall also provide for the removal of a fiscal agent upon written request of the holders of 51% in the aggregate of the principal of bonds issued thereunder or by resolution of the agent borrower, and for the obligations, responsibilities and duties of the fiscal agent.

(2) The authorizing ordinance shall be a contract between the agent borrower, all cooperating borrowers and any holders of bonds issued thereunder.

HISTORY: Add. 1970, p. 670, Act 249, Imd. Eff. Dec. 30.

125.709b Bond proceeds, use; bonds, execution, delivery.

Sec. 59b. (1) The bond authorizing ordinance shall provide that the proceeds of the bonds shall be paid in the following order:

(a) To the United States in an amount equal to that portion of the development cost which is financed by the bonds issued thereunder as represented by notes of each cooperating borrower outstanding in the hands of the United States together with interest thereon to the date of payment be applied to the payment of the principal of and interest on the notes.

(b) To the paying agent of any outstanding temporary notes of each cooperating borrower of an amount equal to that portion of development cost which is financed by the bonds issued thereunder as represented by the notes, together with interest thereon to the date of maturity, and to the principal of and interest on the notes, if the notes are outstanding and unpaid as of the delivery date of the bonds.

(c) To the fiscal agent for deposit in the debt service fund in trust for the payment of interest which becomes due on the bonds 6 months and 12 months after the bond date.

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(d) To the fiscal agent, representing the premium on the bonds issued thereunder, for deposit in the advance amortization fund.

(e) To each cooperating borrower in an amount equal to that portion of the remainder allocable to each cooperating borrower for deposit in its general fund.

(2) The chief executive officer and clerk of the agent borrower shall execute the bonds and the treasurer of the borrower shall deliver the bonds in accordance with the terms and provisions of the ordinance and in connection therewith shall execute and deliver such instruments and do such acts and things necessary or convenient to effectuate the purpose of the ordinance.

HISTORY: Add. 1970, p. 670, Act 249, Imd. Eff. Dec. 30.

125.709c Revenues, disposition, purpose; fiscal agent, duties.

Sec. 59c. The bond authorizing ordinance shall also provide for the disposition, disbursement and deposit of all revenues generated from any cooperatively financed project to insure the proper operation and maintenance of the projects and the payment of bonds and the interest thereon. The ordinance shall specify the responsibilities, duties and obligations of the fiscal agent properly to apply, disburse and otherwise set aside revenues of any project and any contractual payments made to the fiscal agent.

HISTORY: Add. 1970, p. 671, Act 249, Imd. Eff. Dec. 30.

125.709d Additional bonds; issuance, conditions.

Sec. 59d. (1) The bond authorizing ordinance may also provide for reservation of the right to issue additional bonds of equal standing for any lawful purpose relating to the projects for which bonds were issued hereunder of equal standing with the bonds issued pursuant to the ordinance.

(2) However, additional bonds of equal standing shall not be issued by the agent borrower unless:

(a) Amounts due under the annual contributions contract when taken together with any other income and other funds actually available or reasonably expected to become available from such projects, determined by the agent borrower, are equal to an amount sufficient for payment of all installments of the principal of and interest due within the next succeeding 12 months on all bonds and all other obligations for which the sums may be pledged as security and the additional bonds proposed to be issued.

(b) Unless the annual contributions contract, as it exists at the time of issuance of the additional bonds, requires the pledge of, and the ordinances authorizing the issuance of the additional bonds pledge, the revenues and income of the project or projects financed with the proceeds of the additional bonds to the payment of the bonds and interest thereon authorized and delivered pursuant to the authorizing ordinance and to the payment of the additional bonds and interest thereon in the same manner and form as the revenues are pledged to the payment of the bonds issued pursuant to the authorizing ordinance.

(3) The additional bonds of equal standing shall be issued in like manner and form as bonds authorized herein.

HISTORY: Add. 1970, p. 671, Act 249, Imd. Eff. Dec. 30.

125.709e Notice of sale of bonds; adoption, contents; ratification of sale.

Sec. 59e. An agent borrower shall adopt by resolution an official notice of sale of bonds which notice shall include all pertinent data required by the laws of this state and the United States and any regulations pertaining thereto as may or may hereinafter be adopted by the United States. The bonds may not be finally issued until all cooperating borrowers ratify by resolution the sale thereof.

HISTORY: Add. 1970, p. 671, Act 249, Imd. Eff. Dec. 30.

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Act 268, 1941, p. 469; Imd. Eff. Jun. 17.

AN ACT to authorize cities and incorporated villages to undertake the development or administration of projects to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities who would not otherwise be able to secure such dwellings within the vicinity thereof; to authorize cities and incorporated villages to cooperate with or act as agents of the federal government in the development and administration of such projects of the federal government, to acquire or lease such projects and to sell certain projects to the federal government; to authorize public bodies to assist such projects of cities and incorporated villages and of the federal government; to confer certain powers on housing commissions and to authorize cities and incorporated villages to confer certain powers on such commissions; and to declare valid all bonds, notes and obligations of cities and incorporated villages issued for projects heretofore undertaken to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities. Am. 1943, p. 24, Act 27, Eff. Jul. 30.

The People of the State of Michigan enact:

125.711 Housing shortage; legislative finding.

Sec. 1. It is hereby found and declared that the national defense program involves large increases in the military forces and personnel in this state, a great increase in the number of workers in already established manufacturing centers and the bringing of a large number of workers and their families to new centers of defense industries in the state; that there is an acute shortage of safe and sanitary dwellings available to such persons and their families in this state which impedes the national defense program; that it is imperative that action be taken immediately to assure the availability of safe and sanitary dwellings for such persons to enable the rapid expansion of national defense activities in this state and to avoid a large labor turnover in defense industries which would seriously hamper their production; that the provisions hereinafter enacted are necessary to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities which otherwise would not be provided at this time; and that such provisions are for the public use and purpose of facilitating the national defense program in this state. It is further declared to be the purpose of this act to authorize cities and incorporated villages to do any and all things necessary or desirable to secure the financial aid of the federal government, or to cooperate with or act as agent of the federal government, in the expeditious development and the administration of projects to assure the availability when needed of safe and sanitary dwellings for persons engaged in national defense activities.

HISTORY: CL 1948, 125.711.

125.712 Housing projects; powers of cities, villages and housing commission; unlawful to initiate after termination of World War II.

Sec. 2. Any city or incorporated village may undertake the development and administration of projects to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities whom the city or incorporated village determines would not otherwise be able to secure safe and sanitary dwellings within the vicinity thereof, but no city or incorporated village shall initiate the development of any such project pursuant to this act after the termination of the present war.

In the ownership, development or administration of such projects and for the purposes of this act, any city or incorporated village (and its officers) and any housing commission created by such city or incorporated village shall have all the rights, powers, privileges and immunities that such city, incorporated village (and its officers) or

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housing commission, respectively, has under the housing commission law relating to housing facilities or projects for families of low income, in the same manner as though all the provisions of such law applicable to such facilities or projects were applicable to projects developed or administered to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities as provided in this act: Provided, That during the period (herein called the "national defense period") that a city or incorporated village finds (which finding shall be conclusive in any suit, action or proceeding) that within its territorial boundaries, or any part thereof, there is an acute shortage of safe and sanitary dwellings which impedes the national defense program in this state and that the necessary safe and sanitary dwellings would not otherwise be provided when needed for persons engaged in national defense activities, any project developed or administered by such city or incorporated village (or by a housing commission, as herein provided) within such territorial boundaries pursuant to this act, with the financial aid of the federal government (or as agent for the federal government as hereinafter provided), shall not be subject to the limitations provided in section 44, in subsection (e) of section 7 and in the second sentence of section 27 of the housing commission law: And provided further, That a city or incorporated village creating a housing commission during the national defense period shall not be subject to the limitations and restrictions with regard to creating a housing commission contained in section 3 of the housing commission law: And provided further, That during the national defense period, a city, incorporated village or housing commission may make payments in such amounts as it finds necessary or desirable for any services, facilities, works, privileges or improvements furnished for or in connection with any such projects. After the national defense period, any such projects owned and administered by a city or incorporated village (or by a city or incorporated village and its housing commission) shall be administered for the purposes and in accordance with the provisions of the housing commission law.

HISTORY: Am. 1943, p. 25, Act 27, Eff. July 30;—CL 1948, 125.712.

125.713 Housing projects; cooperation with federal projects; sale to United States.

Sec. 3. A city, incorporated village or housing commission may exercise any or all of its powers for the purpose of cooperating with, or acting as agent for, the federal government in the development or administration of projects by the federal government to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities and may exercise any or all of its powers to undertake the development or administration of any such project for the federal government. In order to assure the availability of safe and sanitary housing for persons engaged in national defense activities, a city or incorporated village may sell in whole or in part to the federal government any housing facilities or projects developed for families of low income but not yet occupied by such families; such sale shall be at such price and upon such terms as the city or incorporated village shall prescribe and shall include provision for the satisfaction of all debts and liabilities of the city or incorporated village relating to such project.

HISTORY: CL 1948, 125.713.

125.714 State public bodies; authority to cooperate in housing projects.

Sec. 4. Any state public body, as defined in the housing cooperation law (Act No. 293, Public Acts of 1937, as amended by Act No. 6, Public Acts of 1938, Extra Session, and any additional amendments thereto) shall have the same rights and powers to cooperate with cities, incorporated villages or housing commissions or with the federal government, with respect to the development or administration of projects to assure the availability of safe and sanitary dwellings for persons engaged in national defense

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activities that such state public body has pursuant to such law for the purpose of assisting the development or administration of housing facilities or projects for families of low income.

HISTORY: CL 1948, 125.714.

NOTE: Act 293, 1937, above referred to, is Compilers' § 125.601 et seq.

125.715 Validation of existing bonds, notes, agreements.

Sec. 5. All bonds, notes, contracts, agreements and obligations of cities, incorporated villages and housing commissions heretofore issued or entered into relating to financing or undertaking (including cooperating with or acting as agent of the federal government in) the development or administration of any project to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities, are hereby validated and declared legal in all respects, notwithstanding any defect or irregularity therein or any want of statutory authority.

HISTORY: CL 1948, 125.715.

125.716 Restrictions imposed by other acts inapplicable.

Sec. 6. This act shall constitute an independent authorization for any city or incorporated village to undertake the development or administration of projects to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities as provided in this act and for a city or incorporated village to cooperate with, or act as agent for, the federal government in the development or administration of similar projects by the federal government. In acting under this authorization, a city or incorporated village (or its housing commission) shall not be subject to any limitations, restrictions or requirements of other laws (except those relating to land acquisition) prescribing the procedure or action to be taken in the development or administration of any public works, including housing facilities or projects for families of low income or undertakings or projects of municipal or public corporations or political subdivisions or agencies of the state. A city or incorporated village may do any and all things necessary or desirable to cooperate with, or act as agent for, the federal government, or to secure financial aid, in the expeditious development or in the administration of projects to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities and to effectuate the purposes of this act.

HISTORY: CL 1948, 125.716.

125.717 Defense housing facilities; definitions.

Sec. 7. (a) "Persons engaged in national defense activities," as used in this act, shall include: enlisted men in the military and naval services of the United States and employees of the war and navy departments assigned to duty at military or naval reservations, posts or bases; and workers engaged or to be engaged in industries connected with and essential to the national defense program; and shall include the families of the aforesaid persons who are living with them.

(b) "Development," as used in this act, shall mean any and all undertakings necessary for the planning, land acquisition, demolition, financing, construction or equipment in connection with a project (including the negotiation or award of contracts therefor), and shall include the acquisition of any project (in whole or in part) from the federal government.

(c) "Administration," as used in this act, shall mean any and all undertakings necessary for management, operation or maintenance, in connection with any project, and shall include the leasing of any project (in whole or in part) from the federal government.

(d) "Federal government," as used in this act, shall mean the United States of America or any agency or instrumentality, corporate or otherwise, of the United States of America.

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(e) The development of a project shall be deemed to be "initiated," within the meaning of this act, if a city or incorporated village has issued any bonds, notes or other obligations with respect to financing the development of such project of the city or incorporated village (or its housing commission) or has contracted with the federal government with respect to the exercise of powers hereunder in the development of such project of the federal government for which an allocation of funds has been made prior to the termination of the present war.

(f) "Housing commission," as used in this act, shall mean a housing commission created or hereafter created by a city or incorporated village under the provisions of the housing commission law or under the provisions of such law and this act: Provided, That nothing contained in such provisions shall be construed as authorizing a city or incorporated village to create more than 1 housing commission under such provisions.

(g) "Housing commission law," as used in this act, shall mean Act No. 18, Public Acts of 1933, Extra Session, as amended by Act No. 80, Public Acts of 1935, as further amended by Act No. 265, Public Acts of 1937, and as further amended by Act No. 5, Public Acts of 1938, Extra Session, and any additional amendments thereto.

HISTORY: Am. 1943, p. 25, Act 27, Eff. July 30;—CL 1948, 125.717.

NOTE: Act 18, 1933, Ex. Ses., above referred to, is Compilers' § 125.651 et seq.

125.718 Act supplemental and not restrictive of other powers.

Sec. 8. The powers conferred by this act shall be in addition and supplemental to the powers conferred by any other law, and nothing contained herein shall be construed as limiting any other powers of a city, incorporated village or housing commission.

HISTORY: CL 1948, 125.718.

Sec. 9. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 416, Act 267, Imd. Eff. May 25.

Act 162, 1953, p. 195; Imd. Eff. Jun. 2.

AN ACT to authorize cities and incorporated villages or townships to acquire, own, operate, maintain and dispose of housing projects of the United States government or any agency thereof, and in so doing to comply with all conditions imposed pursuant to the applicable laws of the United States; and to authorize payments in lieu of taxes.

The People of the State of Michigan enact:

125.731 Housing projects; acquisition and maintenance by municipality; operating agent; public function; inapplicable act; time limits.

Sec. 1. Any city or incorporated village or township is hereby authorized to acquire, own, operate and maintain any existing temporary housing project of the United States government or any agency thereof, and to dispose of any housing project or part thereof so acquired when the governing body of the city or village or township finds there is no longer a need therefor. In the acquisition of such housing projects, a city or incorporated village or township may comply with any conditions imposed by any agency of the United States government pursuant to Title VI of the Act of October 14, 1940 (54 Stat. 1125, 42 U.S.C. 1521, et seq.), as amended, relating to disposal of federal housing projects. Any city or incorporated village or township may designate its housing commission as its agent in the operation of any housing project so acquired. The exercise of the powers herein granted and the acquisition of any leasehold interest in lands in connection with the acquisition of any such housing project are hereby declared to be public, governmental and municipal functions, exercised for a public purpose and matters of public necessity. The limitations and restrictions in Act No. 18 of

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the Public Acts of the Extra Session of 1933, as amended, being sections 125.651 to 125.698 of the Compiled Laws of 1948, on rentals and tenancy of housing projects shall not apply to the operation or management of housing projects acquired hereunder, if the dwelling units so acquired are brought up to minimum standards of housing imposed by state laws and local housing minimum standards: Provided, That work must start by July 1, 1961, and be completed by July 1962.

HISTORY: New 1953, p. 195, Act 162, Imd. Eff. June 2;—Am. 1957, p. 21, Act 16, Eff. Sep. 27;—Am. 1960, p. 220, Act 150, Imd. Eff. May 23.—Am. 1961, p. 50, Act 51, Imd. Eff. May 20.

125.732 Housing projects; payments in lieu of taxes.

Sec. 2. Any city or incorporated village or township shall make payments in lieu of taxes with respect to housing projects acquired hereunder in such amounts as may be deemed equitable and appropriate but not to exceed the taxes which would be levied on the property if it were not tax exempt: Provided, That no payments in lieu of taxes at a lesser rate than would be levied on the property if it were not tax exempt shall be valid without first submitting a proposal for such lesser rate to the electors of the city, incorporated village or township at a regular election in the municipality and obtaining the approval of a majority of said electors voting thereon.

HISTORY: New 1953, p. 196, Act 162, Imd. Eff. Jun. 2.

Act 172, 1958, p. 193; Imd. Eff. Apr. 18.

AN ACT to provide for the payment, collection and disposition of yearly taxes on occupied trailer coaches located outside of licensed trailer parks; and to provide for permits and sanitary regulations of trailers harbored outside of licensed trailer parks.

The People of the State of Michigan enact:

125.741 Trailer coach permit; use outside park.

Sec. 1. No person shall use or permit the use of any trailer coach as a residence on any site, lot, field or tract of land not specifically licensed as a trailer coach park for more than 15 days except by written permit as hereinafter provided.

HISTORY: New 1958, p. 193, Act 172, Imd. Eff. Apr. 18.

125.742 Trailer coach permit; application, contents; fee; renewals.

Sec. 2. (1) All applications for a permit shall be made to the clerk or other designated agency within a municipality or township in which the trailer coach would be parked. The application shall contain:

(a) The name of the owner of the trailer coach and the names of all occupants, including the ages of all children.

(b) The location of the proposed parking site as to street or road and house number, or by legal property description where no house number is available.

(c) The make and length of the trailer coach and its vehicle license number, if any.

(d) The date of application.

(e) The signature of the property owner, accepting his responsibilities under the permit.

(f) The signature of the health officer in evidence that waste disposal facilities and sanitation of the premises are in compliance with all applicable statutes and local regulations.

(g) The signature of the applicant.

(2) A registration fee of $5.00 shall accompany the application to the township clerk or municipal clerk for the purpose of defraying the cost of sanitary inspection and administrative costs. Upon approval of the application and receipt of the registration fee,

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the clerk shall issue a permit for use of the trailer coach according to the application. The permit shall expire and be subject to renewal 12 months from the date issued. Renewals may be limited to 6-month periods, for which the registration fee shall not exceed $3.00.

HISTORY: New 1958, p. 193, Act 172, Imd. Eff. April 18.

125.744 Trailer coach permit; sanitation, zoning, building, fire regulations.

Sec. 4. This act specifically authorizes the county or district board of health, or the health committee of the board of supervisors to make such regulations and bylaws, according to the provisions of Act No. 306 of the Public Acts of 1927, as amended, being sections 327.201 to 327.208a of the Compiled Laws of 1948, for defining sanitation requirements for trailer coaches not located in licensed parks. Nothing in this act or in the regulations or bylaws hereby authorized shall supersede or be in conflict with local zoning, building, fire codes or regulations, local ordinances or other legal restrictions for the protection of the public health and welfare.

HISTORY: New 1958, p. 194, Act 172, Imd. Eff. Apr. 18.

125.745 Violation of act; penalty.

Sec. 5. Any person violating this act or any duly adopted regulations or bylaws, as authorized, shall upon conviction thereof be guilty of a misdemeanor.

HISTORY: New 1958, p. 194, Act 172, Imd. Eff. Apr. 18.

125.751-125.769 Repealed. 1959, p. 371, Act 243, Eff. Mar. 19, 1960.

Sections related to trailer coach park act.

Act 75, 1952, p. 85; Eff. Sep. 18.

AN ACT to provide for the registration of persons in camps, tourist homes, tourist rooms, cabins, house trailer camps and other sleeping accommodations for transients; and to provide penalties for violation of the provisions of this act.

The People of the State of Michigan enact:

125.781 Registration of persons in camps, tourist homes; definitions.

Sec. 1. (a) "Camp" shall mean and include the temporary or permanent buildings, tents or other structures, together with the appurtenances appertaining thereto, established or maintained as living quarters for children or adults, or both, operated continuously for a period of 5 days or more, for recreation, education or vacation purposes, on a commercial basis or for charity purposes. The term "camp" shall not be construed to include buildings, tents or other structures maintained by the owner or occupant of a premises used exclusively to house his farm labor.

(b) "Tourist home" shall mean and embrace all buildings or other structures kept, used and maintained as places wherein sleeping accommodations are offered for hire to transient guests, with or without meals, and which are not customarily defined or considered as hotels, inns or lodging homes.

(c) "Tourist room" shall mean and embrace all rooms offered to transient guests for sleeping accommodations, with or without meals. The buildings or structures in which such rooms are located shall be designated as tourist homes.

(d) "Cabin" shall mean and include all buildings, tents or similar structures which are maintained, offered or used for dwelling or sleeping quarters for transients, with or without provisions for cooking, but shall not include what are commonly designated as hotels, inns or lodging homes, and shall not include resort cottages kept primarily for use of the owners and incidentally and occasionally leased for hire.

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(e) "House trailer camp" shall mean and include any site, lot or tract of land, excluding trailer coach parks licensed under Act No. 143 of the Public Acts of 1939, as amended, on which a house car, house trailer, trailer home or similar mobile unit, which may be used for dwelling or sleeping quarters, is placed.

HISTORY: New 1952, p. 85, Act 75, Eff. Sep. 18.

125.782 Register; contents.

Sec. 2. Each owner, operator or employee renting or leasing a camp, tourist home, tourist room, cabin, house trailer camp or other sleeping accommodation to transients shall register each guest. The register shall provide for the name, legal residence, make of car, car license, house trailer license if any, number of accommodations occupied and the date of arrival and departure. The register shall be available at all times for inspection by law enforcement officers for a period of not less than 3 years. Any person furnishing misinformation for purposes of registration shall be deemed guilty of a misdemeanor.

HISTORY: New 1952, p. 85, Act 75, Eff. Sep. 18.

125.783 Violation of act; misdemeanor.

Sec. 3. Any owner, operator or employee of a camp, tourist home, tourist room, cabin, house trailer camp or other sleeping accommodation, who shall fail to comply with any of the provisions of this act shall be deemed guilty of a misdemeanor.

HISTORY: New 1952, p. 86, Act 75, Eff. Sept. 18.

125.784 Enactment under police power.

Sec. 4. In order to assist in the protection of public welfare and safety, this act is enacted under the police power of the state.

HISTORY: New 1952, p. 86, Act 75, Eff. Sep. 18.

Act 14, 1946 (1st Ex. Ses.), p. 38; Imd. Eff. Feb. 25.

AN ACT to authorize counties, cities, incorporated villages and townships of this state to undertake the development and administration of housing projects to assure the availability of safe and sanitary dwellings for servicemen and veterans, and their families.

The People of the State of Michigan enact:

125.871 Municipal housing projects for servicemen; authorization.

Sec. 1. Any county, city, incorporated village or township of this state is hereby authorized to undertake the development and administration of housing projects, including the acquisition of the necessary lands by purchase, gift or condemnation, for the purpose of providing temporary safe and sanitary dwellings for servicemen and veterans, and their families, who would not otherwise be able to secure such dwellings, as provided by public law No. 849, 76th congress, as amended, and in particular as provided by the amendment embodied in public law No. 292, 79th congress, 1st session, and to enter into contracts with the federal public housing authority of the United States of America, as authorized by the Lanham act, public law No. 849, 76th congress, as amended.

HISTORY: CL 1948, 125.871.

NOTE: Public law No. 849, 76th Congress, above referred to, is 42 U.S.C.A. § 1521.

Public law No. 292, 79th Congress, above referred to, is 42 U.S.C.A. § 1572.

125.872 Authority exercised by resolution.

Sec. 2. The authority conferred under the provisions of this act shall be exercised by the legislative bodies of the several counties, cities, incorporated villages and town-

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ships, through resolution adopted by a majority vote of the members elect. This act shall be construed as granting to the several counties, cities, incorporated villages and townships of this state such authority as shall be necessary to take such steps and enter such contracts as shall be required to accomplish the purposes set forth in section 1.

HISTORY: CL 1948, 125.872.

Act 250, 1941, p. 410; Imd. Eff. Jun. 16.

AN ACT to provide for the creation of "urban redevelopment corporations" for the purpose of clearing, replanning, rehabilitating, modernizing, beautifying and reconstructing substandard and insanitary areas in cities of this state; giving to such corporations certain powers and duties to effectuate such purpose; granting limited tax exemptions and powers of condemnation for the purpose; and providing for certain regulations and control by public agencies. Am. 1945, p. 99, Act 102, Eff. Sep. 6;—Am. 1968, p. 576, Act 325, Imd. Eff. Jul. 3.

The People of the State of Michigan enact:

125.901 Urban redevelopment corporations law; short title.

Sec. 1. Short title. This act shall be known and may be cited and referred to as the "urban redevelopment corporations law."

HISTORY: CL 1948, 125.901.

COMPILERS' NOTE: The catchlines following the act section numbers were incorporated as part of the act as enacted.

CITED IN OTHER SECTIONS: Sections 125.901 to 125.922 are cited in § 125.1501.

125.902 Legislative findings; policy of state; purpose of act.

Sec. 2. It is declared that in the cities of the state substandard and insanitary areas exist which have resulted from inadequate planning, excessive land coverage, lack of proper light, air, and open space, pollution, neglect, defective design and arrangement of buildings, lack of proper sanitary facilities, and the existence of buildings, which, by reason of age, obsolescence, inadequate or outmoded design, or physical deterioration, have become economic or social liabilities, or both; that such conditions are prevalent in areas where substandard, insanitary, outworn or outmoded industrial, commercial or residential buildings and polluted and neglected water courses prevail, and are conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, crime and poverty; that such conditions impair the economic value of large areas, infecting them with economic blight, and that such areas are characterized by depreciated values, impaired investments, and reduced capacity to pay taxes; that such conditions are chiefly in areas which are so subdivided into small parcels in divided ownerships and frequently with defective titles, that their assembly for purposes of clearance, replanning, rehabilitation and reconstruction is difficult and costly; that the existence of such conditions and the failure to clear, replan, rehabilitate or reconstruct these areas result in a loss of population in some areas, and congestion and overcrowding in other areas and further deterioration, accompanied by added costs to the communities for creation of new public facilities and services elsewhere; that it is difficult and uneconomic for individual owners independently to undertake to remedy such conditions; that it is desirable to encourage owners of property or holders of claims thereon in such areas to join together and with outsiders in corporate groups for the purpose of the clearance, replanning, rehabilitation, modernization, improvement and reconstruction of such areas by joint action; that it is necessary to create, with proper safeguards, inducements and opportunities for the employment of private investment and equity capital in the clearance, replanning, rehabilitation, modernization, improvement and reconstruction of such areas; that such conditions require the

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employment of such capital on an investment rather than a speculative basis, allowing, however, the widest latitude in the amortization of any indebtedness created thereby; that such conditions further require the acquisition at fair prices of adequate areas, the gradual clearance of such areas through demolition of existing obsolete, inadequate, unsafe and insanitary buildings and the redevelopment of such areas under proper supervision with appropriate planning, land use and construction policies; that the clearance, replanning, rehabilitation, modernization, improvement and reconstruction of such areas on a large scale basis are necessary for the public welfare; that the clearance, replanning, reconstruction, modernization, improvement and rehabilitation of such areas are public uses and purposes for which private property may be acquired; that such substandard and insanitary areas constitute a menace to the health, safety, morals, welfare and reasonable comfort of the citizens of the state; that such conditions require the creation of the agencies, instrumentalities and corporations hereinafter described, which are hereby declared to be agencies and instrumentalities of the state, for the purpose of attaining the ends herein recited; that the protection and promotion of the health, safety, morals, welfare and reasonable comfort of the citizens of the state are matters of public concern; and the necessity in the public interest for the provisions hereinafter enacted is hereby declared as a matter of legislative determination.

HISTORY: CL 1948, 125.902;—Am. 1968, p. 576, Act 325, Imd. Eff. Jul. 3.

125.903 Urban redevelopment corporations law; definitions.

Sec. 3. The following terms, whenever used or referred to in this act, shall, unless a different intent clearly appears from the context, be construed as follows:

The term "area" shall mean a portion of a city which a planning commission has found or shall find to be substandard or insanitary, so that the clearance, replanning, rehabilitation, modernization, improvement or reconstruction thereof is necessary or advisable to effectuate the public purposes declared in section 2. An area may include any buildings or improvements not in themselves substandard or insanitary, and any real property, whether improved or unimproved, the inclusion of which is deemed necessary for the effective clearance, replanning, reconstruction, modernization, improvement or rehabilitation of the area of which such buildings, improvements or real property form a part.

The term "assessed valuation" with respect to any local tax on any parcel of real property shall mean the value of such parcel, including therein buildings and improvements as well as land, as assessed by the respective official, bureau, board, commission or agency charged with assessing the same for such local tax.

The term "city" shall mean and be deemed to relate to any city in the state.

The term "development" shall mean a specific work, repair or improvement to put into effect a development plan. The term shall include the real property, buildings, and improvements owned, constructed, managed or operated by a redevelopment corporation.

The term "development area" shall mean that portion of an area to which a development plan is applicable.

The term "development cost" shall mean the amount determined by the supervising agency to be the actual cost of the development, or of the part thereof for which such determination is made, and shall include, among other costs, the reasonable costs of planning the development, including preliminary studies and surveys, neighborhood planning, and architectural, engineering and other professional services, the reasonable value of the services performed by or for the incorporators of a redevelopment corporation in connection with the development plan prior to the time when the redevelopment corporation was incorporated or became a redevelopment corporation, the

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costs of financing the development, including carrying charges during construction, working capital in such reasonable amount as shall be approved by the supervising agency, the actual cost of the real property or any part thereof where acquired partly or wholly in exchange for securities, plus an amount which shall be approved by the supervising agency as being equal to the reasonable value of the real property acquired therefor, the actual cost of demolition of existing structures, the actual cost of utilities, landscaping and roadways and improvement and beautification of water courses, the actual cost of construction, equipment and furnishing of buildings and improvements, including architectural, engineering, builder's and other professional fees, the actual cost of reconstruction, rehabilitation, remodeling or initial repair of existing buildings and improvements, reasonable management and operation costs until the development is ready for use, and the actual cost of improving that portion of the development area which is to remain as open space, and the cost of relocating families displaced by the redevelopment, together with such additions to development cost as shall equal the actual cost of additions to or changes in the development in accordance with the original development plan or after approved changes in or amendments thereto.

The term "development plan" shall mean a plan for the redevelopment of all or any part of an area, and shall include any amendments thereto approved in accordance with the requirements of paragraph 5 of section 4.

The term "dividend year" shall mean, whether or not there exists a maximum exemption period with respect to any 1 or more parcels of real property, any of the recurrent periods of 1 year each ending on the last day of the calendar month immediately preceding the calendar month in which the assessment rolls for the purpose of city taxes on real property are finally warranted to the official, bureau, board, commission or agency charged with collecting such taxes. The first dividend year may be a period of less than 1 year commencing with the beginning of the execution of the development plan and ending on such last day of such calendar month.

The term "local legislative body" shall mean the board of aldermen, common council, commission or other board or body vested by the charter of the city or other law with jurisdiction to adopt or enact ordinances or local laws.

The terms "local taxation" and "local tax" shall include state, county, city, and school taxes, any special district taxes, and any other tax on real property, but shall not include special assessments for local benefit improvements.

The term "maximum assessed valuation" shall mean, with respect to any local tax on any parcel of real property, the assessed valuation of such parcel appearing on the first assessment roll warranted to the official, bureau, board, commission or agency charged with collecting the particular local tax involved, after the completion of the development plan for the particular parcel and together with certification to that effect by the supervising agency to the official, bureau, board, commission or agency charged with the duty of determining and fixing the valuation of real property for local taxation purposes.

The term "maximum exemption period" shall mean, with respect to any parcel of real property, the period of maximum assessed valuation for that particular parcel as designated in the ordinance or local law adopted or enacted by the local legislative body pursuant to paragraph 1 of section 12.

The term "maximum dividend" shall mean, with respect to any dividend year an amount equal to 10% of the development cost less all amounts payable during the dividend year as interest on, but not as amortization of, any indebtedness of the redevelopment corporation. The maximum dividend, however, may be apportioned in accordance with the provisions of section 13. The maximum dividend may change from time

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to time in accordance with changes in development cost, in outstanding indebtedness and in capital structure due to refunding operations.

The term "mortgage" shall mean a mortgage, trust indenture, deed of trust, building and loan contract or other instrument creating a lien on real property, and the indebtedness secured by each of them.

The term "neighborhood unit" shall mean a primarily residential district having the facilities necessary for well-rounded family living, such as schools, parks, playgrounds, parking areas and local shopping districts.

The term "planning commission" shall mean the official bureau, board, commission or agency of the city authorized to prepare, adopt and amend or modify plans for the development and improvement of the city generally.

The term "real property" shall include lands, buildings, improvements, land under water, waterfront property, and any and all easements, franchises and hereditaments, corporeal or incorporeal, and every estate, interest, privilege, easement, franchise and right therein, or appurtenant thereto, legal or equitable, including right of ways, terms for years and liens, charges, or incumbrances by mortgage, judgment or otherwise.

The term "redevelopment" shall mean the clearance, replanning, reconstruction or rehabilitation of a substandard or insanitary area, and the provision of such industrial, commercial, residential or public structures and spaces as may be appropriate, including recreational and other facilities incidental or appurtenant thereto.

The term "redevelopment corporation" shall mean a corporation organized pursuant to the corporation laws of the state whose certificate of incorporation shall comply with the requirements of section 6.

The term "state" shall mean the state of Michigan.

The term "supervising agency" shall mean the official, bureau, commission or agency appointed, established or designated pursuant to section 5.

HISTORY: Am. 1945, p. 99, Act 102, Eff. Sep. 6;—CL 1948, 125.903;—Am. 1968, p. 577, Act 325, Imd. Eff. Jul. 3.

125.904 Development plans; contents, approval, requirements.

Sec. 4. Development plans and approval thereof.

Contents.

1. A development plan shall contain:

(a) A metes and bounds or a statement of the boundaries by streets, or other reasonably definite legal description of the redevelopment area;

(b) A statement of the various stages, if more than 1 stage is intended, by which the development is proposed to be constructed or undertaken, and the estimated time within which each stage is to be completed. The initial stage of the redevelopment plan shall be stated in reasonable detail. Subsequent stages shall be stated by brief general description in the original redevelopment plan, and in reasonable detail in amendments to the redevelopment plan made pursuant to subsection 5 of this section;

(c) A provision for all reasonable costs of relocating persons displaced during the completion of a stage of the redevelopment plan in decent, safe and sanitary dwellings adequate to their needs and within their financial means in reasonably convenient locations not less desirable than the development area with respect to utilities and facilities;

(d) Each redevelopment plan or stage thereof presented for approval shall contain such of the following items relevant to the proposed plan or stage;

(i) A description of the existing buildings or improvements in the development area, to be demolished immediately, if any;

(ii) A description of existing buildings or improvements, in the development area not

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to be demolished immediately, if any, and the approximate period of time during which the demolition, if any, of each such building or improvement is to take place;

(iii) A description of the proposed improvements, if any, to each building not to be demolished immediately, any proposed repairs or alterations to such building, and the approximate period of time during which such improvements, repairs or alterations are to be made;

(iv) A description of the type, number and character of each new industrial, commercial, residential or other building or improvement to be erected or made;

(v) A description of those portions, if any, of the development area which may be permitted or will be required to be left as open space, the use to which each such open space is to be put, the period of time each such open space will be required to remain an open space and the manner in which it will be improved and maintained, if at all;

(vi) A description of those portions, if any, of the development area which the redevelopment corporation proposes to sell, donate, exchange or lease to, with or from the city, and an outline of the terms of such proposed sale, donation, exchange or lease;

(vii) A statement of the proposed changes, if any, in zoning ordinances or maps, necessary or desirable for the development and its protection against blighting influences;

(viii) A description of the proposed changes, if any, in streets or street levels and any proposed street closings;

(ix) Reasonable estimates of the character of the existing dwelling accommodations, if any, in the area covered by the redevelopment plan or stage, the approximate number of families residing therein, the rentals being paid by them, the vacancies in such accommodations and of the rental demand therefor;

(x) A statement of the character, approximate number of units, approximate rentals and approximate date of availability of the proposed dwelling accommodations, if any, to be furnished during construction and upon completion of the development;

(xi) A statement of the proposed method of financing the redevelopment or stage, in sufficient detail to evidence the probability that the redevelopment corporation will be able to finance or arrange to finance the development;

(e) A statement of persons who it is proposed will be active in or associated with the management of the redevelopment corporation during a period of at least 1 year from the date of the approval of the development plan.

The development plan, and any application to the planning commission or supervising agency for approval thereof, may contain in addition such other statements or materials as may be deemed relevant by the proposer thereof, including limits on the amounts which may be paid as compensation for services to the officers and employees of the redevelopment corporation, suggestions for the clearance, replanning, reconstruction or rehabilitation of 1 or more areas which may be larger than the development area but which include it, and any other provisions for the redevelopment of such area or areas.

(f) A description of the means through which a representative council of residents of the redevelopment area shall be established and consulted throughout all stages of the planning of the redevelopment so that the desires of residents shall be incorporated into the plans for the area to the extent feasible.

(g) A description of the means through which, to the extent feasible, the housing to be developed shall reasonably be within the financial means of the residents of the general area.

(h) A description of the means through which persons displaced by the redevelopment shall have priority in occupying any new housing in the redevelopment area, if they meet reasonable requirements of responsibility.

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Approvals required.

2. No development shall be initiated until certificates of approval of the development plan therefor shall have been issued by both the planning commission and the supervising agency.

Planning commission approval; requirements.

3. A planning commission may approve a development plan, but no certificate of approval thereof shall be issued by it unless and until an application for approval has been filed with it, together with the development plan, and unless and until the planning commission shall determine:

(a) That the area within which the development area is included is substandard or insanitary or is polluted or neglected and that the redevelopment of the development area in accordance with the development plan is necessary or advisable to effectuate the public purposes declared in section 2;

(b) That the development plan is in accord with the master plan, or city map, if any, of the city;

(c) That the development area is of sufficient size to allow its redevelopment in an efficient and economically satisfactory manner;

(d) That the various stages, if any, by which the development is proposed to be constructed or undertaken, as stated in the development plan, are practicable and in the public interest;

(e) That public facilities, including, but not limited to school, fire, police, transportation, park, playground and recreation, are presently adequate, or will be adequate, at the time that the development is ready for use, to service the development area;

(f) That the proposed changes, if any, in zoning ordinances or maps and in streets and street levels, or any proposed street closings, are necessary or desirable for the development and its protection against blighting influences and for the city as a whole;

(g) Upon data submitted by or on behalf of the redevelopment corporation, or upon data otherwise available to the planning commission, that there will be available for occupation by families, if any, then occupying dwelling accommodations in the development area similar accommodations at substantially similar rentals in the development area or elsewhere in a suitable location in the city, and that the carrying into effect of the development plan will not cause undue hardship to such families.

Any such determination shall be conclusive evidence of the facts so determined except upon proof of fraud or wilful misfeasance. In arriving at such determination, the planning commission shall consider only those elements of the development plan relevant to such determination under subparagraphs (a) through (g) of this paragraph 3 of section 4 and to the type of development which is physically desirable for the development area concerned from a city planning viewpoint, and from a neighborhood unit viewpoint if the development plan provides that the development area is to be primarily residential. Upon approval of a development plan by the planning commission, it shall forthwith issue a certificate of approval thereof.

A planning commission may state general standards of city and neighborhood unit planning to which a development plan should conform to be approved by it. Such standards, however, shall be as flexible as possible and only for the guidance of prospective proponents of development plans. Variations therefrom shall be freely allowed upon a showing of their advisability, to the end that individual initiative be encouraged.

Supervising agency approval; requirements.

4. A supervising agency may approve a development plan, but no certificate of approval thereof shall be issued by it unless and until the planning commission shall first have approved thereof and there has been filed with the supervising agency the devel-

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opment plan, the certificate of approval by the planning commission and an application for approval by the supervising agency, and unless and until the supervising agency shall determine:

(a) That the proposed method of financing the development is feasible and that it is probable that the redevelopment corporation will be able to finance or arrange to finance the development;

(b) That the persons who it is proposed will be active in or associated with the management of the redevelopment corporation during a period of at least 1 year from the date of the approval of the development plan have sufficient ability and experience to cause the development to be undertaken, consummated and managed in a satisfactory manner.

Any such determination shall be conclusive evidence of the facts so determined except upon proof of fraud or wilful misfeasance. In considering whether or not a certificate of approval of the development plan shall be issued, the supervising agency shall consider only those elements of the development plan relevant to such determination under subparagraphs (a) and (b) of this paragraph 4 of section 4. Upon approval of a development plan by the supervising agency, it shall forthwith issue a certificate of approval thereof.

Amendments.

5. The planning commission and the supervising agency may approve an amendment or amendments to a development plan, but no such amendment to a development plan which has theretofore been approved by the planning commission and the supervising agency shall be approved unless and until an application therefor has been filed with the planning commission or the supervising agency by the redevelopment corporation containing that part of the material required by paragraph 1 of this section 4 which shall be relevant to the proposed amendment, and unless and until the planning commission or the supervising agency, as the case may be, shall make the determinations required by paragraph 3 or 4 of this section 4 which shall be relevant to the proposed amendment.

Fees.

6. The planning commission and the supervising agency may each adopt a schedule of fees to be paid upon the filing of the development plan, amendments thereto and other instruments in connection therewith. The amount of these fees shall not exceed the reasonable cost of the examining, inspectional and supervisory services required under this act.

HISTORY: CL 1948, 125.904;—Am. 1968, p. 579, Act 325, Imd. Eff. Jul. 3.

125.905 Supervising agency; appointment.

Sec. 5. The local legislative body of a city is hereby authorized by general ordinance or local law to appoint, establish or designate the chief financial officer of the city or some other official or bureau, commission or agency as the person or body to exercise the powers and perform the duties held by or incumbent upon a supervising agency pursuant to this act.

HISTORY: CL 1948, 125.905;—Am. 1968, p. 581, Act 325, Imd. Eff. Jul. 3.

125.906 Redevelopment corporation; organization, articles; forfeiture of rights; name.

Sec. 6. 1. At any time 1 or more natural persons, corporations or partnerships may incorporate a redevelopment corporation on making, subscribing, acknowledging and filing in the corporation and securities commission a certificate pursuant to the general corporation law, which shall be entitled and endorsed "certificate of incorporation of ..... redevelopment corporation, pursuant to the general corporation law," the blank space being filled in with the remainder of the name of the corporation. Such

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certificate shall contain the provisions required in, and may contain any provisions consistent with the provisions of this act permitted in, a certificate of incorporation filed pursuant to the general corporation law, except that:

(a) Included among the purposes for which the corporation is formed shall be the formulation, obtaining the approval of, and putting into effect of a development plan, the acquisition of real property in a development area, and the construction, maintenance and operation of a development pursuant to this act;

(b) The duration of the corporation shall not be less than 20 years;

(c) The certificate may provide for the issuance of income debentures, in which case the holders of such debentures may be allowed such voting rights as shall be specified therein;

(d) The certificate may provide that the corporation shall have the power to cooperate with and participate in any programs of the federal or state governments which have been or may be enacted for purposes of the development or redevelopment of areas of cities which are substandard, insanitary, polluted or neglected.

(e) The certificate may provide that the corporation shall have the power to guarantee, purchase, hold, sell, assign, transfer, mortgage, pledge or otherwise dispose of any bonds, securities or evidence of indebtedness created by any person or other legal entity related to properties or businesses located in the redevelopment area.

(f) The certificate shall contain a declaration that the redevelopment corporation has been organized to serve a public purpose, and that it shall be subject to supervision and control as provided in this act. A copy of such certificate shall be filed with the planning commission and the supervising agency having jurisdiction within 10 days of its being filed in the corporation and securities commission.

Existing corporations, conversion.

2. At any time any domestic corporation which is not a redevelopment corporation, but which has been incorporated pursuant to the general corporation law may become a redevelopment corporation by filing an appropriate certificate or certificates pursuant to the general corporation law changing the provisions of its certificate of incorporation to eliminate any provisions therein inconsistent with the provisions of this act and adding or substituting the provisions required by this section by changing its name to a name corresponding to the form "..... redevelopment corporation," and making all the other changes necessary to enable it to conform with all of the provisions of this act. Any such certificate shall be prepared and filed pursuant to the general corporation law, except that in addition to citing such law in the title of such certificate, the title shall also state that it is being made pursuant to section 6.

Forfeiture of rights.

3. If a redevelopment corporation shall not have obtained the certificates of approval of its development plan required by section 4 within 12 months of the date upon which it became a redevelopment corporation, or shall not substantially comply with the development plan within the time limit for the completion of each stage thereof as therein stated, reasonable delays caused by unforeseen difficulties excepted, then upon the filing in the department of state of a certified copy of the order of the court establishing such failure to obtain such certificate or substantially so to comply, obtained pursuant to section 14, such redevelopment corporation shall cease to have the special rights, powers and privileges granted to, or be subject to the special duties, liabilities and restrictions imposed upon, a redevelopment corporation by this act, and shall thereafter change its name to remove the word "redevelopment" therefrom. In such event, however, such corporation may thereafter continue in existence as a corporation, subject to the general corporation law. In the event that a certified copy of such order shall be so filed, all real property acquired by or for such redevelopment

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corporation by condemnation shall be disposed of, either alone or in conjunction with additional real property not so acquired, within a reasonable time by bona fide sale conducted in such a manner as may be prescribed by ordinance of the local legislative body. All amounts received by the redevelopment corporation for such real property in excess of an amount equal to that portion of the development cost allocable to the real property being disposed of, shall be paid to the city.

Name, limitations on use.

4. No corporation now organized under the laws of the state shall change its name to a name, and no such corporation hereafter organized shall have a name, containing the word "redevelopment" as a part thereof, unless and until such corporation is or becomes a redevelopment corporation. No foreign corporation now authorized to do business in the state shall change its name to a name, and no such corporation shall hereafter be authorized to do business in the state with a name, containing the word "redevelopment" as a part thereof.

HISTORY: CL 1948, 125.906;—Am. 1968, p. 581, Act 325, Imd. Eff. Jul. 3.

125.907 Limitations imposed upon redevelopment corporations; limitations.

Sec. 7. Limitation of redevelopment corporations. No redevelopment corporation shall:

1. Undertake any clearance, reconstruction, improvement, alteration or construction in connection with any development until the certificates of approval required by section 4 of this act have been issued;

2. Change, alter, amend, add to or depart from the development plan within 20 years of the issuance of the certificates of approval required by section 4 of this act, until the planning commission or the supervising agency, as the case may be, has issued a certificate of approval of that portion of such change, alteration, amendment, addition or departure relevant to the determination required to be made by it as set forth in section 4 of this act;

3. After a development has been commenced, sell, transfer or assign any real property in the development area without first obtaining the consent of the supervising agency;

4. Undertake more than 1 development;

5. Pay interest on its income debentures, if any, except out of net earnings which would have been applicable to the payment of dividends on its capital stock if there were no such income debentures;

6. Pay as compensation for services to, or enter into contracts for the payment of compensation for services to, its officers or employees in an amount greater than the limit thereon contained in the development plan, or in default thereof, then in an amount greater than the reasonable value of the services performed or to be performed by such officers or employees;

7. Lease an entire building or improvement in the development area to any person or corporation without obtaining the approval of the supervising agency, which may be withheld only if the lease is being made for the purpose of evading the regulatory provisions of this act;

8. Mortgage any of its real property without obtaining the approval of the supervising agency;

9. Make any guarantee without obtaining the approval of the supervising agency;

10. Dissolve without obtaining the approval of the supervising agency, which may be given upon such conditions as the supervising agency may deem necessary or appropriate to the protection of the interest of the city in the proceeds of the sale of the

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real property acquired by condemnation as provided in paragraph 3 of section 6 of this act, such approval to be endorsed on the certificate of dissolution and such certificate not to be filed in the department of state in the absence of such endorsement;

11. Reorganize without obtaining the approval of the supervising agency.

HISTORY: CL 1948, 125.907.

125.908 Corporation code; application to redevelopment corporations.

Sec. 8. Application of other corporation laws to redevelopment corporations. The provisions of the general corporation law as presently in effect and as hereafter from time to time amended, shall apply to redevelopment corporations, except where such provisions are in conflict with the provisions of this act. In the event that any action with respect to which the holders of income debentures shall have the right to vote is proposed to be taken, then notice of any meeting at which such action is proposed to be taken shall be given to such holders in the same manner and to the same extent as if they were stockholders entitled to notice of and to vote at such meeting, and any certificate filed pursuant to law in the department of state with respect to any such action, whether taken with or without meeting, and any affidavit required by law to be annexed to such certificate shall contain the same statements or recitals, and such certificate shall be subscribed and acknowledged, and such affidavit shall be made, in the same manner as if such holders were stockholders holding shares of an additional class of stock entitled to vote on such action, or with respect to the proceedings provided for in such certificate.

HISTORY: CL 1948, 125.908.

125.909 Consideration for issuance of stock, bond or debentures.

Sec. 9. Consideration for issuance of stock, bonds, or income debentures. No redevelopment corporation shall issue stock, bonds or income debentures, except for money or property actually received for the use and lawful purposes of the corporation or services actually performed for the corporation.

HISTORY: CL 1948, 125.909.

125.910 Determination of development cost; procedure.

Sec. 10. 1. Upon the completion of a development, a redevelopment corporation shall, or upon the completion of a principal part of a development, a redevelopment corporation may, file with the supervising agency an audited statement of the development cost thereof. Within a reasonable time after the filing of such statement, the supervising agency shall determine the development cost applicable to the development or such portion thereof and shall issue to the redevelopment corporation a certificate stating the amount thereof as so determined.

2. A redevelopment corporation may, at any time, whether prior or subsequent to the undertaking of any contract or expense, apply to the supervising agency for a ruling as to whether any particular item of cost therein may be included in development cost when finally determined by the supervising agency, and the amount thereof. The supervising agency shall, within a reasonable time after such application, not to exceed 60 days, render a ruling thereon, and in the event that it shall be ruled that any item of cost may be included in development cost, or upon failure of the supervising agency to make such ruling within 60 days, the amount thereof as so determined shall be so included in development cost when finally determined.

HISTORY: CL 1948, 125.910;—Am. 1968, p. 583, Act 325, Imd. Eff. Jul. 3.

125.911 Regulation of corporation by supervising agency.

Sec. 11. Regulation of redevelopment corporations by supervising agency.

A redevelopment corporation shall:

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1. Furnish to the supervising agency from time to time, as required by it, but with respect to regular reports not more often than once every 6 months, such financial information, statements, audited reports or other material as such supervising agency shall require, each of which shall conform to such standards of accounting and financial procedure as the supervising agency may by general regulation prescribe.

2. Establish and maintain such depreciation and other reserves, surplus and other accounts as the supervising agency may reasonably require.

3. Any provision of the general corporation law to the contrary notwithstanding, 1 member of the board of directors of a redevelopment corporation shall be a designee of the supervising agency, as long as any of the real property of the redevelopment corporation is entitled to the tax exemption provided for in section 12 of this act.

HISTORY: CL 1948, 125.911.

125.912 Exemption from increase in assessed value; limitations.

Sec. 12. 1. A local legislative body is hereby authorized by the adoption or enactment of an ordinance or local law to exempt real property held by redevelopment corporations during a maximum exemption period which shall not exceed 10 years from any increase in assessed value over the maximum assessed value, after the adoption or enactment of such an ordinance or local law every parcel of real property held by any redevelopment corporation in a development shall be exempt during the maximum exemption period from any increase in assessed value over or in excess of the maximum assessed value. Such exemption shall not, however, apply to any improvement made upon such real property after the beginning of the maximum exemption period but the local legislative body may, by appropriate legislative action, establish a maximum assessed value and maximum exemption period, not to exceed 10 years, for such subsequent improvements.

2. For the purpose of fixing the date of commencement of the maximum exemption period for a group of parcels of real property in a development area, the city is hereby authorized with the approval of its local legislative body to contract with a redevelopment corporation to place in 1 or more groups the various parcels of real property therein. Such a contract may provide that all the parcels in each group shall be deemed to have a common stated date of completion of the development by the redevelopment corporation.

HISTORY: CL 1948, 125.912;—Am. 1968, p. 583, Act 325, Imd. Eff. Jul. 3.

125.913 Return on income debentures and stock; limitations.

Sec. 13. Limited return on income debentures and stock.

1. No redevelopment corporation shall pay any interest on its income debentures or dividends on its stock during any dividend year, unless there shall exist at the time of any such payment no default under any amortization requirements with respect to its indebtedness.

2. No redevelopment corporation shall pay or declare as interest on its income debentures and as dividends on its stock during any dividend year during any portion of which there shall exist pursuant to section 12 of this act any exemption from local taxation on any of its real property, in an amount in excess of the maximum dividend, except as provided in paragraphs 3 and 4 of this section 13.

3. In the event that in any dividend year the maximum exemption period with respect to some of the parcels of real property held by a redevelopment corporation shall have expired, and with respect to some such parcels shall not have expired, then that portion of its net earnings which may be paid or declared as interest on its income debentures and as dividends on its stock during such dividend year shall be determined as follows: Multiply the net earnings of the corporation subject to payment or declaration as such interest or dividends, by a fraction the numerator of which is the

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total of the maximum assessed valuation of all real property for which the maximum exemption period has not expired and the denominator of which is the total of the maximum assessed valuation of all the real property of the corporation; and the result will be the apportioned net earnings restricted as to payment as such interest or dividends; compute the amount of the maximum dividend as though no apportionment of the same were to be affected and multiply the amount so arrived at by the same fraction; and the result will be the apportioned maximum dividend; only that portion of such apportioned net earnings which does not exceed such apportioned maximum dividend may be paid or declared as such interest or dividends; and that portion of the net earnings obtained by subtracting from total net earnings such apportioned net earnings restricted as to payment as such interest and dividends may be paid or declared without restriction as such interest or dividends.

4. In the event that in any 1 or more prior dividend years the total amount paid or declared as interest on the corporation's income debentures or as dividends on its stock shall have been less than the amounts allowable pursuant to paragraphs 2 and 3 of this section 13, then cumulative interest and dividends equal to the difference may be paid out of any net income applicable thereto in any subsequent dividend year despite the limitation imposed by paragraph 2 of this section 13.

HISTORY: CL 1948, 125.913.

125.914 Proceedings against redevelopment corporations; parties.

Sec. 14. Enforcement proceedings against redevelopment corporations. Whenever a redevelopment corporation shall not have obtained the certificates of approval of its development plan required by section 4 of this act within 12 months of the date upon which it became a redevelopment corporation, or shall not have substantially complied with its development plan within the time limits for the completion of each stage thereof as therein stated, reasonable delays caused by unforeseen difficulties excepted, or shall do, permit to be done or fail or omit to do anything contrary to or required of it, as the case may be, by this act, or shall be about so to do, permit to be done or fail or omit to have done, as the case may be, then any such fact may be certified by the planning commission or the supervising agency, whichever shall have supervision thereof, to the chief legal officer of the city, who may thereupon commence a proceeding in the circuit court of the county in which such city is located in its name for the purpose of having such action, failure or omission, or threatened action, failure or omission, established by order of the court for the purpose stated in paragraph 3 of section 6 of this act, or stopped, prevented or otherwise rectified by mandamus, injunction or otherwise. Such proceedings shall be commenced by a petition to the circuit court alleging the violation complained of and praying for appropriate relief. It shall thereupon be the duty of the court to specify the time, not exceeding 20 days after service of a copy of the petition, within which the redevelopment corporation complained of must answer the petition. The court shall, immediately after a default in answering or after answer, as the case may be, inquire into the facts and circumstances in such manner as the court shall direct without other or formal proceedings, and without respect to any technical requirements. Such other persons or corporations as it shall seem to the court necessary or proper to join as parties in order to make its orders or judgment effective may be joined as parties. The final judgment or order in any such action or proceeding shall dismiss the action or proceeding or establish the failure complained of or direct that a mandamus order, or an injunction, or both, issue, or grant such other relief as the court may deem appropriate.

HISTORY: CL 1948, 125.914.

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125.915 Real estate; transfer to redevelopment corporations.

Sec. 15. Transfer of real property to redevelopment corporation. Notwithstanding any requirement of law to the contrary or the absence of direct provision therefor in the instrument under which a fiduciary is acting, every executor, administrator, trustee, guardian or any other person, holding trust funds or acting in a fiduciary capacity, unless the instrument under which such fiduciary is acting expressly forbids, the state, its subdivisions, cities, all other public bodies, all public officers, corporations organized under or subject to the provisions of the banking law (including savings banks, savings and loan associations, trust companies, private bankers and private banking corporations), the commissioner of the banking department as conservator, liquidator or rehabilitator of any such person, partnership or corporation, persons, partnerships and corporations organized under or subject to the provisions of the insurance law, the commissioner of insurance as conservator, liquidator or rehabilitator of any such person, partnership or corporation, any of which owns or holds any real property within a development area, may grant, sell, lease or otherwise transfer any such real property to a redevelopment corporation, and receive and hold any cash, stocks, income debentures, mortgages, or other securities or obligations, secured or unsecured, exchanged therefor by such redevelopment corporation, and may execute such instruments and do such acts as may be deemed necessary or desirable by them or it and by the redevelopment corporation in connection with the development and the development plan.

HISTORY: CL 1948, 125.915.

125.916 Acquisition of real estate; methods; condemnation.

Sec. 16. 1. A redevelopment corporation may, whether before or after the certificates of approval of its development plan required by section 4 have been issued, acquire real property or secure options in its own name or in the name of nominees to acquire real property, by gift, grant, lease, purchase or otherwise.

2. A city may, upon request by a redevelopment corporation, and after a certificate of approval of condemnation with respect to the real property in question has been issued pursuant to sections 17 and 17a, acquire, or obligate itself to acquire, for such redevelopment corporation any real property included in such certificate of approval of condemnation, by condemnation. Real property acquired by a city for a redevelopment corporation shall be conveyed by such city to the redevelopment corporation upon payment to the city of all sums expended or required to be expended by the city in the acquisition of such real property, together with all costs which may have been incurred by the city.

3. The provisions of this act with respect to the condemnation of real property by a city for a redevelopment corporation shall prevail over the provisions of any other general, special or local law.

HISTORY: CL 1948, 125.916; —Am. 1968, p. 583, Act 325, Imd. Eff. Jul. 3.

125.917 Condemnation; proceedings to institute; damages.

Sec. 17. 1. When it is desired that any real property in a development area be acquired by condemnation, there shall be presented to the supervising agency by the redevelopment corporation a verified petition requesting the issuance of a certificate of approval of condemnation of such real property which shall contain, among other things:

(a) A metes and bounds description or other legal description of the real property involved and a statement of the estate, interest, privileges, franchise or right therein or appurtenant thereto to be condemned;

(b) Proof that such real property is within the development area;

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(c) Proof that certificates of approval of the development plan required by section 4 have been issued.

The supervising agency shall determine within a reasonable time thereafter the truth or sufficiency of the statements and proof contained in such petition, and, if such determination shall be in the affirmative, the supervising agency shall issue to the petitioner a certificate of approval of condemnation. Such certificate shall contain a description of the real property proposed to be condemned, the facts so determined with respect thereto, and a statement that the real property proposed to be condemned is required for a public use and that its acquisition for such use is necessary. No condemnation proceeding to acquire real property in a development area, by a city for a redevelopment corporation, shall be commenced until such a certificate of approval of condemnation shall have been issued.

Institution of proceedings.

2. Condemnation proceedings for a redevelopment corporation shall be initiated by a petition to the city to institute proceedings to acquire for the redevelopment corporation any real property in the development area. Such petition shall be granted or rejected by the local legislative body, and the resolution or resolutions granting such petition shall contain a requirement that the redevelopment corporation shall pay to the city all sums expended or required to be expended by the city in the acquisition of such real property, together with all costs incurred by the city, and the time of payment and manner of securing payment thereof, and may require that the city shall receive, before proceeding with the acquisition of such real property, such assurances as to payment or reimbursement by the redevelopment corporation, or otherwise, as the city may deem advisable. Upon the passage of a resolution or resolutions by the local legislative body, granting the petition, the redevelopment corporation shall cause to be made 3 copies of surveys or maps of the real property described in the petition, 1 of which shall be filed in the office of the redevelopment corporation, 1 in the office of the corporation counsel or chief law officer of the city, and 1 in the office in which instruments affecting real property in the county are recorded. The filing of such copies of surveys or maps shall constitute the acceptance by the redevelopment corporation of the terms and conditions contained in such ordinance or ordinances. The city shall proceed under any provision of any general, special or local law applicable to the condemnation of real property for public improvements. When title to the real property shall have vested in the city, it shall convey the same to the redevelopment corporation upon payment by the redevelopment corporation of the sums and the giving of the security required by the resolution granting the petition. As soon as title shall have vested in the city, the redevelopment corporation may, upon the authorization of the local legislative body enter upon the real property taken, take over and dispose of existing improvements, and carry out the terms of the development plan with respect thereto.

Assessment of compensation and damages.

3. The following provisions shall apply to any proceedings for the assessment of compensation and damages for real property in a development area taken or to be taken by condemnation for a redevelopment corporation:

(a) Evidence of the price and other terms upon any sale, offer to sell, or the rent received or reserved, whichever is less, and other terms upon any sales option, lease or tenancy relating to any of the real property taken or to be taken or to any comparable real property in the vicinity when the option, sale, offer or lease was given, occurred or the tenancy existed, within a reasonable time of the trial, shall be admissible on direct examination;

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(b) Any time during the pendency of such action or proceeding, the redevelopment corporation, the city or any owner may apply to the court for an order directing any owner, the redevelopment corporation, or the city, as the case may be, to show cause why further proceedings should not be expedited, and the court may upon such application make an order requiring that the hearings proceed and that any other steps be taken with all possible expedition;

(c) For the purposes of this act, the award of compensation shall not be increased by reason of any increase in the value of the real property caused by the assembly, clearance or reconstruction, or proposed assembly, clearance or reconstruction for the purposes of this act of the real property in the development area. No allowance shall be made for the improvements begun on real property after notice to the owner of such property of the institution of the proceedings to condemn such property;

(d) Evidence shall be admissible bearing upon the insanitary, unsafe or substandard condition of the premises, or the illegal use thereof, or the enhancement of rentals from such illegal use, and such evidence may be considered in fixing the compensation to be paid, notwithstanding that no steps to remedy or abate such conditions have been taken by the department or officers having jurisdiction. If a violation order is on file against the premises in any such department, it shall constitute prima facie evidence of the existence of the condition specified in such order;

(e) If any of the real property in the development area which is to be acquired by condemnation has, prior to such acquisition, been devoted to another public use, it may nevertheless be acquired provided that no real property belonging to the city or to any other governmental body, or agency or instrumentality thereof, corporate or otherwise, may be acquired without its consent;

(f) Upon the trial, evidence of the price and other terms upon a sale or assignment or of a contract for the sale or assignment of a mortgage, award, proposed award, transfer of a tax lien or lien of a judgment relating to property taken, shall be relevant, material and competent, upon the issue of value or damage and shall be admissible on direct examination;

(g) Upon the trial a statement, affidavit, deposition, report, transcript of testimony in an action or proceeding, or appraisal made or given by any owner or prior owner of the premises taken, or by any person on his behalf, to any court, governmental bureau, department or agency respecting the value of the real property for tax purposes, shall be relevant, material and competent upon the issue of value of damage and shall be admissible on direct examination;

(h) The term "owner," as used in this section, shall include a person having an estate, interest or easement in the real property to be acquired or a lien, charge or encumbrance thereon.

HISTORY: CL 1948, 125.917;—Am. 1968, p. 584, Act 325, Imd. Eff. Jul. 3.

125.917a Condemnation, law applicable.

Sec. 17a. Notwithstanding the provisions of section 17, condemnation proceedings under this act shall be pursuant to Act No. 149 of the Public Acts of 1911, as amended, being sections 213.21 to 213.41 of the Compiled Laws of 1948.

HISTORY: Add. 1968, p. 585, Act 325, Imd. Eff. Jul. 3.

125.918 Leasing of property of corporation; termination of tenancy.

Sec. 18. Temporary use or occupation of real property taken by condemnation. When title to real property has vested in a redevelopment corporation or city by gift, grant, devise, purchase or in condemnation proceedings or otherwise, the redevelopment corporation or city, as the case may be, may agree with the previous owners of such property, or any tenants continuing to occupy or use it, or any other persons who may occupy or use or seek to occupy or use such property, that such former owner,

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tenant or other persons may occupy or use such property upon the payment of a fixed sum of money for a definite term or upon the payment periodically of an agreed sum of money. Such occupation or use shall not be construed as a tenancy from month to month, nor require the giving of notice by the redevelopment corporation or the city, as the case may be, for the termination of such occupation or use or the right to such occupation or use, but immediately upon the expiration of the term for which payment has been made the redevelopment corporation or city, as the case may be, shall be entitled to possession of the real property and may maintain summary proceedings, obtain a writ of assistance, and shall be entitled to such other remedy as may be provided by law for obtaining immediate possession thereof. A former owner, tenant or other person occupying or using such property shall not be required to give notice to the redevelopment corporation or city, as the case may be, at the expiration of the term for which he has made payment for such occupation or use, as a condition to his cessation of occupation or use and termination of liability therefor.

In the event that a city has acquired real property for a redevelopment corporation, the city shall, in transferring title to the redevelopment corporation, deduct from the consideration or other moneys which the redevelopment corporation has become obligated to pay to the city for such purpose, and credit the redevelopment corporation with the amounts received by the city as payment for temporary occupation and use of the real property by a former owner, tenant, or other person, as in this section 18 provided, less the cost and expense incurred by the city for the maintenance and operation of such real property.

HISTORY: CL 1948, 125.918.

125.919 Mortgages of corporation; provisions governing.

Sec. 19. Mortgages.

1. Any redevelopment corporation may borrow funds and secure the repayment thereof by mortgage. Every such mortgage shall contain reasonable amortization provisions and shall be a lien upon no other real property except that forming the whole or a part of a single development area.

2. Certificates, bonds and notes, or part interests therein, or any part of an issue thereof, which are secured by a first mortgage on the real property in a development area, or any part thereof, shall be securities in which all the following persons, partnerships or corporations and public bodies or public officers may legally invest the funds within their control: Provided, That the principal amount secured by such mortgage shall not exceed the limits, if any, imposed by law for such investments by the person, partnership, corporation, public body or public officer making the same:

Every executor, administrator, trustee, guardian, committee or other person or corporation holding trust funds or acting in a fiduciary capacity; the state, its subdivisions, cities, all other public bodies, all public officers; persons, partnerships and corporations organized under or subject to the provisions of the banking law (including savings banks, savings and loan associations, trust companies, private bankers and private banking corporations); the commissioner of the banking department as conservator, liquidator or rehabilitator of any such person, partnership or corporation; persons, partnerships or corporations organized under or subject to the provisions of the insurance law; fraternal benefit societies; and the commissioner of insurance as conservator, liquidator or rehabilitator of any such person, partnership or corporation.

3. Any mortgage on the real property in a development area, or any part thereof, may create a first lien, or a second or other junior lien, upon such real property.

4. The limits as to principal amount secured by mortgage referred to in paragraph 2 of this section 19 shall not apply to certificates, bonds and notes, or part interests therein, or any part of an issue thereof, which are secured by first mortgage on real

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property in a development area, or any part thereof, which the federal housing administrator has insured or has made a commitment to insure under the national housing act. Any such person, partnership, corporation, public body or public officer may receive and hold any debentures, certificates or other instruments issued or delivered by the federal housing administrator, pursuant to the national housing act, in compliance with the contract of insurance of a mortgage on real property in the development area, or any part thereof.

HISTORY: CL 1948, 125.419.

125.920 Sale or lease of real estate by a city to corporation.

Sec. 20. Sale or lease of real property by a city to a redevelopment corporation.

1. The local legislative body may by resolution determine that real property, title to which is held by the city, specified and described in such resolution, is not required for use by the city and may authorize the city to convey, sell, or lease such real property to a redevelopment corporation: Provided, however, That the title of the city to such real property be not declared inalienable by charter of the city, or other similar law or instrument.

2. Notwithstanding the provisions of any general, special or local law or ordinance, such sale or lease may be made without appraisal, public notice or public bidding for such price or rental and upon such terms (and, in case of a lease, for such term not exceeding 50 years with a right to 1 renewal term of 30 years) as may be agreed upon between the city and the redevelopment corporation.

3. Before any sale or lease to a redevelopment corporation shall be authorized, a public hearing shall be held by the local legislative body to consider the proposed sale or lease.

4. Notice of such hearing shall be published at least 10 days before the date set for the hearing in such publication and in such manner as may be designated by the local legislative body.

5. The deed or lease of such real property shall be executed in the same manner as a deed or lease by the city of other real property owned by it and may contain appropriate conditions and provisions to enable the city to reenter the real property in the event of a violation by the redevelopment corporation of any of the provisions of this act relating to such redevelopment corporation or of the conditions or provisions of such deed or lease.

6. A redevelopment corporation purchasing or leasing real property from a city shall not, without the written approval of the city, use such real property for any purpose except in connection with its development. The deed shall contain a condition that the redevelopment corporation will devote the real property granted only for the purposes of its development subject to the restrictions of this act, for each of which the city shall have the right to reenter and repossess itself of the real property.

HISTORY: CL 1948, 125.920.

125.921 Provisions of lease.

Sec. 21. Provisions of lease.

If real property of a city be leased to a redevelopment corporation:

(1) The lease may provide that all improvements shall be the property of the lessor;

(2) The lessor may grant to the redevelopment corporation the right to mortgage the fee of such property and thus enable the redevelopment corporation to give as security for its notes or bonds a first lien upon the land and improvements;

(3) The execution of a lease shall not impose upon the lessor any liability or obligation in connection with or arising out of the financing, construction, management or operation of a development involving the land so leased. The lessor shall not, by exec-

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uting such lease, incur any obligation or liability with respect to such leased premises other than may devolve upon the lessor with respect to premises not owned by it. The lessor, by consenting to the execution by a redevelopment corporation of a mortgage upon the leased land, shall not thereby assume, and such consent shall not be construed as imposing upon the lessor, any liability upon the note or bond secured by the mortgage;

(4) The lease may reserve such easements or other rights in connection with the real property as may be deemed necessary or desirable for the future planning and development of the city and the extension of public facilities therein (including the construction of subways and conduits, the widening and change of grades of streets); and it may contain such other provisions for the protection of the parties as are not inconsistent with the provisions of this act.

HISTORY: CL 1948, 125.921.

125.922 Construction of act.

Sec. 22. Construction. This act shall be construed liberally to effectuate the purposes hereof, and the enumeration of specific powers in this act shall not operate to restrict the meaning of any general grant of power contained in this act or to exclude other powers comprehended in such general grant.

HISTORY: CL 1948, 125.922.

Sec. 23. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 416, Act 267, Imd. Eff. May 25.

Act 208, 1949, p. 224; Eff. Sep. 23.

AN ACT to authorize cities, villages and townships of this state to designate neighborhood areas for the purpose of planning and carrying out local public improvements for the prevention of blight within such areas; to authorize assistance in carrying out plans for local improvements by the acquisition and disposal of real property in such areas; to provide for the combining of neighborhood improvements that benefit the entire neighborhood into 1 improvement project; to provide for the establishment of local assessment districts coterminous with the neighborhood boundaries; to prescribe the methods of financing the exercise of these powers, and to declare the effect of this act. Am. 1957, p. 469, Act 298, Eff. Sep. 27.

The People of the State of Michigan enact:

125.941 Neighborhood areas in municipalities; improvement, declared to be public use and public purpose.

Sec. 1. It is hereby found and declared that many residential neighborhood areas in the municipalities of this state are in danger of becoming blighted, with the consequent impairment of taxable values upon which in large part, municipal revenues depend; that such areas can prove detrimental or inimical to the health, safety, morals and general welfare of the citizens and to the economic welfare of the municipality; that in order to improve and maintain the general character of the municipality, it may be necessary to improve, or better, such areas; that the conditions found in such areas cannot be efficiently and economically remedied, with due regard to the general welfare of the public, without public participation in the planning, property acquisition and disposal, and the financing thereof; that the purposes of this act are to improve such areas by acquiring and developing properties within such areas for the protection of the health, safety, morals and general welfare of the municipality, to preserve existing values of other properties within or adjacent to such areas, and to preserve the taxable value of the property within such areas; and the necessity in the

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public interest for provisions herein enacted is hereby declared as a matter of legislative determination to be a public use and a public purpose.

HISTORY: New 1949, p. 224, Act 208, Eff. Sep. 23.

125.942 Neighborhood areas in municipalities; definitions.

Sec. 2. The following terms whenever used or referred to in this act shall have the following respective meanings, unless a different meaning clearly appears from the context:

Wherever appropriate the singular includes the plural and plural includes the singular;

"Neighborhood area" shall mean a portion of a municipality which has been delimited as a neighborhood unit in a plan of neighborhoods adopted by the legislative body, which plan shall have the function of designating the service area of elementary schools, playgrounds or other local improvements;

"Real property" shall include land, building improvements, land under water, waterfront property and any and all easements, franchises and hereditaments, corporeal or incorporeal, and every estate, interest, privilege, easement, franchise and right therein, or appurtenant thereto, legal or equitable, including rights of way, terms for years, and liens, charges or incumbrances by mortgage, judgment or otherwise;

"Municipality" shall mean any duly incorporated city, village, or township;

"Legislative body" shall mean the city council, city commission, board of aldermen, township board or other body having the power to pass ordinances or measures and to otherwise legislate concerning city, village or township affairs;

"Public use" when used with reference to land reserved for such purpose shall mean and be deemed to relate to such uses as are for the general benefit of the public, such as schools, libraries, public institutions, administration buildings, parks, boulevards, playgrounds, streets, alleys, easements or sewers, public lighting, water, gas or other similar utilities, or improvements;

"Privately owned lands" shall mean all land not held by the municipal body, county, state or federal government for public purposes;

"Owner" shall mean any person, or persons, natural or corporate, owning a legal or equitable title to the land;

"Project" shall mean all of the undertakings herein authorized for the improvement of a neighborhood area.

HISTORY: New 1949, p. 224, Act 208, Eff. Sep. 23;—Am. 1957, p. 469, Act 298, Eff. Sep. 27.

125.943 Neighborhood areas in municipalities; betterment plan.

Sec. 3. The following plans, statements and actions are hereby made requisite for, and a condition of, the exercise of the powers herein granted for the acquisition, disposal, or lease of real property for the carrying out of a neighborhood betterment plan in a neighborhood area;

Master plan of municipality, approval.

(a) A master plan of the municipality approved by the planning commission and adopted by the legislative body, or a master plan sufficiently advanced to permit the designation of neighborhood areas and so approved and adopted;

Plan of neighborhoods, approval.

(b) A plan of neighborhoods that sets forth precisely, the location of neighborhood areas within the municipality, approved by the planning commission, and which has been adopted by the legislative body. Such a plan must conform with the master plan of the municipality;

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Neighborhood betterment plan, approval.

(c) A neighborhood betterment plan approved by the planning commission and adopted by the legislative body after public hearing thereon as hereinafter provided of the neighborhood area in which is located the land proposed to be acquired for improvement purposes.

Improvements.

Such plan shall designate the location, extent, character and estimated cost of the improvements contemplated for the area; and may include any or all of the following improvements:

Plats, streets, public utilities, pavement, parks, nonconforming uses; rehabilitation of blighted areas.

Partial or total vacation of plats, or replatting; opening, widening, straightening, extending, vacating or closing streets, alleys or walkways; locating or relocating water mains, sewers, or other public utilities; paving of streets, alleys or sidewalks in special situations; acquiring parks, playgrounds, or other recreational areas or facilities; elimination of nonconforming uses; rehabilitation of blighted areas; street tree planting; green belts, or buffer strips and other appropriate public improvements.

Relocation of families.

The plan shall also include a feasible method for the relocation of families who will be displaced from the area in decent, safe and sanitary dwelling accommodations within their means and without undue hardship to such families.

Hearing on adoption of area plan; notice, description.

The local legislative body, prior to adopting a neighborhood betterment plan, shall hold a public hearing thereon. Notice of time and place of such hearing shall be given by publication in a newspaper of general circulation not less than 30 days prior to the date set for such hearing. Notice of such hearing shall be mailed at least 15 days before such hearing to the last known owner of each parcel of land in such area at the last known address of such owner as shown by the records of the assessor. Such notice shall contain a description of the neighborhood area. For purposes of this notice it shall be sufficient to describe the neighborhood area by its location in relation to highways, streets, streams or otherwise. Such notice shall further contain a statement that maps, plats and a particular description of the betterment plan are available for public inspection at a suitable place to be designated in such notice. At the time set for hearing, the local legislative body shall provide an opportunity for all persons interested to be heard and shall receive and consider communications in writing with reference thereto.

HISTORY: New 1949, p. 224, Act 208, Eff. Sept. 23;—Am. 1957, p. 470, Act 298, Eff. Sep. 27.

125.944 Neighborhood areas in municipalities; acquisition of property; condemnation.

Sec. 4. For the accomplishment of the purposes of this act, the municipality may acquire fee simple title in real property by purchase, gift, exchange, condemnation or otherwise, and shall apply such real property thereafter to the expressed purposes of this act.

The local legislative body may institute and prosecute proceedings under the power of eminent domain in accordance with laws of the state or provisions of any local charter relative to condemnation. The purposes contemplated by this act are hereby declared to be public purposes within the meaning of the constitution, state laws and charters relative to the power of eminent domain.

HISTORY: New 1949, p. 225, Act 208, Eff. Sep. 23.

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125.945 Neighborhood areas in municipalities; transfers to public agencies; excess land sold or exchanged; special assessment district.

Sec. 5. After the acquisition of the real property such property as will be used by public agencies shall be transferred to or placed under the jurisdiction of the appropriate public agencies for public use as defined in this act. The remainder of the land which, in accordance with the betterment plan, is to be devoted to private uses shall be sold or exchanged to individuals, companies, or corporations, whose use of such property shall be in accordance with the limitations and conditions provided in the development plan. If the cost and expense of acquiring and altering, removing or demolishing real property is assessed against a special district, the proceeds from the sale of any remainder shall be credited to the special assessment roll.

Any such sale or exchange may be made without public bidding but only after public hearing by the legislative body upon the proposed sale or exchange and the provisions thereof. The sale or exchange shall be under terms fixed by the legislative body and shall contain provisions that the betterment plan for the property be carried out.

HISTORY: New 1949, p. 225, Act 208, Eff. Sep. 23.

125.946 Repealed. 1957, p. 473, Act 298, Eff. Sep. 27.

Sections related to neighborhood area improvements, financing, special assessment districts.

125.946a Bonds payable from project revenue; terms, tax exemption, interest.

Sec. 6a. (1) A municipality may issue bonds or notes from time to time in its discretion to finance the undertaking of any project authorized by this act including, without limiting the generality thereof, the payment of principal and interest on any advances or loans made for surveys and plans for any project authorized by this act, and may issue refunding bonds or notes for the payment or retirement of bonds or notes previously issued by it either before or after the effective date of this section. The bonds or notes shall be made payable, as to both principal and interest, solely from the income, proceeds, revenues and funds of the municipality derived from or held in connection with its undertaking and carrying out of any projects under this act. Payment of the bonds or notes, both as to principal and interest, may be further secured by a pledge of any loan, grant or contribution due or to become due from the federal government or other source, in aid of any projects of the municipality under this act. Bonds or notes issued under this section shall not constitute an indebtedness within the meaning of any constitutional, statutory or charter debt limitation or restriction, and shall not be subject to the provisions of any other law or charter relating to the authorization, issuance or sale of bonds or notes and may be issued without vote of the electors of the municipality. Bonds or notes issued under the provisions of this section are declared to be issued for an essential public and governmental purpose, and, together with interest thereon and income therefrom, shall be exempted from all taxes. Bonds or notes issued under this section shall not require as a condition precedent to their issuance approval of the municipal finance commission. Bonds or notes issued under this section shall be authorized by resolution or ordinance of the legislative body of the municipality and may be issued in one or more series and shall bear such dates, be payable at such times, bear interest at such rates, not exceeding 6% per annum, be in such denominations, be in such form either with or without coupons, carry such registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such places, be subject to such terms of redemption, with or without premium, be secured in such manner, and have such other characteristics, as may be provided by the resolution or ordinance. The bonds or notes may be sold at not less than par at public sale held after notice published prior to the sale in a newspaper having a general circulation in the municipality and in such other medium

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of publication as the municipality may determine or may be exchanged for other bonds or notes on the basis of par. The bonds or notes may be sold to the federal government at private sale at not less than par, and, if less than all of the authorized principal amount of the bonds or notes is sold to the federal government, the balance may be sold at private sale at not less than par at an interest cost to the municipality of not to exceed the interest cost to the municipality of the portion of the bonds or notes sold to the federal government.

HISTORY: Add. 1957, p. 471, Act 298, Eff. Sep. 27.
CITED IN OTHER SECTIONS: The above section is cited in 125.77b.

125.946b Neighborhood improvement bonds; municipal general obligation bonds, approval, maximum, time of sale, estimated period of usefulness.

Sec. 6b. (1) For the purpose of providing funds to pay all or part of the cost of any project undertaken under this act or the net project cost of any project undertaken under this act with federal financial assistance, municipalities may provide by resolution duly adopted by its legislative body and without vote of the electors of the municipality for borrowing money and issuing general obligation bonds of the municipality therefor, which bonds shall pledge the full faith and credit of the municipality. The term "cost of any project" as used in this section shall be construed to mean any or all of the following items: Cost of land acquisition, demolition of buildings, land and site improvements, plans, surveys, appraisals and all other costs relating to the acquisition, improvement, financing, and disposal of any project or any part thereof under the terms of this act. The term "net project cost" as used in this section shall have the meaning ascribed thereto in section 110 (f), title 1 of the housing act of 1949, as amended (public law 171, 81st congress, first session, approved July 5, 1949, as amended).

The bonds may be issued and sold from time to time during the progress of any project undertaken under this act, in which event the maximum amount of bonds so issued shall not exceed the estimated cost of any project undertaken under this act or the estimated net cost of any project undertaken under this act with federal assistance. The legislative body in the resolution authorizing issuance of the bonds shall set forth the estimate or the bonds may be issued when any project has been completed. Bonds issued under this section shall be designated "neighborhood improvement bonds". All bonds issued under this section shall be subject to the approval of the municipal finance commission, as provided in Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2 of the Compiled Laws of 1948, and shall be subject to the provisions thereof. It being the determination of the legislature that urban blight constitutes a serious menace to public health, welfare and safety of municipalities and their inhabitants and that the financing of projects designed to prevent urban blight is necessary for the public health, welfare and safety. The bonds authorized to be issued under this section are declared to be issued for an essential public and governmental purpose. The maximum principal amount of bonds that may be authorized pursuant to this section in any year shall not exceed an amount equal to the limitation on the maximum rate of taxation for such year for the municipality authorized by law less the taxes actually levied for the year exclusive of debt service tax levies and less budget bonds for the year issued or authorized to be issued, and less any bonds authorized in such year to be issued pursuant to sections 7a and 7b of Act No. 344 of the Public Acts of 1945, as amended, being sections 125.77a and 125.77b of the Compiled Laws of 1948. Any bonds authorized to be issued pursuant to this section shall be sold not later than 3 full fiscal years from the end of the fiscal year in which the bonds are authorized to be issued. The maximum amount of bonds issued pursuant to this section that may be outstanding at any one time shall not, together with other outstanding indebtedness of the municipality, exceed the maximum limitations on bonded indebtedness

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of the municipality imposed by law. Except as herein otherwise provided, the bonds shall not be subject to the provisions of any other law or charter provision relating to their issuance or sale.

(2) The legislative body of any municipality issuing bonds pursuant to this section in the resolution authorizing issuance thereof shall estimate the period of usefulness of the planned improvements to be installed in the development area after the project is completed and the estimate shall constitute the estimate of the period of usefulness required by section 3 of chapter 5 of Act No. 202 of the Public Acts of 1943, as amended, being section 135.3 of the Compiled Laws of 1948. The proceeds of sale of any bonds issued pursuant to this section may be used to pay part or all of the principal and interest on any notes or bonds issued pursuant to this act.

HISTORY: Add. 1957, p. 472, Act 298, Eff. Sep. 27;—Am. 1958, p. 67, Act 61, Imd. Eff. Apr. 8.

CITED IN OTHER SECTIONS: The above section is cited in § 125.77b.

125.946c Tax levy; special assessment.

Sec. 6c. As an additional and alternative method of financing part or all of the costs of any project undertaken under this act, any municipality may use general tax revenues levied for the purpose or not otherwise earmarked, or the legislative body in its discretion may provide that the cost and expense or any portion thereof shall be assessed to a special district. The special assessment district shall be coterminous with the neighborhood area, and the special assessment district together with the tentative plan of assessment shall be set up as part of the neighborhood betterment plan before acquisition of the property involved in such plan. The written consent of a majority of the owners of property in the special district to the betterment plan shall be submitted to the legislative body. The rate of assessment shall be spread equally, on a front foot or land area basis, throughout the special district.

HISTORY: Add 1957, p. 472, Act 298, Eff. Sep. 27.

125.947 Gifts, loans, grants from private or public sources; contracts for assistance.

Sec. 7. Municipalities are authorized and permitted to accept gifts or loans and grants from other governmental agencies to finance the purposes of this act, to borrow money and may issue bonds or notes therefor, to apply for and accept advances, loans, grants, contributions, and any other form of financial assistance from the federal government, the state, county, municipality or other public body or from any sources, public or private, for the purposes of this act, to give such security as may be required and to enter into and carry out contracts in connection therewith. A municipality notwithstanding the provisions of any other law, may include in any contract for financial assistance with the federal government for a project as defined in this act such conditions imposed pursuant to federal law, to agree to any conditions that it may deem reasonable and appropriate attached to federal financial assistance and imposed pursuant to federal law, in the undertaking or carrying out of a project as defined in this act as the municipality may deem reasonable and appropriate and which are not inconsistent with the purposes of this act, and to include in any contract let in connection with a project provisions to fulfill such of the conditions as it may deem reasonable and appropriate, including the payment of prevailing salaries and wages and compliance with federal labor standards.

HISTORY: New 1949, p. 226, Act 208, Eff. Sep. 23;—Am. 1957, p. 473, Act 298, Eff. Sep. 27.

125.948 Neighborhood areas in municipalities; modification of plan, hearing.

Sec. 8. If previous to the sale or exchange of any real property in the neighborhood area the legislative body desires to modify the betterment plan, it shall hold a public hearing thereon, notice of such hearing to be given as provided in section 3 of this act.

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If modification be approved by the local legislative body it shall become a part of the approved betterment plan.

HISTORY: New 1949, p. 226, Act 208, Eff. Sep. 23.

125.949 Neighborhood areas in municipalities; permits, withholding.

Sec. 9. Upon advice of the planning commission that plans for the betterment of a neighborhood are in preparation, the legislative body may establish a date, and for a period of time not to exceed 6 months thereafter, temporarily withhold permits for building construction, sidewalks, drainage systems or other major improvements within the neighborhood.

HISTORY: New 1949, p. 226, Act 208, Eff. Sep. 23.

125.950 Neighborhood areas in municipalities; plans to be officially adopted; board of appeals; hearing, notice, publication.

Sec. 10. On and after the date when a plan has been approved for the betterment of a neighborhood area by the legislative body, no permit shall be issued for building construction, sidewalks, drainage systems or other major improvements done on properties indicated for public improvements which are not in accordance with the plans officially adopted and made effective by the legislative body: Provided, however, That the legislative body shall provide by ordinance that the zoning board of appeals, if the municipality has such a board, or if not, then a board of appeals created for such purpose, shall have the power on appeal filed with it by the owner of real property in the area to approve a minor deviation from the plan for the area in any case in which such board finds upon the evidence presented to it that the application of the plan results in unnecessary hardship or practical difficulties and a minor deviation from the betterment plan is required by consideration of justice and equity. Before taking any such action, the board shall hold a public hearing thereon, at least 10 days' notice of time and place of which shall be given by public notice in a newspaper published or circulated generally in the municipality and by notice to all property owners within the neighborhood area, such notice to be by mail addressed to the respective owners at the address given in the last assessment roll.

HISTORY: New 1949, p. 226, Act 208, Eff. Sep. 23.

125.951 Neighborhood areas in municipalities; actions to be by ordinance or resolution, procedure.

Sec. 11. All actions of legislative bodies under the provisions of this act shall be by ordinance or resolution and such ordinance or resolution shall be subject to the same provisions regarding procedure and executive veto as are applicable to other ordinances or resolutions of the legislative body.

HISTORY: New 1949, p. 226, Act 208, Eff. Sep. 23.

125.951a Neighborhood areas in municipalities; designation of administrative agency.

Sec. 11a. The local legislative body may designate an administrative agency to be responsible for the administration of this act and shall establish regulations for the guidance of the agency in the effectuation of the purposes of this act.

HISTORY: Add. 1961, p. 176, Act 136, Imd. Eff. May 31.

125.952 Powers granted.

Sec. 12. The powers granted in this act shall be in addition to the powers granted to municipalities, the legislative bodies thereof and other officials and bodies thereof under the statutes and local charters. Nothing herein contained shall be construed to amend or repeal any of the provisions of Act No. 18 of the Public Acts of the Extra Session of 1933.

HISTORY: New 1949, p. 227, Act 208, Eff. Sep. 23.

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Act 323, 1966, p. 584; Eff. Mar. 10, 1967.

AN ACT relative to housing for persons displaced by urban renewal.

The People of the State of Michigan enact:

125.961 Urban renewal; relocation of occupants by condemning unit.

Sec. 1. The final relocation of residents under urban renewal shall not occur until relocation of the occupants of such property in standard residential dwellings is assured by the condemning unit of government. This assurance shall include the opportunity to purchase or rent available standard residential dwellings in areas of their choice within the geographical boundaries of the unit of government acquiring the property within their reasonable means free from discrimination of any kind.

HISTORY: New 1966, p. 584, Act 323, Eff. Mar. 10, 1967.

125.962 Renewal of substandard residential area with new housing; relocation of residence.

Sec. 2. In case of urban renewal of a substandard residential area with new housing including the relocation of 200 or more occupied dwelling units the unit of government in which the project is located shall assure available land or housing for either rental or purchase in the same general area by low and middle income families. The urban renewal shall proceed in such a manner as to assure after a part of the area has been cleared that such housing shall be provided and ready for occupancy before any further removal of residents of the area. Residents of the area faced with relocation may relocate elsewhere as provided in section 1 or on a priority basis in the new housing provided under this section.

HISTORY: New 1966, p. 584, Act 323, Eff. Mar. 10, 1967.

125.963 Neighborhood advisory council; consultations with local government agency; records.

Sec. 3. The chief executive officer of the city, village or township shall appoint a neighborhood advisory council of citizens representative of and living in the area from which persons are to be displaced because of any urban renewal project. The designated local governmental agency shall periodically consult with and inform the advisory council regarding all aspects of the report and plan throughout the period of preparation of the report and plan. A record of meetings, information and data presented by and to the advisory council shall be maintained by the designated local governmental agency and a summary thereof shall be included in any report on the project.

HISTORY: New 1966, p. 585, Act 323, Eff. Mar. 10, 1967.

CITED IN OTHER SECTIONS: The above section is cited in § 125.84.

Act 167, 1952, p. 199; Imd. Eff. Apr. 24.

AN ACT to provide for the issuance of bonds or other obligations by cities for the purpose of refinancing slum clearance and redevelopment costs.

The People of the State of Michigan enact:

125.971 Clearance of slum or blighted areas; issuance of bonds by cities, maximum, sale.

Sec. 1. Any city which has been or is financing the cost of clearance, reconstruction or redevelopment of slum or blighted areas, including land acquisition, demolition or other land preparation work, by tax levies or through tax obligations is authorized to

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issue bonds or other obligations of the type and character authorized by and issued pursuant to Act No. 18 of the Public Acts of the Extra Session of 1933, as amended, being sections 125.651 to 125.698, inclusive, of the Compiled Laws of 1948, or Act No. 344 of the Public Acts of 1945, as amended, being sections 125.71 to 125.83, inclusive, of the Compiled Laws of 1948, for the purpose of reimbursement to the city for the amount, or any part thereof, of the proceeds of such tax levies and tax obligations expended since January 1, 1950, for such purposes: Provided, The maximum principal amount of such bonds or other obligations that may be issued therefor under such acts shall not in any event exceed the total amount of the proceeds of such tax levies and tax obligations thus expended or the total amount of any such bonds or obligations which the federal government under title I of the housing act of 1949 agrees to purchase, whichever is the lesser amount. Any such city is hereby authorized to enter into contracts for the sale of and to sell to the federal government any of the bonds or obligations authorized to be issued under this act, upon such terms and conditions as may be mutually agreed upon between such city and the federal government.

HISTORY: New 1952, p. 199, Act 167, Imd. Eff. Apr. 24.

Act 120, 1961, p. 143; Imd. Eff. May 26.

AN ACT to authorize the redevelopment of the principal shopping area of certain cities; and to authorize the collection of revenue and the bonding of certain cities for such redevelopment projects.

The People of the State of Michigan enact:

125.981 Cities; redevelopment of principal shopping area; powers.

Sec. 1. Any city with a master plan for the physical development of the city, which includes therein the redevelopment of a principal shopping area, in respect to such redevelopment project may:

(a) Open, widen, extend, realign, pave or otherwise improve public streets, highways and alleys, hereinafter referred to as "highways", and to construct, reconstruct or relocate pedestrian walkways.

(b) Prohibit vehicular traffic where necessary in order to carry out the purposes of such redevelopment.

(c) Regulate or prohibit vehicular parking on highways.

(d) Acquire, own or operate off-street parking lots.

(e) Contract for the operation by others of city off-street parking lots, or to appoint agents therefor.

(f) Construct malls with such bus stops, information centers and other buildings as will serve the public interest.

(g) Acquire by purchase, gift or condemnation and to own, maintain or operate any lands necessary to accomplish the foregoing.

HISTORY: New 1961, p. 143, Act 120, Imd. Eff. May 26.

125.982 Financing.

Sec. 2. The cost of the whole or any part of a redevelopment project as authorized in this act may be financed by any one or more of the following methods:

(a) From grants and gifts to the city.

(b) From city funds.

(c) By the issuance of general obligation bonds of the city.

(d) By the issuance of revenue bonds by the city under Act No. 94 of the Public Acts of 1933, as amended, being sections 141.101 to 141.139 of the Compiled Laws of 1948,

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or under any other applicable revenue bond act. The issuance of such bonds shall be limited to the part or parts of the redevelopment project which are public improvements.

(e) By the levying of special assessments against lands.

HISTORY: New 1961, p. 143, Act 120, Imd. Eff. May 26.

125.983 Redevelopment project as public improvement.

Sec. 3. A redevelopment project as herein authorized shall be deemed to be a public improvement. The use herein of the term "public improvement" shall not prevent the levying of a special assessment for the cost of any part thereof which represents special benefits.

HISTORY: New 1961, p. 143, Act 120, Imd. Eff. May 26.

125.984 Redevelopment of shopping area; single improvement.

Sec. 4. The redevelopment of any shopping area, including the various phases thereof, shall be deemed to be one project and in the discretion of the governing body of the city, may be financed as a single improvement.

HISTORY: New 1961, p. 144, Act 120, Imd. Eff. May 26.

125.985 Special assessments; bonds.

Sec. 5. If the city elects to levy special assessments to defray all or any part of the redevelopment project, then the special assessments shall be levied in accordance with any statutory or charter provisions applicable thereto. Notwithstanding any statutory or charter provisions, the total amount assessed may be made payable in not to exceed 20 annual installments as determined by the governing body of the city, the first installment to be payable in not to exceed 18 months from the date of the confirmation of the special assessment roll. Special assessments may be made against properties on the basis of the benefits to the respective properties from the total project. The city may issue special assessment bonds in anticipation of the collection of such special assessments and by action of its governing body may pledge its full faith and credit for the prompt payment thereof. Notwithstanding any statutory or charter provision to the contrary, the last maturity on such bonds may be not later than 2 years after the due date of the last installment on the special assessments. Except as otherwise provided, special assessment bonds may be issued pursuant to any statutory or charter authority for the issuance by the city of special assessment bonds for street improvements.

HISTORY: New 1961, p. 144, Act 120, Imd. Eff. May 26.

125.986 Special assessments; off-street parking lots.

Sec. 6. If off-street parking lots are essential to the redevelopment project, and if 1 or more of such parking lots are already owned by the city having been acquired through the issuance of revenue bonds, and if the remaining parking lots are to be financed in whole or in part by special assessments and special assessment bonds, then the city in order to place all parking lots on the same basis, may include as a part of the cost of parking lots for the project, the amount necessary to retire all or any part of the outstanding revenue bonds, inclusive of any premium not exceeding 5% necessary to be paid upon the redemption or purchase of such outstanding bonds. From the proceeds of such special assessments or from the sale of bonds issued in anticipation of the payment thereof, the city shall retire by redemption or purchase the revenue bonds so refunded. Nothing in this section shall be construed as authorizing the refunding of noncallable bonds without the consent of the holders thereof.

HISTORY: New 1961, p. 144, Act 120, Eff. May 26.

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Act 243, 1959, p. 360; Eff. Mar. 19, 1960.

AN ACT to define, license and regulate trailer coach parks; to prescribe the powers and duties of the state health commissioner and other state and local officers; to provide for the levy and collection of specific taxes on occupied trailers in trailer coach parks and the disposition of the revenues therefrom; to provide remedies and penalties for the violation of this act; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

125.1001 Mobile home parks; short title.

Sec. 1. This act shall be known and may be cited as the "mobile home park act."

HISTORY: New 1959, p. 360, Act 243, Eff. Mar. 19, 1960;—Am. 1970, p. 523, Act 172, Imd. Eff. Jan. 1, 1971.

CITED IN OTHER SECTIONS: Sections 125.1001 to 125.1097 are cited in § 257.801.

125.1002 Mobile home parks; definitions.

Sec. 2. As used in this act:

(a) "Trailer coach" means a mobile home, a trailer or a single family manufactured living unit which is transported to a site as 1 or more modules, any of which is so constructed as to permit occupancy as a dwelling or sleeping place by 1 or more persons, and licensable as a "trailer coach" under Act No. 300 of the Public Acts of 1949, as amended, being sections 257.1 to 257.923 of the Compiled Laws of 1948.

(b) "Occupied trailer coach" means a trailer coach which is being used for dwelling or sleeping purposes.

(c) "Mobile home park", "trailer coach park" or "park" means any parcel or tract of land under the control of any person, upon which 3 or more occupied trailer coaches are harbored on a continual or nonrecreational basis, or which is offered to the public for that purpose, regardless of whether a charge is made therefor, together with any building, structure, enclosure, street, equipment or facility used or intended for use incident to the harboring or occupancy of trailer coaches; except as provided by section 91.

(d) "Commissioner" or "director" means the director of public health.

(e) "Health officer" means the full-time administrative officer of an approved city, county or district board or department of health.

(f) "Site" means the portion of the trailer coach park set aside and clearly marked and designated for occupancy by an individual trailer coach.

(g) "Person" means an individual, partnership, association or corporation, county, city, village, township or other unit or agency of government.

HISTORY: New 1959, p. 360, Act 243, Eff. Mar. 19, 1960;—Am. 1963, p. 223, Act 161, Imd. Eff. May 14;—Am. 1970, p. 524, Act 172, Imd. Eff. Jan. 1, 1971.

125.1005 Trailer coach parks; construction or alteration, permit.

Sec. 5. No person shall construct or engage in the construction of any trailer coach park or make any addition or alteration to a trailer coach park that either alters the number of sites for trailer coaches within the park or affects the facilities required therein until he first secures from the commissioner a permit authorizing the construction, addition or alteration. The construction, addition or alteration shall be done in accordance with and limited to work covered by plans and specifications submitted with the application and approved by the commissioner.

HISTORY: New 1959, p. 361, Act 243, Eff. Mar. 19, 1960.

125.1006 Trailer coach parks; application for permit, contents.

Sec. 6. Applications for permits shall:

(a) Contain the full name and address of the applicant; if a corporation, the name

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and address of the executive officer thereof; if a partnership, the names and addresses of each partner.

(b) State the calendar months of the year in which the park will be operated.

(c) Be subscribed and sworn to before a notary public.

HISTORY: New 1959, p. 361, Act 243, Eff. Mar. 19, 1960.

125.1007 Trailer coach parks; construction permit, application.

Sec. 7. Application for construction permits shall be made to the director in triplicate on forms provided for that purpose, either through the local health officer, where the proposed trailer coach park is located in a city or county having an approved health department, or by direct application to the director in all other areas. The application shall be accompanied by triplicate copies of the construction plans and specifications for the work for which a permit is requested.

HISTORY: New 1959, p. 361, Act 243, Eff. Mar. 19, 1960;—Am. 1970, p. 524, Act 172, Imd. Eff. Jan. 1, 1971.

125.1008 Trailer coach parks; construction plans and specifications.

Sec. 8. Construction plans and specifications filed for approval and for the purpose of obtaining a permit to construct shall:

(a) Be prepared by and carry the seal of a registered professional engineer or architect as required by Act No. 240 of the Public Acts of 1937, as amended, being sections 338.551 to 338.576 of the Compiled Laws of 1948.

(b) Include a plot plan and the legal description of the lands which the park or proposed park will occupy.

(c) Show in detail the descriptions, materials, equipment, dimensions, layouts, floor plans and elevations of all facilities such as, but not limited to, any service building housing toilets, urinals, lavatories, laundries, showers, slop sinks and the like; the source of water supply, and the location and details of construction of any wells, the details of construction of pump houses; the location, sizes and materials of all water mains, including valves and hydrants; the location, size, grade, elevation and materials of sewers and drains, their point of outlet, and the location of manholes; details of any sewage pumping station, sewage treatment works or special structures; and facilities for garbage and rubbish disposal.

(d) Show the location, grading and dimensions of streets, driveways and parking sites for trailer coaches and other vehicles.

(e) Show layout and detail of facilities for lighting of buildings and the park area.

(f) Where plans contemplate connections to existing facilities such as water systems, sewers and drains, evidence of authorization to make such connections, secured from and issued by proper authorities, either on or attached to the plans.

HISTORY: New 1959, p. 361, Act 243, Eff. Mar. 19, 1960.

125.1009 Trailer coach parks; application and plans, examination by commissioner of health.

Sec. 9. The commissioner shall examine the application and the plans and specifications, and determine whether:

(a) The application contains the required information.

(b) The plans and specifications for the work for which a permit to construct is sought are such that the works, if constructed in accordance therewith, are or would be, in his judgment, sufficient and adequate to protect the public health.

(c) The specific requirements of this act would be complied with.

HISTORY: New 1959, p. 362, Act 243, Eff. Mar. 19, 1960.

125.1010 Trailer coach parks; permit for construction; time, extension.

Sec. 10. If the commissioner is satisfied, he shall issue a permit for the construction to the applicant. The permit and the authorization granted thereby shall be valid for a

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period not to exceed 3 years; but the commissioner may extend the permit upon petition of the applicant, filed not more than 60 days prior to the date of expiration of the permit, and if the reasons for the extension cited in the petition are considered by the commissioner and local health officer to be sufficient to justify the extension. No single extension shall be for more than 2 years. Delays in construction incurred by reason of litigation incident to the planning or construction of a park shall not be included in calculating the date of expiration of permits. If a petition for extending a permit is granted, the commissioner may require such alterations in the plans of the park as would be necessary for approval were the plans for the park being submitted at that date.

HISTORY: New 1959, p. 362, Act 243, Eff. Mar. 19, 1960.

125.1011 Trailer coach parks; permits, transferability; prior permits.

Sec. 11. Permits shall be nontransferable except with the written consent of the commissioner. Permits issued prior to the effective date of this act authorizing construction which has not been completed prior thereto shall expire 2 years from the effective date of this act unless extended in the discretion of the commissioner as provided in section 10 hereof.

HISTORY: New 1959, p. 362, Act 243, Eff. Mar. 19, 1960.

125.1012 Trailer coach parks; permits, notice of issuance.

Sec. 12. Notice of issuance of permits shall be sent to the municipality in which the trailer coach park is or is to be located and to the health officer having jurisdiction, giving the name and address of the applicant to whom the permit is issued.

HISTORY: New 1959, p. 362, Act 243, Eff. Mar. 19, 1960.

125.1013 Trailer coach parks; applications, deficiencies, notice, amendment.

Sec. 13. The commissioner shall notify the applicant of any deficiency in the application, or in the plans and specifications submitted for approval that constitutes the basis for not issuing the permit sought. The applicant may amend the application or plans and specifications in such a manner as to remedy the deficiency and resubmit the documents in the same manner as in the original action.

HISTORY: New 1959, p. 362, Act 243, Eff. Mar. 19, 1960.

125.1014 Construction or alteration of trailer coach park; affidavit of compliance.

Sec. 14. Upon completion of any park or addition or alteration thereto, the owner shall furnish to the commissioner a sworn affidavit certifying that the work authorized has been constructed in accordance with the approved plans and specifications. If the work has been done by contract, a sworn affidavit by the contractor performing the work or of any registered professional engineer or architect responsible for supervision may be accepted in lieu of an affidavit by the owner.

HISTORY: New 1959, p. 362, Act 243, Eff. Mar. 19, 1960.

125.1015 Trailer coach park construction; examination.

Sec. 15. The commissioner or the health officer may make an examination of the construction at any reasonable time to determine whether the work is being done according to the approved plans and specifications. The owner shall make available any records, test data or other information essential to the determination.

HISTORY: New 1959, p. 363, Act 243, Eff. Mar. 19, 1960.

125.1016 Trailer coach park owner; compliance with local regulation.

Sec. 16. Nothing in this act nor any act of the commissioner shall relieve the applicant for a permit to construct a trailer coach park or relieve the person owning or operating an existing park from responsibility for securing any building permits or com-

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plying with all applicable codes, regulations or ordinances not in conflict with this act. Compliance with an approved plan shall not authorize the person constructing or operating a trailer coach park to create or maintain a nuisance or a hazard to health or safety.

HISTORY: New 1959, p. 363, Act 243, Eff. Mar. 19, 1960.

125.1021 License for trailer coach park operation; renewal.

Sec. 21. No person shall maintain, conduct or operate a trailer coach park within this state without an annual license therefor from the commissioner. If an operator of a trailer coach park has made a proper application for a renewal of his license not less than 15 days prior to the expiration date of an existing license, it shall continue until a new license has been issued or the application therefor shall have been denied, according to provisions of section 34 of this act.

HISTORY: New 1959, p. 363, Act 243, Eff. Mar. 19, 1960.

125.1022 Trailer coach parks; license, application, filing.

Sec. 22. Any person desiring to operate a trailer coach park shall file an application for a license with the director. The application shall be made in triplicate on forms provided by the director and shall contain all the information required by this act. Where the park is located in an area having an approved local health department, the application shall be submitted through the health officer. In all other areas, applications shall be made directly to the director.

HISTORY: New 1959, p. 363, Act 243, Eff. Mar. 19, 1960;—Am. 1970, p. 524, Act 172, Imd. Eff. Jan. 1, 1971.

125.1023 License; fee.

Sec. 23. Each applicant for a license at the time the application is submitted shall pay to the health officer or the director a minimum annual license fee of $25.00. An additional annual license fee of 50 cents per site shall be paid at the same time and in the same manner for each site in excess of 25 sites per trailer coach park. Units of government are exempt from payment of such license fees.

HISTORY: New 1959, p. 363, Act 243, Eff. Mar. 19, 1960;—Am. 1963, p. 224, Act 161, Imd. Eff. May 14;—Am. 1970, p. 524, Act 172, Imd. Eff. Jan. 1, 1971.

125.1024 License fees, disposition.

Sec. 24. Annual license fees collected by the health officer shall be deposited in the general fund of the city or county. Annual license fees collected by the director shall be deposited in the state treasury to the credit of the general fund. The person receiving the application shall issue a receipt to the applicant for the amount of license fees received.

HISTORY: New 1959, p. 363, Act 243, Eff. Mar. 19, 1960;—Am. 1970, p. 524, Act 172, Imd. Eff. Jan. 1, 1971.

125.1025 Issuance of license; conditions.

Sec. 25. Trailer coach parks constructed after the effective date of this act shall be licensed when a proper application, surety bond and affidavit that the park has been constructed according to the approved plans and specifications is received by the commissioner, together with evidence that the annual license fee has been paid.

HISTORY: New 1959, p. 363, Act 243, Eff. Mar. 19, 1960.

125.1026 Trailer coach parks; restricted license; application for new license.

Sec. 26. If the owner of a trailer coach park has not fully completed all of the work covered by the approved plan and permit within the period of the permit, but has completed construction of at least 25% of the sites shown on the approved plans, together with the facilities to provide all required services to those sites in the approved plan, a license limited to the number of sites completed at the time of application may be issued. If an additional 25% or more of the sites in the original plan are completed

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within the period of the permit and the restricted license, an application for a new license may be made and acted upon in the same manner.

HISTORY: New 1959, p. 364, Act 243, Eff. Mar. 19, 1960.

125.1027 Trailer coach parks; conditions for renewal of license.

Sec. 27. Licenses for trailer coach parks shall be renewed upon receipt of a proper application, accompanied by the required surety bond, license fee or evidence that the fee has been paid if:

(a) Plans previously approved by the commissioner are on file;

(b) Park layout and facilities are in substantial conformity with the approved plans and no deviations exist which, in the judgment of the commissioner, cause a hazard to public health or safety;

(c) An inspection of the park by the commissioner or the authorized health officer has been made within 6 months prior to the date of application, which inspection shows satisfactory maintenance of facilities and compliance with the provisions of this act.

HISTORY: New 1959, p. 364, Act 243, Eff. Mar. 19, 1960.

125.1028 Trailer coach parks; granting of license; bond.

Sec. 28. Each applicant, before being granted a license to maintain, conduct or operate a trailer coach park, shall make, execute and deliver to the director a bond in the name of the city, village or township where the park is located executed by any surety company authorized to do business in this state in the amount of $1,000.00 for each 100 sites or any part thereof for the payment of all taxes provided in this act. The director shall forward the bond to the city, village or township clerk.

HISTORY: New 1959, p. 364, Act 243, Eff. Mar. 19, 1960;—Am. 1970, p. 524, Act 172, Imd. Eff. Jan. 1, 1971.

125.1031 Trailer coach parks; approval of application; issuance of license, display, transfer.

Sec. 31. When the application for a license has been approved, the commissioner shall issue a license to operate the trailer coach park. The license shall be signed by the commissioner and shall be displayed conspicuously under glass in the office of the manager of the park. Licenses shall not be transferred to another person without the express written consent of the commissioner.

HISTORY: New 1959, p. 364, Act 243, Eff. Mar. 19, 1960.

125.1032 Trailer coach parks; expiration of license.

Sec. 32. Licenses for parks shall expire at midnight on September 30 next following the date of issuance, except that if the application has been received after July 1 of the year in which the construction of the park was completed, then the license so granted shall expire at midnight of September 30 of the next succeeding year.

HISTORY: New 1959, p. 364, Act 243, Eff. Mar. 19, 1960;—Am. 1963, p. 224, Act 161, Imd. Eff. May 14;—Am. 1970, p. 525, Act 172, Imd. Eff. Jan. 1, 1971.

125.1033 Trailer coach parks; copies of license, distribution.

Sec. 33. When the commissioner has approved an application for and issued a license to operate a trailer coach park, he shall retain 1 copy of the application and license for his files, return 1 copy to the applicant and send 1 copy to the health officer in whose jurisdiction the park is located. The commissioner shall also file notice of licensing of any trailer coach park with the treasurer of the municipality in which the park is located.

HISTORY: New 1959, p. 364, Act 243, Eff. Mar. 19, 1960.

125.1034 Trailer coach parks; nonissuance of license, reasons.

Sec. 34. If upon examination of the application and the inspection reports the commissioner finds the application defective or the trailer coach park not in compliance

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with the provisions of this act, he shall notify the applicant in writing that the license will not be issued, citing the deficiencies or noncomplying items that constitute his reasons for not issuing the license. If the applicant fails to comply with the terms and conditions of the notice within the time specified, or such extended period of time, the applicant shall be denied a license.

HISTORY: New 1959, p. 364, Act 243, Eff. Mar. 19, 1960.

125.1035 Trailer coach parks; location in more than one municipality.

Sec. 35. If a trailer coach park is located in more than one municipality, then it shall be considered to be a separate park for each of the municipalities in which it is located, except that all requirements pertaining to physical arrangement and provision of facilities shall be the same as though for a single park. Any license fees and monthly taxes accruing to municipalities under the provisions of this act shall be paid to each municipality on the basis of the number of trailer coach sites in each municipality and the number of occupied trailer coaches on sites in each municipality.

HISTORY: New 1959, p. 365, Act 243, Eff. Mar. 19, 1960.

125.1036 Repealed. 1970, p. 526, Act 172, Imd. Eff. Jan. 1, 1971.

Section related to trailer park summer license.

125.1041 Travel trailer parks; summer license; specific tax, collection, exception.

Sec. 41. Each licensee shall collect and remit a specific tax of $3.00 per month, or major fraction thereof, per occupied trailer coach, which shall be a tax upon the owners or occupants of each occupied trailer coach, including trailer coaches licensed under the provisions of Act No. 300 of the Public Acts of 1949, as amended, being sections 257.1 to 257.923 of the Compiled Laws of 1948, notwithstanding any provision of Act No. 300 of the Public Acts of 1949, as amended, to the contrary, occupying space within the trailer coach park. The specific tax shall be in lieu of any property tax levied upon the trailer coach pursuant to the provisions of Act No. 206 of the Public Acts of 1893, as amended, being sections 211.1 to 211.157 of the Compiled Laws of 1948, upon or on account of the trailer while located in the trailer coach park. The licensee of a trailer coach park shall not collect a monthly tax for any space occupied by a trailer coach accompanied by an automobile when the trailer coach and automobile bear license plates issued by any state other than this state for an accumulated period not to exceed 90 days in any 12-month period, if all the occupants of the trailer coach with accompanying automobiles are tourists or vacationists. When one or more persons occupying a trailer coach bearing a foreign license are employed or are conducting any manner of business or furnishing any service for gain within this state, there shall be no exemption from the specific tax.

HISTORY: New 1959, p. 365, Act 243, Eff. Mar. 19, 1960.

125.1042 Trailer coach parks; disbursement of tax revenue.

Sec. 42. The treasurer of the municipality, in which a trailer coach park is located, shall accept and verify the monthly reports from licensees and collect and disburse the monthly tax payments as hereinafter provided. The municipal treasurer shall issue a receipt in triplicate for all moneys collected under this act, the original to be given the licensee, the duplicate to be retained for municipal records, and the triplicate, together with 50 cents per trailer coach shall be transmitted to the county treasurer, who shall issue a receipt therefor and credit the county general fund. The municipal treasurer shall credit the municipal general fund with 50 cents per trailer coach so parked, and shall transmit to the school district in which the trailer coach was parked $2.00 for each trailer coach so parked.

HISTORY: New 1959, p. 365, Act 243, Eff. Mar. 19, 1960.

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125.1043 Trailer coach parks; tax, remittance; reimbursement of licensee.

Sec. 43. All remittances of monthly taxes shall be made by the licensee on or before the fifth day of each month for the preceding month. Nothing in this act shall prohibit any licensee from reimbursing himself for the amount of each specific tax which he is obligated to collect and remit by adding to his charges for each parking space in his trailer coach park an amount equal to the specific tax levied hereunder.

HISTORY: New 1959, p. 365, Act 243, Eff. Mar. 19, 1960.

125.1051 Trailer coach parks; location, requirements.

Sec. 51. No trailer coach park shall be so located as to be detrimental to the public health. All trailer coach parks shall be well drained and shall be located in areas free from ponds, swamps and similar places in which mosquitoes breed.

HISTORY: New 1959, p. 366, Act 243, Eff. Mar. 19, 1960.

125.1052 Trailer coach; restricted location.

Sec. 52. Every trailer coach permitted to occupy space within any trailer coach park shall be restricted to one or more full sites as designated on the approved plans and clearly identified in the field.

HISTORY: New 1959, p. 366, Act 243, Eff. Mar. 19, 1960;—Am. 1970, p. 525, Act 172, Imd. Eff. Jan. 1, 1971.

125.1053 Trailer coach; space requirements.

Sec. 53. Trailer coaches shall not be permitted to occupy single or full multiple sites if the trailer coaches are either longer or wider than would permit compliance with the following requirements:

(a) Space between trailer coaches may be used for the parking of motor vehicles if the space is clearly designated and the vehicle is parked at least 10 feet from the nearest adjacent trailer coach.

(b) There shall be unobstructed open spaces of at least 10 feet between the sides or end and sides of adjacent trailer coaches for the full length of the coaches, and at least 3 feet of unobstructed open space between the ends of adjacent trailer coaches. Hitches shall not extend beyond the boundary lines of the sites.

(c) Trailer coaches shall not be parked less than 10 feet from a building, a public street or alley, nor less than 3 feet from the boundary of any trailer coach park. When an area for motor vehicle parking is provided other than on a site or street right of way, motor vehicles shall be parked at least 10 feet from the sides of trailer coaches and 3 feet from the ends of trailer coaches.

(d) After the effective date of this 1970 amendatory act, for those lots added to an existing park and all lots in a new park, the 3-foot distance specified in subsections (b) and (c) is increased to 10 feet if any trailer coach involved is in excess of 12 feet in width at the end of the trailer coach where the distance is measured.

HISTORY: New 1959, p. 366, Act 243, Eff. Mar. 19, 1960;—Am. 1970, p. 525, Act 172, Imd. Eff. Jan. 1, 1971.

125.1054 Trailer coach parks; roadway requirements.

Sec. 54. Each individual trailer coach site shall abut or face on a clear unoccupied space, driveway, roadway or street of no less than 20 feet in width, which shall have unobstructed access to a public highway or alley. Existing licensed parks having driveways, roadways, or streets less than 20 feet in width shall not be required to increase the same to the 20 foot minimum road width as long as the park is not redesigned or added to. Roadways and streets within all trailer coach parks shall conform to the following schedule regarding vehicle traffic use, including motor vehicle parking:

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MOTOR VEHICLE PARKING ALLOWANCE	TRAFFIC USE	MINIMUM WIDTH OF ROAD
1. No parking on road (Separate lot or on-site parking provided)	2-way road	20 feet
2. Parallel parking, 1 side only	1-way road	20 feet
3. Parallel parking, 2 sides	1-way road	26 feet
4. Parallel parking, 2 sides	2-way road	36 feet

Where sidewalks are provided, the space required shall be in addition to the above schedule.

HISTORY: New 1959, p. 366, Act 243, Eff. Mar. 19, 1960.

125.1055 Trailer coach parks; water supply.

Sec. 55. The water supply serving any park constructed after the effective date of this act shall be obtained from a municipal supply if it is available and accessible. If a connection is not available and accessible, the water shall be obtained from a source approved by the director, and such supplies shall conform with all applicable provisions in the rules of the director pertaining thereto. A connection from the park system shall be provided on each trailer coach site.

HISTORY: New 1959, p. 366, Act 243, Eff. Mar. 19, 1960;—Am. 1970, p. 525, Act 172, Imd. Eff. Jan. 1, 1971.

125.1056 Trailer coach parks; plumbing.

Sec. 56. Plumbing in all trailer coach parks shall comply with all applicable codes or ordinances. In the absence of such codes or ordinances, plumbing shall meet the requirements of the standards of the state plumbing board with respect to layout, materials and workmanship.

HISTORY: New 1959, p. 367, Act 243, Eff. Mar. 19, 1960.

125.1057 Trailer coach parks; sewage and waste control.

Sec. 57. Methods and facilities for collection, treatment and disposal of sewage or other water carried wastes shall comply with any applicable ordinances or regulations and shall be of such a nature and capacity and so maintained and operated as not to create unlawful pollution of the waters of the state, a menace to health or a condition of nuisance. No waste water from trailer coaches shall be deposited on the surface of the ground. Trailer coach parks shall connect to a public sewer system where a public sewer system is available and accessible. Where no public sewer system is available and accessible, devices for the collection, treatment and disposal of sewage satisfactory to the commissioner shall be provided, and if no practicable way can be found by which proper waste disposal is assured, the permit shall not be issued.

HISTORY: New 1959, p. 367, Act 243, Eff. Mar. 19, 1960.

125.1058 Trailer coach parks; sewers.

Sec. 58. Sewers shall be laid at depths sufficient to provide adequate protection against physical injury and against freezing and trapped below the frost line for each service connection. An approved type of sewer connection shall be used for each trailer, which shall be odor tight and free from leakage. The owner or operator of the park shall see that connections are made to the sewer and maintained so long as the trailer remains in the park. Sewer connections to unoccupied sites shall be closed off in a manner that will prevent the emanation of odor from the sewer and shall be maintained to prevent the creation of breeding places for flies and insects.

HISTORY: New 1959, p. 367, Act 243, Eff. Mar. 19, 1960.

125.1059-125.1065 Repealed. 1970, p. 526, Act 172, Eff. Jan. 1, 1971.

Sections related to toilet, bathing and laundry facilities required at trailer coach parks.

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125.1066 Trailer coach parks; garbage and rubbish disposal.

Sec. 66. Garbage and rubbish shall be disposed of in a manner approved by the health officer.

HISTORY: New 1959, p. 368, Act 243, Eff. Mar. 19, 1960;—Am. 1970, p. 525, Act 172, Imd. Eff. Jan. 1, 1971.

125.1067 Trailer coach parks; electrical service.

Sec. 67. Electrical outlets shall be provided for each site. All electrical service entrances for each trailer shall be properly grounded. No connected electrical extension cords shall lay on the ground or be suspended less than 7 feet from the ground above sidewalks or pathways, and shall be of a type approved for such service by the state electrical administrative board. Installation shall be in compliance with standards established by the state electrical code for the type of service, and comply with all applicable codes and ordinances.

HISTORY: New 1959, p. 368, Act 243, Eff. Mar. 19, 1960.

125.1068 Trailer coach parks; fire extinguishers.

Sec. 68. Fire extinguishers bearing the underwriters' label and of a type approved for such service by the commissioner of state police shall be placed and maintained at locations within 200 feet of each trailer coach site. Each fire extinguisher shall be periodically examined and kept at all times in a usable condition.

HISTORY: New 1959, p. 369, Act 243, Eff. Mar. 19, 1960.

125.1071 Trailer coach parks; office; registration records.

Sec. 71. Each trailer coach park shall be provided with a custodian's office where each trailer coach entering the park shall be assigned to a lot location, given a copy of the trailer coach park rules, and registered according to the prescribed form. Registration shall include the name and address of every occupant of the trailer coach; the license number of the trailer coach and accompanying vehicle; and the state issuing the license. The licensee shall keep a registry of all children of school age occupying trailer coaches in the trailer coach park. The register shall be signed by an occupant of the trailer coach, cognizant of all facts contained in the registration. Any person furnishing misinformation for purposes of registration is guilty of a misdemeanor. The registration records shall be neatly and securely maintained and no registration records shall be destroyed until 6 years have elapsed following the date of registration. The register shall be available at all times for inspection by law enforcement officers.

HISTORY: New 1959, p. 369, Act 243, Eff. Mar. 19, 1960.

125.1072 Trailer coach parks; responsibility and duty of management.

Sec. 72. The management of every trailer coach park shall assume full responsibility for maintaining in good repair and condition all sanitary and safety appliances on said park, and shall promptly bring such action as is necessary to prosecute or eject from the park any person who fails to comply with the provisions of this act.

HISTORY: New 1959, p. 369, Act 243, Eff. Mar. 19, 1960.

125.1073 Trailer coach parks; line fence.

Sec. 73. If the owner of improved property abutting a trailer coach park demands that a fence be built on his property lines, the operator of the park shall build a suitable fence not less than 4 nor more than 6 feet in height, constructed of woven wire or open metal or wood pickets or boards, the cost of which shall be shared equally with the abutting property owners. Barbed wire shall not be used in the construction of this fence.

HISTORY: New 1959, p. 369, Act 243, Eff. Mar. 19, 1960;—Am. 1970, p. 525, Act 172, Imd. Eff. Jan. 1, 1971.

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125.1074 Trailer coach parks; prohibited practices.

Sec. 74. No animal washing, car washing or other slop creating practices shall be carried on in any trailer coach park, in any buildings, structure or any place within the trailer coach park not designated and approved for such purposes.

HISTORY: New 1959, p. 369, Act 243, Eff. Mar. 19, 1960.

125.1075 Trailer coach parks; streets and driveways.

Sec. 75. All streets and driveways in every trailer coach park shall be maintained in a passable and reasonably dustproof condition at all times.

HISTORY: New 1959, p. 369, Act 243, Eff. Mar. 19, 1960.

125.1076 Trailer coach parks; night lighting.

Sec. 76. Every trailer coach park shall be adequately lighted during darkness.

HISTORY: New 1959, p. 369, Act 243, Eff. Mar. 19, 1960.

125.1077 Trailer coach parks; attendant in charge.

Sec. 77. Every trailer coach park shall be in charge of a responsible attendant or caretaker at all times, who shall maintain the park, its facilities and equipment in a clean, orderly and sanitary condition, and be answerable, with the licensee, for any violation of the provisions of this act.

HISTORY: New 1959, p. 369, Act 243, Eff. Mar. 19, 1960.

125.1078 Trailer coach parks; animals at large prohibited.

Sec. 78. No domestic animals or house pets shall be allowed to run at large or commit any nuisances within the limits of the trailer coach park.

HISTORY: New 1959, p. 369, Act 243, Eff. Mar. 19, 1960.

125.1079 Trailer coach parks; communicable disease, report to health department.

Sec. 79. Every owner, operator or attendant of any trailer coach park in this state shall report to the health officer or the commissioner the full name, age and address of every person who is suspected of having a communicable disease.

HISTORY: New 1959, p. 370, Act 243, Eff. Mar. 19, 1960.

125.1081 Trailer coach parks; inspection by health officer.

Sec. 81. The health officer or the commissioner, their inspectors or representatives, shall inspect each trailer coach park at least once each year and oftener if necessary.

HISTORY: New 1959, p. 370, Act 243, Eff. Mar. 19, 1960.

125.1082 Trailer coach parks; inspection by school authorities.

Sec. 82. The board of education of the school district in which any trailer coach park is located, through its officers, attendance officers and proper employees, may inspect and visit the trailer coach park for the purpose of examining the register with reference to children of school age and with reference to enforcing attendance of school children housed in said trailer coach park in the schools of said district. Where a trailer coach park is located in 2 or more school districts, the boards of education of the districts, acting jointly, may proceed under the provisions of this section. Whenever the boards of more than one district meet jointly, they shall elect one of their number chairman and another clerk thereof.

HISTORY: New 1959, p. 370, Act 243, Eff. Mar. 19, 1960.

125.1083 Trailer coach parks; school age children, report to school district.

Sec. 83. Upon request of the board of the school district in which the trailer coach park is located, the licensee shall file a report giving the names and ages of all children of school age living in the trailer coach park.

HISTORY: New 1959, p. 370, Act 243, Eff. Mar. 19, 1960.

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125.1085 Trailer coach parks; eviction, reasons.

Sec. 85. (1) A person who rents or leases space in a trailer coach park may not be evicted for:

(a) Filing against an owner or operator of a trailer coach park a complaint which alleges a violation of this act.

(b) Invoking the protection or remedies afforded in this act against an owner or operator who is violating a provision of this act.

HISTORY: Add. 1970, p. 525, Act 172, Imd. Eff. Jan. 1, 1971.

125.1091 Exemptions.

Sec. 91. Nothing in this act shall be construed to include properties owned by individuals or corporations licensed pursuant to Act No. 289 of the Public Acts of 1965, as amended, being sections 286.621 to 286.634 of the Compiled Laws of 1948, and used for housing agricultural labor forces employed by such individuals or corporations, or lands platted under Act No. 172 of the Public Acts of 1929, as amended, or Act No. 288 of the Public Acts of 1967, being sections 560.101 to 560.293 of the Compiled Laws of 1948, where not more than 1 trailer coach is located on a platted lot and the trailer coach is served by governmental water supply and sewerage systems or individual on-site water supply and sewage disposal.

HISTORY: New 1959, p. 370, Act 243, Eff. Mar. 19, 1960;—Am. 1961, p. 3, Act 2, Imd. Eff. Mar. 20;—Am. 1963, p. 225, Act 161, Imd. Eff. May 14;—Am. 1970, p. 526, Act 172, Imd. Eff. Jan. 1, 1971.

125.1092 Repealed. 1970, p. 526, Act 172, Imd. Eff. Jan. 1, 1971.

Section related to government-owned trailer coach parks.

125.1093 Trailer coach parks; license revocation, procedure.

Sec. 93. The commissioner may petition the circuit court of the county in which the licensee resides for an order directed to any licensee to show cause why his license should not be suspended or revoked in any case where the commissioner alleges that there has been a failure to comply with the provisions of this act.

HISTORY: New 1959, p. 370, Act 243, Eff. Mar. 19, 1960.

125.1094 Trailer coach parks; duties of health and peace officers.

Sec. 94. The health officer, the commissioner of state police, or any peace officer, having jurisdiction in the area in which a trailer coach park is located, shall notify the commissioner of any known violation of this act or the rules and regulations promulgated hereunder. In addition, they shall make any necessary inspections of trailer coach parks and enforce the provisions of this act and orders of the commissioner thereunder, and any other laws affecting trailer coach parks by all appropriate means, including, but not limited to, prosecution of violators.

HISTORY: New 1959, p. 370, Act 243, Eff. Mar. 19, 1960;—Am. 1963, p. 225, Act 161, Imd. Eff. May 14.

125.1095 Trailer coach parks; injunctive relief.

Sec. 95. Notwithstanding the existence and pursuit of any other remedy, the commissioner or the health officer may maintain an action in the name of the state for injunction or other process against any person to restrain or prevent the construction, enlargement or alteration of a trailer coach park, as described in section 5 of this act, without a permit therefor, or the operation or conduct of such a park without a valid license, or in a manner contrary to law.

HISTORY: New 1959, p. 370, Act 243, Eff. Mar. 19, 1960.

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125.1096 Trailer coach parks; violation of act, penalty.

Sec. 96. Any person constructing, enlarging or altering any trailer coach park without a permit, or conducting or operating a trailer coach park without a license, or convicted of violating any of the provisions of this act or any rules and regulations promulgated hereunder, shall be guilty of a misdemeanor.

HISTORY: New 1959, p. 371, Act 243, Eff. Mar. 19, 1960;—Am. 1963, p. 225, Act 161, Imd. Eff. May 14.

125.1097 Trailer coach parks; act repealed.

Sec. 97. Act No. 143 of the Public Acts of 1939, as amended, being sections 125.751 to 125.769 of the Compiled Laws of 1948, is hereby repealed.

HISTORY: New 1959, p. 371, Act 243, Eff. Mar. 19, 1960.

Act 116, 1963, p. 159; Imd. Eff. May 10.

AN ACT to create a state department of economic expansion and an economic expansion council, and to prescribe their powers and duties; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

125.1201 Economic expansion department; organization, subject to approval of governor.

Sec. 1. There is created a department of state government to be known as the department of economic expansion, consisting of the executive director of economic expansion as head of the department, a deputy executive director of economic expansion if appointed, such departmental divisions as the executive director establishes, and such other employees as are hereinafter provided for. The organization of the department is subject to the approval of the governor.

HISTORY: New 1963, p. 159, Act 116, Imd. Eff. May 10.

CITED IN OTHER SECTIONS: Sections 125.1201 to 125.1208 are cited in § 16.332.

125.1202 Executive director; deputy executive director; appointment.

Sec. 2. The governor shall appoint, with the advise [sic] and consent of the senate, an executive director of economic expansion who shall serve at the pleasure of the governor. The executive director may appoint a deputy executive director of economic expansion.

HISTORY: New 1963, p. 160, Act 116, Imd. Eff. May 10.

125.1203 Economic development department; transfer of records, files, property.

Sec. 3. The records, files and property of the department of economic development are transferred to the department of economic expansion. Wherever reference is made in the laws of this state to the department of economic development or the commission of economic development, such reference shall be deemed to mean the department of economic expansion and wherever reference is made in the laws of this state to the chairman of the commission of economic development, such reference shall be deemed to mean the executive director of the department of economic expansion.

HISTORY: New 1963, p. 160, Act 116, Imd. Eff. May 10.

125.1204 Economic expansion program; activities.

Sec. 4. The executive director shall plan and direct the carrying out of an economic expansion program for the state, except as to planning functions transferred to the executive office of the governor by Act No. 380 of the Public Acts of 1965, as amended, being sections 16.101 to 16.608 of the Compiled Laws of 1948. The program shall aid the creation of new job opportunities, encourage the expansion, development and di-

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versification of industry, commerce and agriculture and the bringing of new industry to this state, and create an atmosphere in which the businesses of the state may prosper and its citizens may enjoy the benefits of a growing economy. The program shall include, but not be restricted to, the following activities:

(a) Investigation and study of conditions affecting the economy of the state, technical studies and statistical research and surveys necessary or useful for the expansion of the economy, and collection and dissemination of such information as may be beneficial to public and private organizations.

(b) Encouragement of scientific research, and the development of new and more extensive use of forest, mineral and other resources, through the universities and colleges of the state, and other public and private agencies.

(c) Conducting research and recommendations of programs necessary to provide training for vocational skills needed to take full advantage of the state's human resources.

(d) Recommendations to the governor and the legislature, for the study and improvement of conditions, and for the elimination of restrictions, trade barriers and burdens imposed by law or otherwise, which may adversely affect or retard the legitimate development and expansion of industry, commerce or agriculture.

(e) Study and advice to the governor, the legislature, industry and interested organizations and associations as to means and methods of providing financing for economic expansion in the state.

(f) Promotion and encouragement of the expansion and development of markets in domestic and international trade for products of the state.

(g) Publicizing of the material, economic and cultural advantages of the state which make it a desirable place for business and residence.

(h) Advise and cooperate with, regional, county, municipal and other local planning agencies within the state, for the purpose of encouraging cultural, economic and physical self-improvement of the communities and coordination of state and local planning under direction of the governor.

(i) Confer and cooperate with the executive, legislative and planning authorities of the United States and neighboring states, and of the counties and municipalities of such neighboring states, for the purpose of bringing about coordination between the development of such neighboring states, counties and municipalities, and the development of this state under direction of the governor.

(j) To conduct research and make recommendations to the governor for the general purpose of guiding and accomplishing a coordinated and efficient development of the state in accordance with present and future needs and to best utilize the state's natural, material and human resources. Upon direction of the governor the department shall utilize and coordinate the research facilities of state departments and institutions in the interest of Michigan's economic and other development.

HISTORY: New 1963, p. 160, Act 116, Imd. Eff. May 10;—Am. 1967, p. 108, Act 88, Eff. Nov. 2.
CITED IN OTHER SECTIONS: The above section is cited in § 16.113.

125.1205 Economic expansion department; powers.

Sec. 5. The department of economic expansion, in addition to its other powers and duties, may:

(a) Accept, with legislative approval, grants of funds made by the United States or any department or agency thereof or other public or private agency or individual in this state or other states.

(b) Enter into contracts with boards, commissions and agencies, both public and private, and with individuals to carry out the purposes of this act.

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(c) Succeed to the rights and carry out the obligations of this state with respect to existing contracts executed on behalf of the state by the department of economic development and execute necessary amendments thereto with the power to carry out the obligations set forth in such amendments.

(d) Act as the state's official liaison agency with federal agencies concerned with economic development and public works programs.

HISTORY: New 1963, p. 161, Act 116, Imd. Eff. May 10.

125.1206 Economic expansion department; acceptance of grants; transfer of records, files, property, and employees of department of administration.

Sec. 6. Upon the request of the governing body of any city, village, county, township or regional planning district, the department of economic expansion may apply for and accept grants without further legislative approval from the federal government for planning assistance for the local units of government, which includes but is not limited to surveys, land use studies, urban renewal plans, technical services and other planning work. State costs shall be reimbursed to the state by the local units of government. The department may accept and expend grants from the federal government and other public or private sources, contract with reference thereto, and enter into other contracts and exercise all other powers necessary to carry out the purposes of this section. The records, files and property of the department of administration relating to this power are transferred to the department of economic expansion. Employees of the department of administration as designated by the state controller are transferred to the department of economic expansion on the effective date of this act retaining their civil service classifications without further examination or qualification. Such employees shall perform such duties as may be assigned to them by the executive director.

HISTORY: New 1963, p. 161, Act 116, Imd. Eff. May 10.

125.1207 Economic expansion council; members, appointment, term, chairman, officers, quorum, committees, report, compensation, expenses.

Sec. 7. There is created an agency of the state to be known as the economic expansion council consisting of 25 members including the executive director of the department of economic expansion as an ex-officio member. The governor shall appoint the other members of the council for terms of office coterminous with that of the governor and until their successors are appointed. The governor shall appoint the chairman of the council who shall serve at the pleasure of the governor. The council shall elect such other officers it deems necessary, determine their terms of office and shall adopt such other rules and regulations necessary to govern its procedure and business. The council shall meet at the call of the governor or the chairman. Ten members constitute a quorum. The chairman may appoint, with the approval of the governor, such committees, including an executive committee, as may be necessary to carry out the duties of the council. The membership of the committees, except the executive committee, is not restricted to members of the council. The council shall advise the governor and the department of economic expansion in the areas in which the department is granted authority under section 4. The council shall be responsible to the governor and shall make an annual report to him and the legislature concerning the activities of the council. Members of the council shall serve without compensation but shall be entitled to reasonable and necessary expenses incurred in the discharge of their duties.

HISTORY: New 1963, p. 161, Act 116, Imd. Eff. May 10.

125.1208 Repeal.

Sec. 8. Act No. 302 of the Public Acts of 1947, as amended, being sections 125.1 to 125.8 of the Compiled Laws of 1948, and section 17 of Act No. 51 of the First Extra

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Session of 1948, as added by Act No. 110 of the Public Acts of 1960, being section 18.17 of the Compiled Laws of 1948, are repealed.

HISTORY: New 1963, p. 162, Act 116, Imd. Eff. May 10.

Act 46, 1966, p. 69; Imd. Eff. Jun. 2.

AN ACT to create a county or regional economic development commission; and to prescribe the powers and duties thereof.

The People of the State of Michigan enact:

125.1231 County economic development commission; creation, membership.

Sec. 1. The board of supervisors of any county may create a county economic development commission, as a separate agency or by designation of an existing county board, commission, department or agency, as the county economic development commission. The boards of supervisors of 2 or more contiguous counties may create a regional economic development commission. Economic development commissions created under this act shall consist of not less than 3 nor more than 35 members with such powers and duties as are herein prescribed. Membership of a regional commission shall be apportioned according to the population of the respective member counties. County economic development commissions heretofore established by county boards of supervisors are validated as commissions established under this act.

HISTORY: New 1966, p. 69, Act 46, Imd. Eff. Jun. 2;—Am. 1969, p. 189, Act 102, Imd. Eff. Jul. 24.

125.1232 County economic development commission; rules and regulations; compensation.

Sec. 2. The commission shall be deemed to be an agency of the county or region. The board or boards of supervisors may make such rules and regulations in respect to the commission as it deems advisable. The commissioners, in administering the activities of the commission, may adopt such further rules and regulations as they deem advisable. The compensation of the commissioners for carrying out the duties and responsibilities imposed hereunder, shall be fixed by the board or boards of supervisors.

HISTORY: New 1966, p. 70, Act 46, Imd. Eff. Jun. 2.

125.1233 County economic development commission; appointment of employees.

Sec. 3. The commission shall appoint such employees as they deem necessary to carry out the provisions hereof, subject to civil service regulations in counties having adopted a civil service system.

HISTORY: New 1966, p. 70, Act 46, Imd. Eff. Jun. 2.

125.1234 County economic development commission; expenses; provision by board of supervisors.

Sec. 4. The board or boards of supervisors shall provide each year in its annual budget for the expenses of the commission.

HISTORY: New 1966, p. 70, Act 46, Imd. Eff. Jun. 2.

125.1235 Economic development and expansion program; activities.

Sec. 5. The commission shall plan and direct the carrying out of an economic development and expansion program for the county or region. The program shall include, but not be restricted to, the following activities:

(a) Investigation and study of conditions affecting the economy of the area, technical studies and statistical research and surveys necessary or useful for the expansion of the economy, and the collection and dissemination of such information.

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(b) Recommendations to the board or boards of supervisors for the study and elimination of restrictions, barriers and burdens imposed by law or otherwise, which may adversely affect or retard the development and expansion of area industry, commerce or agriculture.

(c) Study and advise the board or boards of supervisors, industry and interested organizations and associations as to means and methods of providing financing for economic expansion in the county or region.

(d) Promotion and encouragement of the expansion and development of markets for products of the county or region.

(e) Publicizing of the material, economic and cultural advantages of the county or region.

(f) Conduct research and make recommendations to the board or boards of supervisors for the general purpose of guiding and accomplishing a coordinated and efficient development of the county or region in accordance with present and future needs and to best utilize the county's or region's resources.

HISTORY: New 1966, p. 70, Act 46, Imd. Eff. Jun. 2.

125.1236 County economic development commission; additional powers and duties.

Sec. 6. The commission, in addition to its other powers and duties, may:

(a) Accept, with the approval of the board or boards of supervisors, grants of funds made by the state, the United States, or any department or agency thereof, or other public or private agency or individual.

(b) Enter into contracts with boards, commissions and agencies, both public and private, and with individuals to carry out the purposes of this act.

(c) Act as the county's or region's official liaison agency with state and federal agencies concerned with economic development programs.

HISTORY: New 1966, p. 70, Act 46, Imd. Eff. Jun. 2.

125.1237 Applications for state or federal grants; acceptance, expenditures.

Sec. 7. Upon the request of the governing body of any city, village or township located within the county or region, the commission may apply for and accept grants from the state or the federal government for assistance for the local units of government, which includes but is not limited to surveys, land use studies, urban renewal plans and technical services. County costs shall be reimbursed to the county or counties by the local units of government. The commission may accept and expend grants from the state and the federal government and other public or private sources, contract with reference thereto, and enter into other contracts and exercise all other powers necessary to carry out the purpose of this act.

HISTORY: New 1966, p. 71, Act 46, Imd. Eff. Jun. 2.

Act 62, 1963, p. 71; Imd. Eff. May 8.

AN ACT relating to industrial development; to authorize municipalities to acquire industrial buildings and sites and industrial machinery and equipment and tourist and resort facilities; to provide for the financing of such buildings, sites, machinery and equipment by the issuance of revenue bonds; to provide the terms and conditions of such bonds; and to prescribe the powers and duties of the municipal finance commission. Am. 1966, p. 627, Act 340, Imd. Eff. Sep. 21;—Am. 1970, p. 18, Act 8, Imd. Eff. Mar. 24.

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The People of the State of Michigan enact:

125.1251 Industrial development revenue bond act; short title.

Sec. 1. It is hereby determined that there exists in the state of Michigan the continuing need for programs to alleviate and prevent conditions of unemployment, to assist and retain local industries, to meet growing competition for new industries and to strengthen and revitalize the economy in general. It is further determined that the authority and powers conferred by this act, which shall be known and may be cited as the "industrial development revenue bond act of 1963", constitute such a necessary program and serve a valid public purpose.

HISTORY: New 1963, p. 71, Act 62, Imd. Eff. May 8;—Am. 1966, p. 627, Act 340, Imd. Eff. Sep. 21.

125.1252 Industrial development revenue bond act of 1963; definitions.

Sec. 2. As used in this act:

(a) "Industrial building" means any building or structure suitable for and intended for or incidental to use as a factory, mill, shop, processing plant, assembly plant, fabricating plant, warehouse or research and development facility or engineering, architectural or design facility, or tourist and resort facility.

(b) "Municipality" means any county, city, incorporated village, township or port district.

(c) "Governing body" means the board, by whatever name known, charged with governing the municipality.

(d) "Industrial machinery and equipment" means such machinery and equipment, other than vehicular equipment, as shall be necessary, suitable, intended for or incidental to the use to which the industrial building in which such machinery or equipment shall be situated is to be put.

HISTORY: New 1963, p. 71, Act 62, Imd. Eff. May 8;—Am. 1966, p. 627, Act 340, Imd. Eff. Sep. 21;—Am. 1968, p. 298, Act 200, Imd. Eff. June 22.—Am. 1970, p. 18, Act 8, Imd. Eff. Mar. 24.

125.1253 Municipalities; powers as to industrial sites and buildings.

Sec. 3. Any municipality may:

(a) Construct, acquire by gift or purchase, reconstruct, improve, maintain or repair industrial buildings within or without the municipality, acquire sites therefor and enlarge or remodel industrial buildings.

(b) Acquire by gift or purchase industrial machinery and equipment, but only in conjunction with a project whereby the municipality will construct, acquire by gift or purchase, reconstruct, improve or remodel the industrial building in which the industrial machinery or equipment will be located.

(c) Issue revenue bonds to finance the costs of the acquisition, purchase, construction, reconstruction or remodeling of industrial buildings, the acquisition and improvement of sites, and the acquisition of industrial machinery and equipment.

(d) Enter into lease or lease purchase agreements with any person, firm or corporation for the use of the industrial building, the site therefor and industrial machinery and equipment. The agreement shall provide that the rents to be charged for the use shall be fixed and revised from time to time so as to produce income and revenues sufficient to pay promptly when due the interest upon and the principal of all bonds issued payable therefrom after provision has been made for the payment of operation and maintenance costs. Whenever such agreement shall relate to industrial machinery or equipment, it shall specify that such machinery or equipment shall remain in the industrial building until provision has been made for the retirement in full of all bonds issued therefor unless such industrial machinery and equipment is replaced without cost to the municipality with similar machinery and equipment of equivalent value and utility.

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(e) Mortgage the industrial building, the site and any industrial machinery and equipment in favor of the holders of the bonds issued therefor.

(f) Sell and convey the industrial building, the site and any industrial machinery and equipment, including without limitation the sale and conveyance thereof subject to a mortgage, for such price and at such time as the governing body may determine, but no sale or conveyance shall be made in any manner as to impair the rights or interests of the holders of any bonds issued payable from the rentals thereof.

HISTORY: New 1963, p. 71, Act 62, Imd Eff. May 8;—Am. 1966, p. 628, Act 340, Imd. Eff. Sep. 21.

125.1254 Municipalities; industrial building revenue bonds, terms.

Sec. 4. For the purpose of defraying the cost of the industrial building, the site therefor and industrial machinery and equipment, any municipality may borrow money and issue its negotiable bonds therefor. The bonds shall be serial bonds or term bonds or any combination thereof and if serial bonds they shall be payable either semi-annually or annually with the first maturity date not more than 5 years from the date thereof. The last maturity date of the bonds, whether term or serial, shall be not more than 40 years from the date thereof. No maturity date shall fall due after the estimated period of usefulness of the industrial building, or, if the industrial machinery and equipment therein shall represent more than 2/3 of the total cost of the project, after the average estimated period of usefulness of said industrial machinery and equipment. The bonds shall bear such rate of interest as specified therein not to exceed 7% per annum, payable semiannually, except that the first coupon may be for any number of months not exceeding 10. The bonds and coupons shall be substantially in the form provided in the authorizing resolution and shall be executed in the manner prescribed therein, which as to coupons may be by facsimile signature. The bonds and coupons shall be payable in lawful money of the United States, and shall be exempt from taxation by the state or by any taxing authority within the state. The principal and interest of the bonds shall be payable solely from the net revenues derived from the industrial building and site and any industrial machinery and equipment. No bond or coupon issued pursuant to this act shall be a general obligation of the issuer nor constitute a debt of the issuer within the meaning of any constitutional or statutory limitation. Bonds may be made registerable as to principal or principal and interest under such terms and conditions as may be determined by the governing body of the municipality.

HISTORY: New 1963, p. 71, Act 62, Imd. Eff. May 8;—Am. 1966, p. 628, Act 340, Imd. Eff. Sep. 21;—Am. 1967, p. 66, Act 48, Imd. Eff. Jun. 14.

125.1255 Resolution authorizing issuance of bonds; contents.

Sec. 5. (1) Any resolution authorizing the issuance of bonds under this act may contain covenants as to

(a) The use and disposition of the rentals received under the agreement, including the creation and maintenance of reserves.

(b) The issuance of other or additional bonds payable from the income and revenues from the industrial building and site and any industrial machinery and equipment.

(c) The maintenance and repair costs of the industrial building and site and any industrial machinery and equipment, which costs may be assumed by the lessee, person, firm or corporation, in which event no provision need be made for rental payments to meet said costs.

(d) The insurance to be carried thereon and the use and disposition of insurance moneys.

(e) The terms and conditions upon which the holder of the bonds, or any portion thereof or any trustees therefor, shall be entitled to the appointment of a receiver by the circuit court, which court shall have jurisdiction in such proceedings, and which

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receiver may enter and take possession of the industrial building and site and any industrial machinery and equipment and lease and maintain it, prescribe rentals and collect, receive and apply all income and revenues thereafter arising therefrom in the same manner and to the same extent as the municipality might do.

(2) Any resolution authorizing the issuance of bonds under this act may provide that the principal of and interest on any bonds issued shall be secured by a mortgage or deed of trust covering the industrial building and site and any industrial machinery and equipment for which the bonds are issued and may include any additions, improvements or extensions thereafter made. The mortgage or deed of trust may contain such covenants and agreements to properly safeguard the bonds as may be provided for in the resolution authorizing the bonds but not inconsistent with this act and shall be executed in the manner provided in the resolution. The resolution may provide for the appointment of 1 or more trustees for bondholders, and any such trustee may be an individual or corporation domiciled or located within or without the state and may be given appropriate powers whether with or without the execution of a mortgage or deed of trust covering the industrial building or site or industrial machinery and equipment.

(3) The provisions of this act and any resolution and any mortgage or deed of trust shall continue in effect until the principal of and the interest on the bonds has been fully paid and the duties of the municipality and its governing body and officers under this act and any resolution and any mortgage or deed of trust shall be enforceable by any bondholder by mandamus, foreclosure of the mortgage or deed of trust or other appropriate action in any court of competent jurisdiction.

(4) The resolution authorizing the bond shall provide that the bonds shall contain a recital that they are issued pursuant to this act, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

(5) Any resolution authorizing the issuance of bonds under this act shall not be effective until publication once in a newspaper of general circulation within the municipality.

HISTORY: New 1963, p. 72, Act 62, Imd. Eff. May 8;—Am. 1966, p. 628, Act 340, Imd. Eff. Sep. 21;—Am. 1967, p. 67, Act 48, Imd. Eff. Jun. 14.

125.1256 Redemption of bonds.

Sec. 6. The bonds may provide that they may be called for redemption prior to the maturity date, on interest payment dates not earlier than 1 year from the date of issuance of the bonds, at a price and under conditions fixed by the governing body before issuing the bonds.

HISTORY: New 1963, p. 72, Act 62, Imd. Eff. May 8;—Am. 1966, p. 629, Act 340, Imd. Eff. Sep. 21.

125.1257 Default; receiver.

Sec. 7. If there is any default in the payment of principal of or interest on any bond issued hereunder, any circuit court having jurisdiction of the action may appoint a receiver to administer the industrial building and site and any industrial machinery and equipment on behalf of the municipality, with power to charge and collect rents sufficient to provide for the payment of any bonds outstanding, and for the payment of operating expenses and to apply the income and revenue in conformity with this act and the resolution made hereunder.

HISTORY: New 1963, p. 72, Act 62, Imd. Eff. May 8;—Am. 1966, p. 629, Act 340, Imd. Eff. Sep. 21.

125.1258 Repealed. 1966, p. 631, Act 340, Imd. Eff. Sep. 21.

Section related to industrial development, providing for transfer of surplus from operating and maintenance funds to depreciation account to be used for improvements or additions to building.

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125.1259 Additional bonds; new bonds.

Sec. 9. (1) If the governing body finds that the bonds authorized will be insufficient to accomplish the purpose desired, additional bonds, only in the amount necessary to complete the project as originally approved, may be authorized and issued in the same manner.

(2) At the time of issuing the bonds, the governing body may provide for additional bonds for additions, extensions and permanent improvements, to be placed in escrow and negotiated from time to time as proceeds for that purpose may be necessary. When negotiated, bonds placed in escrow shall have equal standing with bonds of the same issue.

(3) The municipality may issue new bonds to provide funds for the payment of any outstanding bonds in accordance with the procedure prescribed in this act. The new bonds shall be secured to the same extent and shall be payable from rentals of the same industrial building and site and any industrial machinery and equipment as the bonds refunded.

HISTORY: New 1963, p. 73, Act 62, Imd. Eff. May 8;—Am. 1966, p. 629, Act 340, Imd. Eff. Sep. 21.

125.1260 Cost of project.

Sec. 10. In determining the cost of the project, the governing body may include all cost and estimated cost of the issuance of the bonds, all engineering, inspection, fiscal and legal expenses and interest which it is estimated will accrue during the construction period and for 6 months thereafter on money borrowed or which it is estimated will be borrowed pursuant to this act.

HISTORY: New 1963, p. 73, Act 62, Imd. Eff. May 8.

125.1261 Taxation of lessee; liens; recovery.

Sec. 11. When any real or personal property acquired pursuant to this act is leased to a private person, firm or corporation, the lessee shall be subject to taxation in the same amount and to the same extent as though the lessee were the owner of the property. Taxes shall be assessed to the lessee of the real or personal property and collected in the same manner as taxes assessed to owners of real or personal property, except that the taxes shall not become a lien against the property. When due, the taxes shall constitute a debt due from the lessee to the taxing unit and shall be recoverable by direct action of assumpsit.

HISTORY: New 1963, p. 73, Act 62, Imd. Eff. May 8;—Am. 1966, p. 630, Act 340, Imd. Eff. Sep. 21.

125.1262 Referendum; intention to issue bonds.

Sec. 12. The governing body may issue bonds pursuant to this act without submitting the proposition to the electors of the municipality for approval unless within 45 days from the publication of a notice of intention to issue the bonds, which notice shall set forth the amount of the issue and the name of the person, firm or corporation who will lease the industrial building, the site therefor and the industrial machinery and equipment, a petition, signed by not less than 5% of the registered electors of the municipality is filed with the clerk of the municipality requesting a referendum upon the question of the issuance of the bonds, in which event the bonds shall not be issued until approved by a majority of the electors of the municipality voting thereon at a general or special election. The provisions of subdivision (g) of section 5 of Act No. 279 of the Public Acts of 1909, as amended, being section 117.5 of the Compiled Laws of 1948, relative to notice of intention to issue bonds, shall not apply to the authorization of the issuance of any bonds under this act.

HISTORY: New 1963, p. 73, Act 63, Imd. Eff. May 8;—Am. 1966, p. 630, Act 340, Imd. Eff. Sep. 21;—Am. 1967, p. 67, Act 45, Imd. Eff. Jun. 14.

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125.1263 Issuance of bonds; approval of municipal finance commission necessary.

Sec. 13. Before any bonds are issued under the provisions of this act, the issuing municipality shall make a sworn application to the municipal finance commission, on forms furnished by the commission, for permission to issue the bonds. The municipality shall attach a certified copy of the resolution authorizing the bonds and, except in the case of refunding bonds, a certified copy of the estimate of the cost of the project. The commission may request the municipality to furnish such information as the commission deems necessary in order to pass on the application. No bonds shall be issued until the municipal finance commission approves the issuance. In determining whether a proposed issue of bonds shall be approved, the municipal finance commission shall take into consideration: (a) whether the bonds conform to the provisions of this act; (b) whether the probable revenues pledged to the payment of the bonds will be sufficient to pay the principal and interest when due; and (c) whether the amount of the proposed issue is sufficient or excessive for the purpose for which they are to be issued.

No order of the municipal finance commission permitting the issuance of bonds under this act shall be deemed an approval of the legality thereof. Any determination or finding made by the commission involving any question of fact shall be deemed conclusive of such fact after the issuance of the bonds. The issuance of the commission's order granting permission to issue the bonds shall imply that the commission has made such determination of facts or circumstances, has given such approvals and has reached such opinions as are a necessary prerequisite to the issuance of the order.

HISTORY: New 1963, p. 73, Act 62, Imd. Eff. May 8.

125.1264 Sale of bonds.

Sec. 14. Bonds issued under this act may be sold at private or public sale upon such terms as may be fixed by the governing body. Said bonds may be sold at a discount of not exceeding 10%: Provided, however, That said bonds shall not be sold at a price which would make the interest cost on the money borrowed after deducting any premium or adding any discount, exceed 7% per annum.

HISTORY: Add. 1966, p. 630, Act 340, Imd. Eff. Sep. 21;—Am. 1967, p. 68, Act 48, Imd. Eff. Jun. 14.

125.1265 Municipalities; powers as to industrial buildings and machinery.

Sec. 15. Nothing herein contained shall be interpreted to grant to any municipality the authority to operate an industrial building or any industrial machinery or equipment for its own use. The prohibition of this section shall not prevent a municipality from conserving and maintaining an industrial building and site and any industrial machinery and equipment acquired hereunder pending lease thereof to a private person, firm or corporation.

HISTORY: Add. 1966, p. 630, Act 340, Imd. Eff. Sep. 21.

125.1266 Construction of act; cumulative powers.

Sec. 16. This act shall be construed as granting cumulative authority for the exercise of the various powers herein conferred, and neither said powers nor any bonds issued hereunder shall be affected or limited by any other statutory or charter provision now or hereafter in force, other than as may be provided herein, it being the purpose and intention of this act to create full, separate and complete additional powers. The various powers conferred herein may be exercised independently and notwithstanding that no bonds are issued hereunder.

HISTORY: Add. 1966, p. 630, Act 340, Imd. Eff. Sep. 21.

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125.1267 Liberal construction of act.

Sec. 17. This act, being necessary for and to secure the public health, safety, convenience and welfare of the municipalities of the state of Michigan, shall be liberally construed to effect the public purposes hereof.

HISTORY: Add. 1966, p. 630, Act 340, Imd. Eff. Sep. 21.

Act 122, 1965, p. 166; Imd. Eff. Jul. 8.

AN ACT to authorize local governments to comply with, and accept and match federal funds under certain federal acts.

The People of the State of Michigan enact:

125.1281 Acceptance and expenditure of federal funds; matching funds.

Sec. 1. A county, city, village or township may take any necessary action consistent with state law to comply with the provisions of Public Law 415 of the 87th Congress, known as the "manpower development and training act of 1962", as amended, and Public Law 452 of the 88th Congress, known as the "economic opportunity act of 1964", as amended, and may accept and expend federal funds available under, and provide matching funds, facilities and services to the extent required by, such laws.

HISTORY: New 1965, p. 166, Act 122, Imd. Eff. Jul. 8.

Act 1, 1966, p. 7; Eff. Jul. 1.

AN ACT to provide for the accessibility and the utilization by the physically handicapped of certain buildings constructed with funds of the state or its political subdivisions and of certain buildings used by the public and to provide for the enforcement of the act. Am. 1970, p. 656, Act 243, Eff. Jul. 1, 1971.

The People of the State of Michigan enact:

125.1351 Utilization of public buildings by physically handicapped; definitions.

Sec. 1. As used in this act:

(a) "Physical handicap" means an impairment which confines an individual to a wheel chair; causes an individual to walk with difficulty or insecurity; affects the sight or hearing to the extent that an individual functioning in public areas is insecure or exposed to danger; causes faulty coordination or reduces mobility, flexibility, coordination and perceptiveness to the extent that special facilities are needed to provide for the safety of that individual.

(b) "Administrative authority" means the state official responsible for the administration and enforcement of the provisions of the act.

(c) "Public building" means a structure to which the public customarily has access and utilizes and which is constructed, in whole or in part, with funds of the state or its political subdivisions.

(d) "Buildings used by the public" means a building, structure or improved area used primarily by the general public as a place of gathering or amusement, including but not limited to: theaters, restaurants, hotels and stadia.

HISTORY: New 1966, p. 7, Act 1, Eff. Jul. 1;—Am. 1970, p. 656, Act 243, Eff. Jul. 1, 1971.

125.1352 Alteration and construction, requirements, approval.

Sec. 2. (a) Public buildings and buildings used by the public constructed in this state after the effective date of this amendatory act shall meet the requirements for the pro-

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vision of access and utilization by the physically handicapped as are promulgated by the state building division except where the administrative authority determines, after considering all circumstances applying to the building, that full compliance is impracticable.

(b) Existing public buildings and buildings used by the public undergoing major remodeling or rehabilitation after the effective date of this act shall meet the requirements of this act except where the administrative authority determines that full compliance is impracticable.

(c) Approval of the administrative authority shall be secured before the awarding of construction contracts for any building covered by this act.

HISTORY: New 1966, p. 7, Act 1, Eff. Jul. 1;—Am. 1970, p. 656, Act 243, Eff. Jul. 1, 1971.

125.1353 Administration and enforcement of act.

Sec. 3. (a) The administration and enforcement of this act in respect to all public buildings, except for school buildings other than at institutions of higher education as defined in section 4, article 8 of the state constitution, are vested in the state building division.

(b) The administration and enforcement of this act in respect to school buildings other than at state institutions of higher education as defined in section 4, article 8 of the state constitution, which are included in section 3a of this act, are vested in the department of education.

(c) The administration and enforcement of this act in respect to buildings used by the public are vested in the building and inspection departments or agencies of local administrative authority with the responsibility and duty of issuing building permits.

HISTORY: New 1966, p. 7, Act 1, Eff. Jul. 1;—Am. 1970, p. 656, Act 243, Eff. Jul. 1, 1971.

125.1354 Rules and regulations; promulgation by state building division.

Sec. 4. The state building division is empowered to adopt and promulgate such reasonable and standard rules for the effective administration of this act, as it shall deem necessary, after consultation with the department of education, which are not inconsistent with the provisions of this act or any law of this state. The rules authorized hereunder shall be in accordance with established practicable means for securing safety and shall be based upon generally accepted nationwide engineering standards and practices. The rules promulgated by the state building division shall be in accordance with and subject to the provisions of Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.313 of the Compiled Laws of 1948.

The rules will be administered and enforced by both administrative authorities in their respective areas.

HISTORY: New 1966, p. 7, Act 1, Eff. Jul. 1;—Am. 1970, p. 656, Act 243, Eff. Jul. 1, 1971.

125.1355 Violation of act; penalty.

Sec. 5. Any person responsible for the awarding of construction contracts which are in violation of the provisions of this act is guilty of a misdemeanor.

HISTORY: New 1966, p. 8, Act 1, Eff. Jul. 1.

125.1356 Effective date.

Sec. 6. This amendatory act shall become effective on July 1, 1971.

HISTORY: New 1966, p. 8, Act 1, Eff. Jul. 1;—Am. 1970, p. 657, Act 243, Eff. Jul. 1, 1971.

Act 346, 1966, p. 649; Eff. Mar. 10, 1967.

AN ACT to create a state housing development authority; to define the powers and duties of the authority; to establish a housing development revolving fund; to establish a land acquisition and development fund; to authorize loans and grants to qualified sponsors, individuals and municipalities; to provide tax exemption; and to authorize

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payments in lieu of taxes by nonprofit housing corporations, consumer housing cooperatives and limited dividend housing corporations. Am. 1970, p. 404, Act 129, Imd. Eff. Jul. 29.

The People of the State of Michigan enact:

125.1401 State housing development; purpose; short title.

Sec. 1. It is determined that there exists in the state a seriously inadequate supply of and a pressing need for safe and sanitary dwelling accommodations within the financial means of low income or moderate income families and persons including but not limited to those families and persons displaced by clearings of slums and blighted areas or other public programs. It is further determined that it is a valid public purpose to construct housing for such low or moderate income families and persons who would otherwise be unable to obtain adequate dwellings which they could afford and to acquire land for present or future development including such housing.

It is further determined that the authority and powers conferred by this act, which may be known and may be cited as the "state housing development authority act of 1966", constitute a necessary program and serve a valid public purpose.

HISTORY: New 1966, p. 649, Act 346, Eff. Mar. 10, 1967;—Am. 1968, p. 654, Act 343, Imd. Eff. Jul. 19;—Am. 1970, p. 404, Act 129, Imd. Eff. Jul. 29.

CHAPTER 1

125.1411 Definitions.

Sec. 11. As used in this act:

(a) "Authority" means the state housing development authority created in this act.

(b) "Development costs" means the costs which have been approved by the authority as appropriate expenditures including but not limited to: (1) payments for options to purchase properties on the proposed housing project site, deposits on contracts of purchase, or, with the prior approval of the authority, payments for the purchases of such properties; (2) legal, organizational and marketing expenses, including payment of attorneys' fees, project manager and clerical staff salaries, office rent and other incidental expenses; (3) payment of fees for preliminary feasibility studies, advances for planning, engineering and architectural work; (4) expenses for surveys as to need and market analyses; (5) necessary application and other fees to federal and other government agencies; and (6) such other expenses incurred by the nonprofit housing corporation, consumer housing cooperative or limited dividend housing corporation as the authority may deem appropriate to effectuate the purposes of this act.

(c) "Federally-aided mortgage" means a below market interest rate mortgage insured or purchased or held by the secretary of the department of housing and urban development; or a market interest rate mortgage insured by the secretary of housing and urban development and augmented by a program of rent supplements; or a mortgage receiving interest reduction payments provided by the secretary of housing and urban development; or a mortgage receiving special benefits under other federal law designated specifically to develop low and moderate income housing and consistent with the provisions of this act.

(d) "Fund" means the housing development fund created by this act.

(e) "Project cost" means the sum total of all reasonable or necessary costs incurred by the nonprofit housing corporation, consumer housing cooperative or limited dividend housing corporation for carrying out all works and undertakings for the completion of a housing project and approved by the authority. These shall include but not necessarily be limited to all of the following costs: studies and surveys; plans, specifications, architectural and engineering services; legal, organization, marketing or other

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special services; financing, acquisition, demolition, construction, equipment, and site development of new and rehabilitated buildings; movement of existing buildings to other sites; rehabilitation, reconstruction, repair or remodeling of existing buildings; carrying charges during construction; the cost of placement of tenants or occupants and relocation services in connection with a housing project; and, to the extent not already included herein, all development costs.

(f) "Housing project" means a specific work or improvement either for rental or for subsequent sale to an individual purchaser undertaken by a nonprofit housing corporation, consumer housing cooperative or limited dividend housing corporation pursuant to or receiving benefits under this act to provide dwelling accommodations, including the acquisition, construction or rehabilitation of lands, buildings and improvements, and such social, recreational, commercial and communal facilities as may be incidental or appurtenant thereto.

(g) "Low income or moderate income persons" means families and persons who cannot afford to pay the amounts at which private enterprise, without federally-aided mortgages or loans from the authority, is providing a substantial supply of decent, safe and sanitary housing and who fall within income limitations set by the authority in its rules. Among low income or moderate income persons, preference shall be given to the elderly and those displaced by urban renewal, slum clearance or other governmental action.

(h) "Municipality" means any city, village or township in the state.

(i) "County" means any county within the state.

(j) "Governing body" means in the case of a city, the council or commission of the city; in the case of a village, the council, commission or board of trustees of the village; in the case of a township, the township board; and in the case of a county, the board of supervisors of the county.

(k) "Nonprofit housing corporation" means a nonprofit corporation incorporated pursuant to the provisions of the general corporation act and chapter 4.

(l) "Consumer housing cooperative" means a nonprofit corporation incorporated pursuant to the provisions of the general corporation act and chapter 5.

(m) "Annual shelter rent" means the total collections during an agreed annual period from all occupants of a housing project representing rents or occupancy charges, exclusive of any charges for gas, electricity, heat or other utilities furnished to the occupants.

(n) "Taxing jurisdiction" means any municipality, county or district, including any school district or any special district, having the power to levy or collect taxes upon real property or in whose behalf such taxes may be levied or collected.

(o) "Elderly" means a family where the head of the household is 62 years of age or older or a single person who is 62 years of age or older.

(p) "Housing development" means a development which contains a significant element of housing for persons of low or moderate income and such elements of other housing, commercial, recreational, industrial, communal and educational facilities as the authority determines improve the quality of the development as it relates to housing for persons of low or moderate income and in which funds from the authority's note and bond financing are used for no elements of such development other than housing projects for low income or moderate income persons.

(q) "Limited dividend housing corporation" means a corporation incorporated or

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qualified pursuant to the provisions of the general corporation act and chapter 6 and a limited dividend housing association organized and qualified pursuant to the provisions of chapter 7.

HISTORY: New 1966, p. 649, Act 346, Eff. Mar. 10, 1967;—Am. 1968, p. 654, Act 343, Imd. Eff. Jul. 19;—Am. 1969, p. 200, Act 109, Imd. Eff. Jul. 24;—Am. 1970, p. 404, Act 129, Imd. Eff. Jul. 29.

125.1415 Repealed. 1968, p. 613, Act 334, Imd. Eff. Jul. 14.

Section related to nonprofit housing corporation tax exemption and payments in lieu of taxes.

125.1415a Housing project; tax exemption; service charge for public services.

Sec. 15a. (1) Whenever a housing project is financed with a federally-aided or authority-aided mortgage or advance or grant from the authority, then, except as provided in this section, the housing project shall be exempt from all taxes imposed by the state or by any political subdivision, public body or taxing district in which the project is located. The owner of a housing project eligible for the exemption must file with the local assessing officer a notification of the exemption, which shall be in an affidavit form as provided by the authority. The completed affidavit form shall first be submitted to the authority for certification by the authority that the project is eligible for the exemption. The owner shall then file the certified notification of the exemption with the local assessing officer prior to November 1 of the year preceding the tax year in which the exemption is to begin.

Service charge; amount; changes.

(2) The owner of a housing project exempt from taxation under this section shall pay to the municipality in which the project is located an annual service charge for public services in lieu of all taxes. The amount to be paid as a service charge in lieu of taxes shall be for new construction projects the greater of, and for rehabilitation projects the lesser of, (i) the tax on the property on which the project is located for the tax year prior to the date when construction or rehabilitation of the project was commenced, or (ii) 10% of the annual shelter rents obtained from the project. Any municipality by ordinance from time to time may establish or change the service charge to be paid in lieu of taxes by all or any class of housing projects exempt from taxation under this act at any amount it chooses, not to exceed the taxes that would be paid but for this act.

Duration of exemption.

(3) The exemption from taxation granted by this section shall remain in effect for so long as the federally-aided or authority-aided mortgage or advance or grant from the authority is outstanding, not to exceed 50 years. The municipality may establish by ordinance a different period of time for the exemption to remain in effect.

Distribution of service charge.

(4) Any payments for public services received by a municipality in lieu of taxes under this section shall be distributed by the municipality to the several units levying the general property tax in the same proportion as prevailed with the general property tax in the previous calendar year.

Tax exemption not applicable; ordinance.

(5) Notwithstanding the provisions of subsection (1), any municipality may provide by ordinance that the tax exemption established in subsection (1) shall not apply to all or any class of housing projects within its boundaries to which subsection (1) applies; and if the municipality so provides, then the tax exemption established in subsection (1) shall not be applicable to the class of housing projects designated in the ordinance. The ordinance, if it so provides, shall be effective with respect to housing projects for which an exemption has already been granted on December 31 of the year in which it is adopted, but not before. Any municipality that has adopted such an ordinance sub-

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sequently may repeal that ordinance, which repeal shall become effective on the date designated in the repealing ordinance.

Service charge, amount; low income families.

(6) Notwithstanding subsection (2) the service charge to be paid each year in lieu of taxes for that part of a housing project which is tax exempt under subsection (1) and which is occupied by other than low income persons or families shall be equal to the full amount of the taxes that would be paid on that portion of the project if the project were not tax exempt. The benefits of any exemption granted under this section shall be allocated by the owner of the housing project exclusively to low income persons or families in the form of reduced housing charges.

Low income persons or families, defined.

(7) Low income persons and families for purposes of this section only means with respect to any housing project which is tax exempt, persons and families eligible to move into that project. The authority by rule for purposes of this subsection may redefine low income persons or families for each municipality on the basis of conditions existing in that municipality.

No state reimbursement.

(8) The state shall not reimburse any unit of government for tax exemption granted to any housing project under this section.

HISTORY: Add. 1966, p. 612, Act 334, Imd. Eff. Jul 14;—Am. 1969, p. 201, Act 109, Imd. Eff. Jul. 24.

125.1417 Advisory and other services.

Sec. 17. The authority may provide to nonprofit housing corporations, consumer housing cooperatives and limited dividend housing corporations such advisory, consultative training and educational services as will assist them to become owners of housing projects, in accordance with the provisions of this act. Advisory and educational services may include but are not necessarily limited to technical and professional planning assistance, the preparation and promulgation of organizational planning and development outlines and guides, consultation services, training courses, seminars and lectures, the preparation and dissemination of newsletters and other printed materials and the services of field representatives. The authority may provide nonprofit housing corporations, consumer housing cooperatives and limited dividend housing corporations with advisory, consultative, technical, training and educational services in the management of housing projects, including but not limited to home management and training and advisory services for the residents of the housing projects so as to promote efficient and harmonious management of the housing projects.

HISTORY: New 1966, p. 652, Act 346, Eff. Mar. 10, 1967;—Am. 1968, p. 655, Act 343, Imd. Eff. Jul. 19;—Am. 1970, p. 405, Act 129, Imd. Eff. Jul 29.

CHAPTER 2

125.1421 State housing development authority; creation; membership; appointment; terms; expenses.

Sec. 21. (1) There is created a public body corporate and politic to be known as the "Michigan state housing development authority". The authority shall consist of the director of the department of social services, the director of the department of commerce, the state treasurer and 4 persons appointed by the governor with the advice and consent of the senate no more than 2 of whom shall be members of the same political party. Of the members first appointed by the governor, 2 shall be designated to serve for a term of 3 years and 2 for a term of 4 years from the dates of their appointments, but thereafter members of the authority shall be appointed for a term of 4 years, except that all vacancies shall be filled for the unexpired term. A member of the authority shall receive no compensation for his services but shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of his

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duties. Each member shall hold office until his successor has been appointed and has qualified. A certificate of appointment or reappointment of any members shall be filed with the authority and this certificate shall be conclusive evidence of the due and proper appointment of the member.

Quorum, votes, meetings.

(2) The powers of the authority shall be vested in the members thereof in office from time to time. A majority of the members of the authority constitutes a quorum for the purpose of conducting its business and exercising its powers and for all other purposes, notwithstanding the existence of any vacancies. Action may be taken by the authority upon a vote of a majority of the members present, unless the bylaws of the authority require a larger number. Meetings of the members of the authority may be held anywhere within the state.

Officers, agents, employees.

(3) The authority shall elect a chairman and vice-chairman. The authority shall employ an executive director, legal and technical experts and such other officers, agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties and compensation. The authority may delegate to 1 or more of its agents or employees such powers or duties as it may deem proper.

Relationship with social services department.

(4) The authority shall be within the department of social services and shall exercise its prescribed statutory powers, duties and functions independently of the head of the department, except that all budgeting, procurement and related functions of the authority shall be performed under the direction and supervision of the head of the department of social services.

HISTORY: New 1966, p. 652, Act 346, Eff. Mar. 10, 1967;—Am. 1968, p. 656, Act 343, Imd. Eff. Jul. 19;—Am. 1970, p. 406, Act 129, Imd. Eff. Jul. 29.

125.1422 Powers of authority.

Sec. 22. The authority shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this act, including the following powers in addition to all other powers granted by other provisions of this act:

Capacity to sue or be sued; seal; contracts; bylaws.

(a) To sue and to be sued; to have a seal and to alter the same at pleasure; to have perpetual succession; to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority; and to make and from time to time, amend and repeal bylaws and rules.

Housing needs studies.

(b) To undertake and carry out studies and analyses of housing needs within the state and ways of meeting such needs, including data with respect to population and family groups and the distribution thereof according to income groups, the amount and quality of available housing and its distribution according to rentals and sales prices, employment, wages and other factors affecting housing needs and the meeting thereof; and to make the results of such studies and analyses available to the public and the housing and supply industries; and to engage in research and disseminate information on housing.

Federal assistance.

(c) To agree and comply with any conditions attached to federal financial assistance.

Housing conditions, survey.

(d) To survey and investigate the housing conditions and needs, both urban and rural, throughout the state and make recommendations to the governor and the legislature as to legislation and other measures necessary or advisable to alleviate any existing housing shortage in the state.

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Fees and charges.

(e) To collect fees and charges in connection with its loans, commitments and servicing including but not limited to reimbursement of costs of financing by the authority, service charges and insurance premiums as the authority shall determine to be reasonable and as shall be approved by the authority; and to provide technical assistance in the development of housing projects for low income or moderate income persons, and in programs to improve the quality of urban life for all the people of the state.

Community action.

(f) To encourage community organizations to assist in initiating housing projects for low income or moderate income persons as provided in this act.

Salvage of housing.

(g) To encourage salvage of all possible usable housing scheduled for demolition because of highway, school, urban renewal or other programs by seeking authority for the sponsors of such programs to use funds provided for the demolition of such buildings to be allocated to sponsors approved by the authority to defray moving and rehabilitation costs of such buildings.

Research; demonstration projects.

(h) To encourage research in, and demonstration projects to develop, new and better techniques and methods for increasing the supply of housing for low income or moderate income persons.

Secured loans.

(i) To make loans, the repayment of which are secured by mortgages or security interests, to participate in the making of secured loans, to undertake commitments to make secured loans, to sell mortgages and security interests at public or private sale, to modify or alter mortgages and security interests, to foreclose on any such mortgage or security interest or commence any action to protect or enforce any right conferred upon it by any law, mortgage, security agreement, contract or other agreement, and to bid for and purchase property which was the subject of such mortgage or security interest, at any foreclosure or at any other sale, to acquire or take possession of any such property; and in such event the authority may complete, administer, pay the principal and interest on any obligations incurred in connection with such property, dispose of, and otherwise deal with, such property, in such manner as may be necessary or desirable to protect the interests of the authority therein.

Standards for housing projects.

(j) To set standards for housing projects which receive loans under this act and to provide for inspections to determine compliance with such standards.

Gifts or grants.

(k) To accept gifts or grants or loans or other aid from the federal government or any persons or corporations.

Real or personal property.

(l) To acquire or contract to acquire from any person, firm, corporation, municipality, federal or state agency, by grant, purchase or otherwise, leaseholds, real or personal property or any interest therein; to own, hold, clear, improve and rehabilitate and to sell, assign, exchange, transfer, convey, lease, mortgage or otherwise dispose of or encumber the same. Nothing in this act shall be deemed to impede the operation and effect of local zoning, building and housing ordinances or ordinances relating to subdivision control, land development, fire prevention or other ordinances having to do with housing or the development thereof.

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Insurance.

(m) To procure insurance against any loss in connection with its property and other assets.

Investments.

(n) To invest any funds held in reserve or sinking funds or any moneys not required for immediate use or disbursement at the discretion of the authority in obligations of the state or the United States or obligations, the principal and interest of which are guaranteed by the state or the United States.

Rules.

(o) To make rules necessary to carry out the purposes of this act and to exercise the powers expressly granted in this act in accordance with and subject to Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.313 of the Compiled Laws of 1948.

Regulation of rents, profits and fees.

(p) To enter into agreements with nonprofit housing corporations, consumer housing cooperatives and limited dividend housing corporations providing for regulation by the authority of the planning, development and management of any housing project undertaken by nonprofit housing corporations, consumer housing cooperatives and limited dividend housing corporations and the disposition of the property and franchises of such corporations and cooperatives.

Protection of loans.

(q) To appoint to the board of directors of a nonprofit housing corporation, consumer housing cooperative or limited dividend housing corporation a number of new directors, which number shall be sufficient to constitute a majority of such board notwithstanding any other provisions of such articles of incorporation or any other provisions of law, if:

(i) The nonprofit housing corporation, consumer housing cooperative or limited dividend housing corporation has received a loan or advance, as provided for in this act, and the authority determines that the loan or advance is in jeopardy of not being repaid, or

(ii) The nonprofit housing corporation, consumer housing cooperative or limited dividend housing corporation has received a loan or advance as provided for in this act and the authority determines that the proposed housing project for which such loan or advance was made is in jeopardy of not being constructed, or

(iii) The authority determines that some part of the net income or net earnings of the nonprofit housing corporation is inuring to the benefit of any private individual, firm, corporation, partnership or association, or the authority determines that an unreasonable part of the net income or net earnings of the consumer housing cooperative is inuring to the benefit of any private individual, firm, corporation, partnership or association, or the authority determines that some part of the net income or net earnings of the limited dividend housing corporation, in excess of that permitted by other provisions of this act, is inuring to the benefit of any private individual, firm, corporation, partnership or association, or

(iv) The authority determines that the nonprofit housing corporation or consumer housing cooperative is in some manner controlled by or under the direction of or acting in the substantial interest of any private individual, firm, corporation, partnership or association seeking to derive benefit or gain therefrom or seeking to eliminate or minimize losses in any dealings or transactions therewith, except that the foregoing shall apply to individual cooperators in consumer housing cooperatives only in those circumstances defined by the authority in its rules, or

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(v) The authority determines that the nonprofit housing corporation, consumer housing cooperative or limited dividend housing corporation is in violation of the rules promulgated under this section, or

(vi) The authority determines that the nonprofit housing corporation, consumer housing cooperative or limited dividend housing corporation is in violation of any agreement or agreements entered into with the authority providing for regulation by the authority of the planning, development and management of any housing project undertaken by the nonprofit housing corporation, consumer housing cooperative or limited dividend housing corporation or the disposition of the property and franchises of such corporation or cooperative. Directors so appointed need not be stockholders or members or meet other qualifications which may be described by the certificate of incorporation or bylaws. In the absence of fraud or bad faith, directors so appointed shall not be personally liable for debts, obligations or liabilities of the corporation.

Approval of articles of incorporation.

(r) To give approval or consent to the articles of incorporation submitted to the authority by a corporation seeking approval as a nonprofit housing corporation, consumer housing cooperative or limited dividend housing corporation under the provisions of chapters 4, 5 or 6.

Consultants.

(s) To engage the services of private consultants on a contract basis for rendering professional and technical assistance and advice.

Leased housing.

(t) To lease real or personal property and to accept federal funds for and participate in programs of leased housing pursuant to section 10 or 23 of the United States housing act of 1937, as amended by the housing and urban development act of 1965.

HISTORY: New 1966, p. 653, Act 346, Eff. Mar. 10, 1967;—Am. 1968, p. 656, Act 343, Imd. Eff. Jul. 19;—Am. 1970, p. 406, Act 129, Imd. Eff. Jul. 29.

125.1423 Housing development fund; creation; payments into fund.

Sec. 23. (1) There is created and established under the jurisdiction and control of the authority a revolving fund to be known as the "housing development fund".

(2) There shall be paid into the housing development fund (a) any moneys appropriated and made available by the state for the purposes of the fund; (b) any moneys which the authority receives in repayment of advances made from the fund, and (c) any other moneys which may be made available to the authority for the purpose of the fund from any other source or sources.

HISTORY: New 1966, p. 654, Act 346, Eff. Mar. 10, 1967.

125.1424 Housing development fund; advances and grants.

Sec. 24. (1) The authority may use the moneys held in the fund to make noninterest bearing advances, in accordance with the provisions of this act to nonprofit housing corporations and consumer housing cooperatives for development costs of proposed housing projects. No advances may be made unless the authority may reasonably anticipate that a federally-aided or authority-aided mortgage may be obtained by the nonprofit housing corporation or consumer housing cooperative for the permanent financing of a housing project for low or moderate income persons.

(2) The proceeds of the advance may be used only to defray the development costs of the housing project. Each advance shall be repaid in full by the nonprofit housing corporation or consumer housing cooperative to the authority concurrent with receipt of the portion of the mortgage loan paid under the initial indorsement of the federally-aided or authority-aided mortgage or construction loan, unless the authority extends the period for the repayment of the advances. In no event shall the time of repayment be extended later than the date of receipt of the portion of the mortgage loan paid on

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final indorsement of the federally-aided or authority-aided mortgage or construction loan.

(3) The authority may use the moneys held in the fund to make grants to local communities, as defined by the authority in rules promulgated hereunder, in such amounts as the authority determines, not to exceed the net costs, exclusive of any federal aid or assistance, as are incurred by the local community in a plan of land and building acquisition, improvements, renewal, relocation or conservation. Land and building qualifying for a grant under this section shall be the site upon which housing is, or is to be, situated and sites designated for other uses that are reasonably related to such housing.

HISTORY: New 1966, p. 654, Act 346, Eff. Mar. 10, 1967;—Am. 1968, p. 659, Act 343, Imd. Eff. Jul. 19;—Am. 1970, p. 409, Act 129, Imd. Eff. Jul. 29.

125.1424a Land acquisition and development fund; creation; source.

Sec. 24a. (1) A fund to be known as the "land acquisition and development fund" is created and established under the jurisdiction and control of the authority.

(2) There shall be paid into the land acquisition and development fund (a) any moneys appropriated and made available by the state for the purposes of this fund; (b) any moneys which the authority receives from the sale or rental of land originally purchased by the authority with moneys from this fund; and (c) any other moneys which may be made available to the authority for the purpose of this fund from any other source or sources.

HISTORY: Add. 1970, p. 410, Act 129, Imd. Eff. Jul. 29.

125.1424b Land acquisition and development fund; use; sale of property.

Sec. 24b. (1) The authority may use the moneys held in the land acquisition fund to purchase or contract to purchase from any person, firm, corporation, municipality or federal or state agency, real property, and improvements or any interest therein which the authority determines may be suitable for future planning of a housing development. The authority may purchase such real property or any interest therein on land contract, option or other form of deferred payment agreement, or subject to mortgages or other encumbrances, if the authority reserves moneys in this fund or authorization to issue notes and bonds, the aggregate amount of which equals the unpaid principal balance on such land contracts, options, mortgages or other encumbrances or deferred payment agreements.

(2) The authority may use the moneys held in the land acquisition and development fund to pay property taxes, insurance premiums, interest and other carrying charges on real property purchased or being purchased by the authority with moneys from this fund. Notwithstanding the provisions of section 42 of this act, during the period when any such real property is owned or is being purchased by the authority, the authority shall pay all property taxes levied against real property purchased or being purchased by the authority with moneys from this fund, by all taxing jurisdictions in which such real property is located; provided, however, that the assessed valuation of such property owned or being purchased by the authority shall not be increased by any taxing jurisdiction after the date the authority purchases or contracts to purchase such property, except to reflect the state equalization valuation process. The authority is further authorized to use the moneys held in the land acquisition and development fund to pay the costs of the planning of the development of real property purchased or to be purchased by the authority with moneys from this fund including, but not limited to, the costs of economic feasibility studies, land use studies, site development planning, architectural and engineering design, market analysis and all related analyses, studies and planning services.

(3) Such real property or any portion thereof may be sold by the authority to a qualified sponsor or municipality for the purpose of construction of housing for persons of

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low or moderate income at such price and on such terms and conditions as shall be determined by the authority. Portions of such real property may be sold by the authority to any individual, firm, partnership or corporation at such price, equal to or greater than the lesser of the fair market value of such property at the time of such sale or the price paid by the authority for the purchase of such real property, and on such terms and conditions as shall be determined by the authority. In conjunction with any sales of real property, the authority is authorized to enter into any agreements for the development and improvement of such real property, including agreements whereunder the authority shall participate in such development, improvement and financing and may retain control over any or all aspects of such development including, but not limited to, land use planning, site development, construction, architectural and engineering design, marketing, management, occupancy, operation and all factors related to the foregoing.

HISTORY: Add. 1970, p. 410, Act 129, Imd. Eff. Jul. 29.

125.1425 Bonds and notes; issuance; status; approval.

Sec. 25. (1) The authority from time to time may issue its negotiable bonds and notes in such principal amount, as, in the opinion of the authority, shall be necessary to provide sufficient funds for achieving its corporate purposes, including the making of secured loans for low and moderate income housing; for the rehabilitation of existing structures; for the construction of facilities appurtenant thereto as provided in this act; the payment of interest on bonds and notes of the authority during construction, establishment of reserves to secure such bonds and notes; for the provision of moneys for the housing development fund in order to make noninterest bearing advances to nonprofit housing corporations and consumer housing cooperatives as provided in this act and all other expenditures of the authority incident to and necessary or convenient to carry out its corporate purposes and powers.

(2) The authority, from time to time, may issue renewal notes, issue bonds to pay notes and whenever it deems refunding expedient, refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and issue bonds partly to refund bonds then outstanding and partly for any other purpose. The refunding bonds shall be sold and the proceeds applied to the purchase, redemption or payment of the bonds to be refunded.

(3) Except as may otherwise be expressly provided by the authority, every issue of its notes or bonds shall be general obligations of the authority payable out of any revenues or moneys of the authority, subject only to any agreements with the holders of particular notes or bonds pledging any particular receipts or revenues.

(4) Whether or not the notes or bonds are of such form or character as to be negotiable instruments under the uniform commercial code, the notes or bonds shall be and are hereby made negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, subject only to the provisions of the notes or bonds for registration.

(5) Any bonds issued by the authority shall be approved by the municipal finance commission but shall not otherwise be subject to the provisions of Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2 of the Compiled Laws of 1948.

HISTORY: New 1966, p. 654, Act 346, Eff. Mar. 10, 1967;—Am. 1968, p. 659, Act 343, Imd. Eff. Jul. 19;—Am. 1970, p. 411, Act 129, Imd. Eff. Jul. 29.

125.1426 Notes and bonds; authorization; terms.

Sec. 26. The notes and bonds shall be authorized by resolution of the members of the authority; shall bear such date or dates, and shall mature at such time or times, in the case of any note, or any renewal thereof, not exceeding 5 years, from the date of is-

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sue of such original note, and in the case of any bond not exceeding 50 years from the date of issue, as the resolution may provide. The notes and bonds shall bear interest at such rate or rates, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places and be subject to such terms of redemption as such resolution or resolutions may provide. The notes and bonds of the authority may be sold by the authority, at public or private sale, at such price or prices as the authority shall determine.

HISTORY: New 1966, p. 655, Act 346, Eff. Mar. 10, 1967.

125.1427 Notes and bonds; resolution authorizing issuance, contents.

Sec. 27. Any resolution authorizing any notes or bonds or any issue thereof may contain provisions, which shall be a part of the contract with the holders thereof, as to:

(a) Pledging all or any part of the fees and charges made or received by the authority, and all or any part of the moneys received in payment of mortgage loans and interest thereon, and other moneys received or to be received, to secure the payment of the notes or bonds or of any issue thereof, and subject to such agreements with bondholders or noteholders as may then exist.

(b) Pledging all or any part of the assets of the authority, including mortgages and obligations securing the same, to secure the payment of the notes or bonds or of any issue of notes or bonds, subject to such agreements with noteholders or bondholders as may then exist.

(c) Pledging of any loan, grant, or contribution from the federal, state, or local government, or source in aid of such development as provided for in this act.

(d) The use and disposition of the gross income from mortgages owned by the authority and payment of principal of mortgages owned by the authority.

(e) The setting aside of reserves or sinking funds and the regulation and disposition thereof.

(f) Limitations on the purpose to which the proceeds of sale of notes or bonds may be applied and pledging such proceeds to secure the payment of the notes or bonds or of any issue thereof.

(g) Limitations on the issuance of additional notes or bonds; the terms upon which additional notes or bonds may be issued and secured; the refunding of outstanding or other notes or bonds.

(h) The procedure, if any, by which the terms of any contract with noteholders or bondholders may be amended or abrogated, the amount of notes or bonds the holders of which must consent thereto, and the manner in which such consent may be given.

(i) Vesting in a trustee or trustees such property, rights, powers and duties in trust as the authority may determine, which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to this act and limiting or abrogating the right of the bondholders to appoint a trustee under this section or limiting the rights, powers and duties of such trustee.

(j) Any other matters, of like or different character, which in any way affect the security or protection of the notes or bonds.

HISTORY: New 1966, p. 655, Act 346, Eff. Mar. 10, 1967.

125.1428 Notes and bonds; validity and effect of pledge.

Sec. 28. Any pledge made by the authority shall be valid and binding from the time when the pledge is made; the moneys or property so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act; and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or other-

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wise against the authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

HISTORY: New 1966, p. 655, Act 346, Eff. Mar. 10, 1967.

125.1429 Notes and bonds; personal liability of members of authority.

Sec. 29. Neither the members of the authority nor any person executing the notes or bonds shall be liable personally on the notes or bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

HISTORY: New 1966, p. 656, Act 346, Eff. Mar. 10, 1967.

125.1430 Notes and bonds; purchase for cancellation.

Sec. 30. The authority, subject to such agreements with noteholders or bondholders as may then exist, shall have power out of any funds available therefor to purchase notes or bonds of the authority, which shall thereupon be cancelled, at a price not exceeding (a) if the notes or bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date thereon, or (b) if the notes or bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the notes or bonds become subject to redemption plus accrued interest to such date.

HISTORY: New 1966, p. 656, Act 346, Eff. Mar. 10, 1967.

125.1431 Notes and bonds; liability of state.

Sec. 31. The state shall not be liable on notes or bonds of the authority and such notes and bonds shall not be a debt of the state. The notes and bonds shall contain on the face thereof a statement to such effect.

HISTORY: New 1966, p. 656, Act 346, Eff. Mar. 10, 1967.

125.1432 Capital reserve fund; receipts, disbursements.

Sec. 32. (1) The authority shall create and establish a special fund to secure the notes and bonds, herein referred to as capital reserve fund, and shall pay into the capital reserve fund (a) any moneys appropriated and made available by the state for the purposes of such fund, (b) any proceeds of sale of notes or bonds, to the extent provided in the resolution of the authority authorizing the issuance thereof, and (c) any other moneys which may be made available to the authority for the purpose of such fund from any other source or sources. All moneys held in the capital reserve fund, except as hereinafter provided, shall be used solely for the payment of the principal of bonds of the authority as the same mature, the purchase of bonds of the authority, the payment of interest on such bonds of the authority or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity. Moneys in the capital reserve fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of the fund to less than the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on all bonds of the authority then outstanding, except for the purpose of paying principal of and interest on bonds of the authority maturing and becoming due and for the payment of which other moneys of the authority are not available. Any income or interest earned by, or increment to, the capital reserve fund due to the investment thereof may be transferred by the authority to the general reserve fund or other fund of the authority to the extent it does not reduce the amount of the capital reserve fund below the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on all bonds of the authority then outstanding.

Bond issues as affected by capital reserve fund.

(2) The authority shall not issue bonds at any time if the maximum amount of principal and interest maturing and becoming due in a succeeding calendar year on bonds

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then to be issued and on all other bonds of the authority then outstanding will exceed the amount of the capital reserve fund at the time of issuance unless the authority, at the time of issuance of such bonds, shall deposit in the fund from the proceeds of the bonds so to be issued, or otherwise, an amount which, together with the amount then in the fund, will be not less than the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the bonds then to be issued and on all other bonds of the authority then outstanding.

Limit of outstanding bonds and notes.

(3) The authority shall not have outstanding at any one time bonds and notes for any of its corporate purposes in an aggregate principal amount exceeding $300,000,000.00, excluding bonds and notes issued to refund outstanding bonds and notes.

Maintenance of fund.

(4) To assure the continued operation and solvency of the authority for the carrying out of the public purposes of this act, provision is made for the accumulation in the capital reserve fund of an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on all bonds of the authority then outstanding. In order further to assure such maintenance of the capital reserve fund, the chairman of the authority on or before September 1 shall certify to the governor and budget director such amount, if any, necessary to restore the capital reserve fund to an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the bonds of the authority then outstanding. The governor and the budget director shall include in the annual budget the amount so certified by the chairman of the authority.

Valuation of securities in fund.

(5) In computing the amount of the capital reserve fund for the purposes of this section, securities in which all or a portion of the fund is invested shall be valued at par, or if purchased at less than par, at their cost to the authority.

Interest rate on loans, changes.

(6) Notwithstanding other provisions of this act, the interest rate on loans made by the authority financed with bonds or notes may be decreased or increased from time to time so that the rate shall not be less than the rate paid by the authority on notes, renewal notes, or bonds issued to fund the loan.

HISTORY: New 1966, p. 656, Act 346, Eff. Mar. 10, 1967;—Am. 1968, p. 660, Act 343, Imd. Eff. Jul. 19;—Am. 1970, p. 74, Act 27, Imd. Eff. Jun. 2.

125.1433 General reserve fund.

Sec. 33. The authority shall create and establish a special fund, herein referred to as general reserve fund, and shall pay into such fund all fees and charges collected by the authority and any moneys which the authority shall transfer from the capital reserve fund. Such moneys and any other moneys paid into the general reserve fund, in the discretion of the authority but subject to agreements with bondholders and noteholders, may be used by the authority (a) for the repayment of advances from the state in accordance with the provisions of repayment agreements between the authority and the director of the budget, (b) to pay all costs, expenses and charges of financing, including fees and expenses of trustees and paying agents, (c) for transfers to the capital reserve fund, (d) for the payment of the principal of and interest on bonds or notes issued by the authority when the same shall become due whether at maturity or on call for redemption and for the payment of any redemption premium required to be paid where such bonds or notes are redeemed prior to their stated maturities, and to purchase bonds or notes, or (e) for such other corporate purposes of the authority as the authority in its discretion shall determine and provide.

HISTORY: New 1966, p. 657, Act 346, Eff. Mar. 10, 1967.

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125.1434 Notes and bonds; pledge and agreement of state.

Sec. 34. The state pledges and agrees with the holders of any notes or bonds issued under this act, that the state will not limit or alter the rights vested in the authority to fulfill the terms of any agreements made with the holders thereof, or in any way impair the rights and remedies of the holders until the notes or bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state in any agreement with the holders of such notes or bonds.

HISTORY: New 1966, p. 657, Act 346, Eff. Mar. 10, 1967.

125.1435 Trustee; default.

Sec. 35. (1) If the authority defaults in the payment of principal of or interest on any issue of notes or bonds after the same shall become due, whether at maturity or upon call for redemption, and such default continues for a period of 30 days, or if the authority fails or refuses to comply with the provisions of this act, or defaults in any agreement made with the holders of any issue of notes or bonds, the holders of 25% in aggregate principal amount of the notes or bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county of Ingham and approved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such notes or bonds for the purposes herein provided.

Specific powers and duties of trustee.

(2) The trustee may, and upon written request of the holders of 25% in principal amount of such notes or bonds then outstanding shall, in his own name; (a) by action or proceeding, enforce all rights of the noteholders or bondholders, including the right to require the authority to collect fees and charges and interest and amortization payments on mortgage loans made by it adequate to carry out any agreement as to, or pledge of, such fees and charges and interest and amortization payments on such mortgages, and other properties and to require the authority to carry out any other agreements with the holders of such notes or bonds and to perform its duties under this act; (b) bring suit upon such notes or bonds; (c) by action, require the authority to account as if it were the trustee of an express trust for the holders of such notes or bonds; (d) by action, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such notes or bonds; (e) declare all such notes or bonds due and payable, and if all defaults shall be made good, then, with the consent of the holders of 25% of the principal amount of such notes or bonds then outstanding, to annul such declaration and its consequences.

HISTORY: New 1966, p. 658, Act 346, Eff. Mar. 10, 1967.

125.1436 Trustee; additional powers.

Sec. 36. The trustee, in addition to the powers granted in section 35, shall have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders or noteholders in the enforcement and protection of their rights.

HISTORY: New 1966, p. 658, Act 346, Eff. Mar. 10, 1967.

124.1437 Venue.

Sec. 37. The venue of any such action or proceeding shall be in the county of Ingham.

HISTORY: New 1966, p. 658, Act 346, Eff. Mar. 10, 1967.

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125.1438 Notes and bonds; notice; declaration, due and payable.

Sec. 38. Before declaring the principal of notes or bonds due and payable, the trustee shall first give 30 days' notice in writing to the governor, to the authority, and to the attorney general of the state.

HISTORY: New 1966, p. 658, Act 346, Eff. Mar. 10, 1967.

125.1439 Moneys of authority; deposit; agreement with noteholders; system of accounts.

Sec. 39. (1) All moneys of the authority, except as otherwise authorized or provided in this section, shall be paid to the state treasurer as agent of the authority, who shall not commingle such moneys with any other moneys. Such moneys shall be deposited in a separate bank account or accounts. The moneys in such accounts shall be paid out on warrants signed by the state treasurer on requisition of the chairman of the authority or of such other officer or employee as the authority shall authorize to make such requisition. All deposits of such moneys shall, if required by the state treasurer or the authority, be secured by obligations of the United States or of the state of a market value equal at all times to the amount of the deposit and all banks and trust companies are authorized to give such security for such deposits.

Contracts and security.

(2) Notwithstanding the provisions of this section, the authority shall have power, subject to the approval of the state treasurer, to contract with the holders of any of its notes or bonds, as to the custody, collection, securing, investment, and payment of any moneys of the authority, of any moneys held in trust or otherwise for the payment of notes or bonds, and to carry out such contract. Moneys held in trust or otherwise for the payment of notes or bonds or in any way to secure notes or bonds and deposits of such moneys may be secured in the same manner as moneys of the authority, and all banks and trust companies are authorized to give such security for such deposits.

System of accounts.

(3) Subject to agreements with noteholders and bondholders and the approval of the auditor general, the authority shall prescribe a system of accounts.

HISTORY: New 1966, p. 658, Act 346, Eff. Mar. 10, 1967.

125.1440 Notes and bonds; legal investment.

Sec. 40. The notes and bonds of the authority are securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations, and other persons carrying on an insurance business, all banks, trust companies, savings banks and savings associations, savings and loan associations, investment companies, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them.

HISTORY: New 1966, p. 659, Act 346, Eff. Mar. 10, 1967.

125.1441 Faith and credit bonds.

Sec. 41. The authority from time to time at its discretion may recommend an issuance of faith and credit bonds to the legislature for a vote of the people.

HISTORY: New 1966, p. 659, Act 346, Eff. Mar. 10, 1967.

125.1442 Property of authority; exempt from taxation.

Sec. 42. The property of the authority and its income and operation shall be exempt from all taxation by the state or any of its political subdivisions and all bonds and notes of the authority shall be exempt from all taxation by the state or any of its political subdivisions.

HISTORY: New 1966, p. 659, Act 346, Eff. Mar. 10, 1967;—Am. 1968, p. 661, Act 343, Imd. Jun. 19.

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125.1443 Notes and bonds; exemption from taxation.

Sec. 43. The state covenants with the purchasers and all subsequent holders and transferees of notes and bonds issued by the authority, in consideration of the acceptance of and payment for the notes and bonds, that the notes and bonds of the authority, issued pursuant to this act and the income therefrom and all its fees, charges, gifts, grants, revenues, receipts, and other moneys received or to be received, pledged to pay or secure the payment of such notes or bonds shall at all times be free and exempt from all state, city, county or other taxation provided by the laws of the state, except for estate and gift taxes and taxes on transfers.

HISTORY: New 1966, p. 659, Act 346, Eff. Mar. 10, 1967.

125.1444 Loans; conditions, amount.

Sec. 44. (1) The authority may make loans to any nonprofit housing corporation, consumer housing cooperative or limited dividend housing corporation or to any public body or agency for the construction or rehabilitation, and for the long-term financing, of housing for low income or moderate income persons. No such loans shall be made unless the authority finds that the construction or rehabilitation will be undertaken in an economical manner and that it will not be of elaborate design or materials. A loan under this section may be in an amount not to exceed 100% of the project cost as approved by the authority in the case of a nonprofit housing corporation, consumer housing cooperative or public body or agency, and in an amount not to exceed 90% of the project cost as approved by the authority in the case of a limited dividend housing corporation.

Sale of housing units, approval; sweat equity.

(2) (a) The authority may make loans to any nonprofit housing corporation or limited dividend housing corporation for the construction or rehabilitation of housing units for sale to individual purchasers of low or moderate income as provided by the authority in its rules and to any such individual purchaser for the long-term financing of a housing unit. A loan under this section may be in an amount not to exceed 100% of the project cost as approved by the authority in the case of a nonprofit housing corporation or individual purchaser and in an amount not to exceed 90% of the project cost as approved by the authority in the case of a limited dividend housing corporation.

(b) While such loan is outstanding, any sale by the nonprofit housing corporation or limited dividend housing corporation or any subsequent resale shall be subject to approval by the authority and the authority shall provide in its rules concerning such sales and resales that the price of the housing unit sold, the method of making payments thereafter, the security afforded and the interest rate, fees and charges to be paid shall at all times be sufficient to permit the authority to make the payments on its bonds and notes plus any administrative or other costs of the authority in connection with the transactions. Housing units shall be sold under terms that provide for monthly payments including principal, interest, taxes and insurance.

(c) While such loan is outstanding, the authority shall, prior to the approval of sale by the nonprofit housing corporation or limited dividend housing corporation or any subsequent resale, satisfy itself that such sale or resale is to persons of low or moderate income.

(d) Upon the sale by the nonprofit housing corporation or limited dividend housing corporation of any housing unit to an individual purchaser of low or moderate income under this subsection to whom a loan is being made by the authority, such housing unit shall be released from the mortgage running from the nonprofit housing corporation or limited dividend housing corporation to the authority and such mortgage shall

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be replaced as to the housing unit by a mortgage running from the individual purchaser to the authority.

(e) The authority shall encourage nonprofit housing corporations and limited dividend housing corporations engaged in construction or rehabilitation under this subsection to utilize the labor of prospective individual purchasers of low or moderate income in the construction or rehabilitation of the housing units involved. The value of the labor of the prospective purchasers so utilized shall be used to reduce the project costs of the housing units involved.

(f) In the construction of housing units to be sold to the individual purchasers of low or moderate income at a price not to exceed $12,000.00, the individual purchasers may be required to perform, in a manner and under conditions to be specified by the authority in its rules, a minimum number of hours of labor, and the value of such labor shall be credited to the purchase price.

Term of loan.

(3) A loan shall be secured in such manner and be repaid in such period, not exceeding 50 years, as may be determined by the authority; and shall bear interest at a rate determined by the authority.

HISTORY: New 1966, p. 659, Act 346, Eff. Mar. 10, 1967;—Am. 1968, p. 661, Act 343, Imd. Eff. Jul. 19;—Am. 1970, p. 411, Act 129, Imd. Eff. Jul. 29.

125.1445 Preference to displaced persons.

Sec. 45. Among low income or moderate income persons, preference shall be given to the elderly and those displaced by urban renewal, slum clearance or other governmental action.

HISTORY: New 1966, p. 660, Act 346, Eff. Mar. 10, 1967;—Am. 1968, p. 662, Act 343, Imd. Eff. Jul. 19.

125.1446 Equality of occupancy and employment.

Sec. 46. The authority shall require that occupancy of housing projects assisted under this act shall be open to all regardless of race, religion, or creed, and that contractors and subcontractors engaged in the construction of housing projects, shall provide an equal opportunity for employment, without discrimination as to race, religion or creed.

HISTORY: New 1966, p. 660, Act 346, Eff. Mar. 10, 1967.

CHAPTER 3

125.1451 Low and moderate income housing; definitions.

Sec. 51. The definitions in section 11 shall be applicable to this chapter, except for the following:

(a) "Low and moderate income housing" shall mean housing financed by bond issues authorized under this act, or by federally-aided mortgages as defined in section 11, or by other such programs directed toward providing housing within the financial means of low and moderate income families as the authority shall determine.

(b) "Probable aggregate annual income" means the total annual income of the chief wage earner or supporter of the family, plus the income of secondary wage earners in excess of $1,200.00 per year, the income of minors in excess of $800.00 per year, and excluding completely the income of college students.

(c) "Carrying charges" or "rental" means all regular charges paid on a periodic basis to a housing corporation by a person or family living in a rental or cooperative housing project, excluding initial down payments.

(d) "Housing charges" means monthly rentals or carrying charges, plus estimated or actual expenditures for heat, light, water, cooking fuel, and other utilities; and other reasonable expenditures that the authority shall determine to be a part of housing charges.

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(e) "Shelter rent" means the rental or carrying charges established for occupancy in housing projects, exclusive of payments for taxes and charges for heat, light, water, cooking fuel and other necessary utilities.

(f) "Low income persons" means those persons designated as "low income persons" by the authority under the provisions of section 22 (n).

HISTORY: New 1966, p. 660, Act 346, Eff. Mar. 10, 1967.

125.1452 Low and moderate income housing; dwelling units to certain low income persons and families.

Sec. 52. The authority may provide that up to 25% of the dwelling units in any development providing low and moderate income housing under federal, state or local government programs be made available to low income families and persons whose probable aggregate yearly income is less than 4 times as large as the regular yearly housing charges for such dwelling units. The dwelling units shall be made available to these families and persons at monthly rental payments or carrying charges so that yearly housing charges do not exceed 25% of the probable aggregate yearly income of such persons or families. The authority is authorized to contract with sponsors or owners of housing developments for up to 3,750 such units during the fiscal year ending June 30, 1967.

HISTORY: New 1966, p. 661, Act 346, Eff. Mar. 10, 1967.

125.1453 Low income housing; criteria for determination of occupant eligibility; rental charges.

Sec. 53. For purposes of carrying out the provisions of this chapter, the authority shall establish criteria and procedures for determining the eligibility of occupants and rental or carrying charges, including criteria and procedures with respect to periodic review of occupant incomes and periodic adjustment of rental or carrying charges.

HISTORY: New 1966, p. 661, Act 346, Eff. Mar. 10, 1967;—Am 1970, p. 412, Act 129, Imd. Eff. Jul. 29.

125.1454 Low and moderate income housing; agreements for services of selection of eligible families and individuals.

Sec. 54. The authority may enter into agreements, or authorize housing owners or sponsors to enter into agreements, with public or private agencies for services required in the selection of families and individuals who qualify under this chapter.

HISTORY: New 1966, p. 661, Act 346, Eff. Mar. 10, 1967.

125.1455 Low and moderate income housing; rights of persons or families benefited.

Sec. 55. The authority shall provide that low income families or persons benefiting under this chapter shall have the same rights, privileges and duties as other residents, except that no member of a cooperative, upon the resale of his membership in the cooperative, shall be reimbursed for any equity increment accumulated as a result of payments under this chapter. The authority shall endeavor to guarantee that knowledge of the special circumstances of such low income families is not divulged to other residents.

HISTORY: New 1966, p. 661, Act 346, Eff. Mar. 10, 1967.

125.1456 Low and moderate income housing; financing for small scale housing developments.

Sec. 56. In special circumstances where the authority deems it appropriate in order to accomplish the purposes of this act, the authority may provide the necessary financ-

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ing for small scale housing developments built primarily for low income families and individuals eligible for lower rentals or carrying charges under this chapter, and may waive the requirement that no more than 25% of the dwelling units in any particular project may be made available to low income families under this section.

HISTORY: New 1966, p. 661, Act 346, Eff. Mar. 10, 1967.

125.1457 Appropriation.

Sec. 57. There is hereby appropriated $5,000.00 from the general fund for the fiscal year ending June 30, 1967 for the administration of this act.

HISTORY: New 1966, p. 661, Act 346, Eff. Mar. 10, 1967.

CHAPTER 4

125.1461 Nonprofit housing corporations; incorporation.

Sec. 61. Nonprofit housing corporations shall be incorporated pursuant to the provisions of the general corporation act and this chapter.

HISTORY: Add. 1968, p. 662, Act 343, Imd. Eff. Jul. 19;—Am. 1970, p. 412, Act 129, Imd. Eff. Jul. 29.

125.1462 Qualified nonprofit housing corporations; corporate name.

Sec. 62. The term "nonprofit housing corporation" or "nonprofit housing company" shall be included as a part of the corporate name as set forth in the certificate of incorporation.

HISTORY: Add. 1968, p. 662, Act 343, Imd. Eff. Jul. 19.

125.1463 Articles of incorporation.

Sec. 63. The articles of incorporation of any such corporation, in addition to other requirements of law, shall provide:

(a) That the corporation has been organized exclusively to provide housing facilities and such social, recreational, commercial and communal facilities as may be incidental or appurtenant thereto for persons of low and moderate income.

(b) That all the income and earnings of the corporation shall be used exclusively for corporation purposes and that no part of the net income or net earnings of the corporation shall inure to the benefit or profit of any private individual, firm, corporation, partnership or association.

(c) That the corporation is in no manner controlled or under the direction or acting in the substantial interest of any private individual, firm, partnership or association seeking to derive profit or gain therefrom or seeking to eliminate or minimize losses in any dealing or transactions therewith.

(d) That the operations of the corporation may be supervised by the authority and that the corporation shall enter into such agreements with the authority as the authority from time to time requires providing for regulation by the authority of the planning, development and management of any housing project undertaken by the corporation and the disposition of the property and franchises of the corporation.

HISTORY: Add. 1968, p. 662, Act 343, Imd. Eff. Jul. 19;—Am. 1970, p. 413, Act 129, Imd. Eff. Jul. 29.

125.1464 Directors, additional, power of authority.

Sec. 64. The articles shall provide that the authority shall have the power to appoint to the board of directors of the corporation a number of new directors, which number shall be sufficient to constitute a majority of the board, notwithstanding any other provisions of the articles of incorporation or any other provisions of law, if:

(a) The corporation has received a loan or advance as provided for in this act and the authority determines that the loan or advance is in jeopardy of not being repaid.

(b) The corporation has received a loan or advance as provided for in this act and the authority determines that the proposed housing project for which the loan or advance was made is in jeopardy of not being constructed.

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(c) The authority determines that some part of the net income or net earnings of the corporation is inuring to the benefit of any private individual, firm, corporation, partnership or association.

(d) The authority determines that the corporation is in some manner controlled by or under the direction of or acting in the substantial interest of any private individual, firm, corporation, partnership or association seeking to derive benefit or gain therefrom or seeking to eliminate or minimize losses in any dealings or transactions therewith.

(e) The authority determines that the corporation is in violation of the rules promulgated under section 22.

(f) The authority determines that the corporation is in violation of any agreements entered into with the authority providing for regulation by the authority of the planning, development and management of any housing project undertaken by the corporation and the disposition of the property and franchises of such corporation.

HISTORY: Add. 1968, p. 662, Act 343, Imd. Eff. Jul. 19;—Am. 1970, p. 413, Act 129, Imd. Eff. Jul. 29.

125.1465 Articles of incorporation; filing, approval.

Sec. 65. The department of the treasury, corporation division, shall not file the articles of incorporation of the corporation unless the consent or approval of the authority is attached or affixed thereto.

HISTORY: Add. 1968, p. 663, Act 343, Imd. Eff. Jul. 19.

CHAPTER 5

125.1471 Consumer housing cooperatives; incorporation.

Sec. 71. Consumer housing cooperatives shall be incorporated pursuant to the provisions of the Michigan general corporation act and the provisions of this chapter.

HISTORY: Add. 1968, p. 663, Act 343, Imd. Eff. Jul. 19.

125.1472 Consumer housing cooperatives; corporate name.

Sec. 72. The term "consumer housing cooperative" shall be included as a part of the corporate name as set forth in the certificate of incorporation.

HISTORY: Add. 1968, p. 663, Act 343, Imd. Eff. Jul. 19.

125.1473 Consumer housing cooperative; articles of incorporation.

Sec. 73. The articles of incorporation of any consumer housing cooperative, in addition to other requirements of law, shall provide:

(a) That the consumer housing cooperative has been organized exclusively to provide housing facilities and such social, recreational, commercial and communal facilities as may be incidental or appurtenant thereto for persons of low and moderate income.

(b) That all income and earnings of the consumer housing cooperative shall be used exclusively for consumer housing cooperative purposes and that no unreasonable part of the net income or net earnings of the cooperative shall inure to the benefit or profit of any private individual, firm, corporation, partnership or association.

(c) That the consumer housing cooperative is in no manner controlled or under the direction of or acting in the substantial interest of any private individual, firm, corporation, partnership or association seeking to derive profit or gain therefrom or seeking to eliminate or minimize losses in any dealing or transaction therewith, except that the foregoing shall apply to individual cooperators of a consumer housing cooperative only in those circumstances defined by the authority in its rules.

(d) That the operations of the consumer housing cooperative may be supervised by the authority and that the consumer housing cooperative shall enter into such agreements with the authority as the authority from time to time requires providing for regulation by the authority of the planning, development and management of any housing

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project undertaken by the consumer housing cooperative and the disposition of the property and franchises of such cooperative.

HISTORY: Add. 1968, p. 663, Act 343, Imd. Eff. Jul. 19;—Am. 1970, p. 413, Act 129, Imd. Eff. Jul. 29.

125.1474 Directors, additional, power of authority.

Sec. 74. The articles shall provide that the authority shall have the power to appoint to the board of directors of the consumer housing cooperative a number of new directors, which number shall be sufficient to constitute a majority of the board, notwithstanding any other provisions of the articles of incorporation or any other provisions of law, if:

(a) The consumer housing cooperative has received a loan or advance as provided for in this act and the authority determines that the loan or advance is in jeopardy of not being repaid.

(b) The consumer housing cooperative has received a loan or advance as provided for in this act and the authority determines that the proposed housing project for which the loan or advance was made is in jeopardy of not being constructed.

(c) The authority determines that some unreasonable part of the net income or net earnings of such consumer housing cooperative shall inure to the benefit of any private individual, firm, corporation, partnership or association.

(d) The authority determines that the consumer housing cooperative is in some manner controlled by or under the direction of or acting in the substantial interest of any private individual, firm, corporation, partnership or association seeking to derive benefit or gain therefrom or seeking to eliminate or minimize losses in any dealing or transaction therewith, except that the foregoing shall apply to individual cooperators of a consumer housing cooperative only in those circumstances defined by the authority in its rules.

(e) The authority determines that the consumer housing cooperative is in violation of the rules promulgated under section 22.

(f) The authority determines that the consumer housing cooperative is in violation of any agreements entered into with the authority providing for regulation by the authority of the planning, development and management of any housing project undertaken by the consumer housing cooperative or the disposition of the property and franchises of such cooperative.

HISTORY: Add. 1968, p. 664, Act 343, Imd. Eff. Jul. 19;—Am. 1970, p. 414, Act 129, Imd. Eff. Jul. 29.

125.1475 Articles of incorporation; filing, approval of authority.

Sec. 75. The department of the treasury, corporation division, shall not file the articles of incorporation of the consumer housing cooperative unless the consent or approval of the authority is attached or affixed thereto.

HISTORY: Add. 1968, p. 664, Act 343, Imd. Eff. Jul. 19.

CHAPTER 6

125.1481 Limited dividend housing corporations; incorporation.

Sec. 81. Limited dividend housing corporations shall be incorporated or qualified pursuant to the provisions of the general corporation act and this chapter.

HISTORY: Add. 1970, p. 414, Act 129, Imd. Eff. Jul. 29.

125.1482 Corporate name.

Sec. 82. The term "limited dividend housing corporation" shall be included as a part of the corporate name as set forth in the certificate of incorporation or certificate of authority.

HISTORY: Add. 1970, p. 414, Act 129, Imd. Eff. Jul. 29.

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125.1483 Articles of incorporation.

Sec. 83. The articles of incorporation of any limited dividend housing corporation, in addition to other requirements of law, shall provide:

(a) That the limited dividend housing corporation has been organized exclusively to provide housing facilities and such social, recreational, commercial and communal facilities as may be incidental or appurtenant thereto for persons of low and moderate income.

(b) That every stockholder of the limited dividend housing corporation shall be deemed, by the subscription to or the receipt of stock therein, to have agreed that he at no time shall receive from the corporation in repayment of his investment any sums in excess of the face value of the investment plus cumulative dividends at such rate as the authority determines to be reasonable and proper, computed from the initial date upon which moneys were paid or property delivered in consideration for the proprietary interest of the stockholder and upon the dissolution of the limited dividend housing corporation any surplus in excess of such amounts shall be paid to the authority.

(c) That the operations of the limited dividend housing corporation may be supervised by the authority and that the limited dividend housing corporation shall enter into such agreements with the authority as the authority from time to time requires providing for regulation by the authority of the planning, development and management of any housing project undertaken by the limited housing corporation and the disposition of the property and franchises of the corporation.

HISTORY: Add. 1970, p. 414, Act 129, Imd. Eff. Jul. 29.

125.1484 Surplus; definition.

Sec. 84. As used in this chapter, the term "surplus" shall not be deemed to include any increase in assets of any limited dividend housing corporation organized in accordance with the provisions of this chapter, by reason of reduction of mortgage, by amortization or similar payments or realized from the sale or disposition of any assets of a limited dividend housing corporation to the extent such surplus can be attributed to any increase in market value of any real property or tangible personal property accruing during the period the assets were owned and held by the limited dividend housing corporation.

HISTORY: Add. 1970, p. 415, Act 129, Imd. Eff. Jul. 29.

125.1485 Directors, additional, power of authority.

Sec. 85. The articles shall provide that the authority shall have the power to appoint to the board of directors of the limited dividend housing corporation a number of new directors, which number shall be sufficient to constitute a majority of the board, notwithstanding any other provisions of the articles or any other provisions of law, if:

(a) The limited dividend housing corporation has received a loan or advance as provided for in this act and the authority determines that the loan or advance is in jeopardy of not being repaid.

(b) The limited dividend housing corporation has received a loan or advance as provided for in this act and the authority determines that the proposed housing project for which the loan or advance was made is in jeopardy of not being constructed.

(c) The authority determines that some part of the net income or net earnings of the limited dividend housing corporation, in excess of that permitted by other provisions of this act, shall inure to the benefit of any private individual, firm, corporation, partnership or association.

(d) The authority determines that the limited dividend housing corporation is in violation of the rules promulgated under section 22.

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(e) The authority determines that the limited dividend housing corporation is in violation of any agreements entered into with the authority providing for regulation by the authority of the planning, development and management of any housing project undertaken by the limited dividend housing corporation or the disposition of the property and franchises of such corporation.

HISTORY: Add. 1970, p. 415, Act 129, Imd. Eff. Jul. 29.

125.1486 Articles of incorporation; filing, approval.

Sec. 86. The department of the treasury, corporation division, shall not accept the articles of incorporation of the limited dividend housing corporation unless the consent or approval of the authority is attached or affixed thereto.

HISTORY: Add. 1970, p. 415, Act 129, Imd. Eff. Jul. 29.

CHAPTER 7

125.1491 Limited dividend housing association; approval, members.

Sec. 91. Limited dividend housing association shall include general or limited partnerships, joint ventures or trusts as any such entities shall be approved pursuant to resolution of the authority. Members of a limited dividend housing association shall include each and all persons with a legal or beneficial interest of any kind in a limited dividend housing association or its assets.

HISTORY: Add. 1970, p. 416, Act 129, Imd. Eff. Jul. 29.

125.1492 Association name.

Sec. 92. The term "limited dividend housing association" shall be included as part of the name of any limited dividend housing association.

HISTORY: Add. 1970, p. 416, Act 129, Imd. Eff. Jul. 29.

125.1493 Organization document; contents.

Sec. 93. The partnership agreement, joint venture agreement, trust agreement, or other document of basic organization of the limited dividend housing association, as the case may be, in addition to other requirements of law, shall provide:

(a) That the limited dividend housing association has been organized exclusively to provide housing facilities and such social, recreational, commercial and communal facilities as may be incidental or appurtenant thereto to persons of low and moderate income.

(b) That every member of a limited dividend housing association shall be deemed by acceptance of a beneficial interest in the limited dividend housing association or by executing the document of basic organization to have agreed that he at no time shall receive from such limited dividend housing association, any return in excess of the face value of the investment attributable to his respective interest plus cumulative dividend payments at such rate as the authority deems to be reasonable and proper, computed from the initial date upon which moneys were paid or property delivered in consideration for the interest, and upon the dissolution of the limited dividend housing association, any surplus in excess of such amounts shall be paid to the authority.

(c) That the operations of the limited dividend housing association may be supervised by the authority and that the limited dividend housing association shall enter into such agreements with the authority as the authority from time to time requires providing for regulation by the authority of the planning, development and management of any housing project undertaken by the limited dividend housing association and the disposition of the property and franchises of the limited dividend housing association.

HISTORY: Add. 1970, p. 416, Act 129, Imd. Eff. Jul. 29.

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125.1494 Surplus; definition.

Sec. 94. As used in this chapter, the term "surplus" shall not be deemed to include any increase in assets of any limited dividend housing association organized in accordance with the provisions of this chapter, by reason of reduction of mortgage, by amortization or similar payments or realized from the sale or disposition of any assets of a limited dividend housing association to the extent such surplus can be attributed to any increase in market value of any real property or tangible personal property accruing during the period the assets were owned and held by the limited dividend housing association.

HISTORY: Add. 1970, p. 416, Act 129, Imd. Eff. Jul. 29.

125.1495 Managing agent; power of authority.

Sec. 95. The partnership agreement, joint venture agreement, trust agreement or other document of basic organization, as the case may be, shall provide that the authority shall have the power to appoint a managing agent of the limited dividend housing association and its members, who may be an officer, employee, or agent of the authority, and said managing agent shall have complete power to act as agent and attorney in fact for the limited dividend housing association and its members, in connection with any asset or liability of the limited dividend housing association, to fulfill any obligations the limited dividend housing association may have the authority, if:

(a) The limited dividend housing association has received a loan or advance as provided for in this act and the authority determines that the loan or advance is in jeopardy of not being repaid.

(b) The limited dividend housing association has received a loan or advance as provided for in this act and the authority determines that the proposed housing project for which the loan or advance was made is in jeopardy of not being constructed.

(c) The authority determines that some part of the net income or net earnings of the limited dividend housing association, in excess of that permitted by other provisions of this act, shall inure to the benefit of any private individual, firm, corporation, partnership, trust or association.

(d) The authority determines that the limited dividend housing association is in violation of the rules promulgated under section 22.

(e) The authority determines that the limited dividend housing association is in violation of any agreements entered into with the authority providing for regulation by the authority of the planning, development and management of any housing project undertaken by the limited dividend housing association or the disposition of the property and franchises of such limited dividend housing association.

HISTORY: Add. 1970, p. 416, Act 129, Imd. Eff. Jul. 29.

125.1496 Basic organization document; approval.

Sec. 96. Before any limited dividend housing association can receive any benefits as a result of qualifying under this act, the authority must approve the terms of the partnership agreement, joint venture agreement, trust agreement or other document of basic organization.

HISTORY: Add. 1970, p. 417, Act 129, Imd. Eff. Jul. 29.

125.1501-125.1512. Rejected by voters on November 3, 1970.

Sections (Secs. 1-12, Act 304, 1969, p. 559) provided for issuances of general obligation bonds of state for urban redevelopment to be effective upon approval of the electors. It was rejected by the voters at the general election of November 3, 1970.

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CHAPTER 128. CEMETERIES

MUNICIPAL CEMETERIES

Act 215 of 1937

128.1 Cemetery or burial grounds; authority to own or control; transfer of certain trust funds.

CITY CEMETERIES

Act 46 of 1931

128.11 City cemeteries; definitions.
128.12 Burial space; proceedings for termination of rights, copy of resolution served on owner; petition, hearing; service on owner.
128.13 Burial space; proceedings for termination of rights; forfeiture; city, village or township may re-sell; copy of order served on owner; redemption.
128.14 Duty of board.
128.15 Reconveyance; perpetual care trust fund.
128.16 Rights not forfeited; conditions.

ESTABLISHMENT REQUIREMENTS

Act 55 of 1915

128.21 Cemeteries; establishment; local board, duties; additions.

PRIVATE CEMETERY IN TOWNSHIP, VACATION

Act 49 of 1895

128.31 Private township cemetery; proceedings to vacate.
128.32 Petition by local health board; contents; notice; failure to act; costs.
128.33 Hearing; burden of proof; order, recording.
128.34 Reinterment; expenses.
128.35 Lot owner; reimbursement.
128.36 Reversion to original owner; conditions.

CEMETERY IN CITY OR VILLAGE, VACATION

Act 164 of 1871

128.41 Vacation of cemetery; jurisdiction of chancery court.
128.42 Petition of trustees or council to vacate; notice.
128.43 Court proceedings; order to vacate; recording.
128.44 Reinterment; time of year; expenses, payment.
128.45 Price of lots repaid.

Act 297 of 1929

128.51 Circuit court in chancery; jurisdiction to vacate cemeteries.
128.52 Contract for sale of private cemetery to city, village; contents.
128.53 Petition of trustees or council to vacate; filing, notice.
128.54 Compensation to objecting lot owners; credit on contract; condition precedent.
128.55 Court proceedings; order to vacate, contents, recording; recorded under complete bar.
128.56 Appeal; bond.
128.57 Removal, reinterment of dead; time of year.

RURAL CEMETERIES

Act 113 of 1915

128.61 Cemeteries; joint maintenance by municipalities; money deposited in trust, limitation, expenditure.
128.62 Cemetery day.

PROPERTY HELD BY TOWNSHIP BOARDS

Act 95 of 1909

128.71 Township board; realty trusteeship duties.
128.72 Trust fund; investment.
128.73 Trust fund; not transferable.
128.74 Treasurer and custodian; bond.

CEMETERY LOTS, CARE DEPOSITS

Act 81 of 1903

128.81 Cemetery lots; deposit for care with county treasurer.
128.82 Cemetery lots; deposit for care with county treasurer; investment, county may borrow.
128.83 Interest; payment of sexton's claims.
128.84 Treasurer's receipts; contents; duplicate, filing.
128.85 Treasurer's bond, increase.
128.86 Annual report.
128.87 Cemetery deposits; county liability.
128.88 Cemetery deposits; tax exempt.

FENCING OF PRIVATE CEMETERIES

Act 201 of 1911

128.91 Private cemeteries fencing.
128.92 Private cemeteries; notice to build or repair.
128.93 Noncompliance with fencing requirement; erection by township health board; expense.

Act 211 of 1911

128.101 Private cemeteries in cities; fencing.
128.102 Private cemeteries in cities; notice to build or repair.
128.103 Noncompliance with fencing requirement; erection by city council; expense.

EXEMPTION FROM TAXATION OR ATTACHMENT

Act 88 of 1875

128.111 Private burial grounds; laying out; deed.
128.112 Private burial grounds; exemptions.

MEMORY DAYS

Act 22 of 1905

128.121 Memory days; purpose.

TOWNSHIP CEMETERIES

Act 272 of 1909

128.151 Cemeteries provided by township health board; compensation, determination.
128.152 Compensation; jury determination; summoning of jurors; notice.
128.153 Previous notice by board; contents, service.
128.154 Judge; duties; jury summons, return, contents; empaneling.
128.155 Jury sworn; subpoena power; determination of necessity, compensation; certificates by judge and jury, contents.
128.156 Judgement; collection.

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128.157 Incompetent or unknown owner; county treasurer, duties; funds subject to court order.
128.158 Vesting of fee; conditions; writ of possession.
128.159 Possession by township; writ of possession.
128.160 Jury disagreement; adjournment, limit.
128.161 Parties to suit; proof of claims; settlement.
128.162 Payment order; issuance, receipt; evidence.
128.163 Subsequent proceedings.
128.164 Fees; compensation.

Act 215, 1937, p. 343; Imd. Eff. Jul. 21.

AN ACT to authorize cities, villages, townships and municipal subdivisions of the state to own or control cemetery or burial grounds; to provide for perpetual care and maintenance; and to declare the effect of this act.

The People of the State of Michigan enact:

128.1 Cemetery or burial grounds; authority to own or control; transfer of certain trust funds.

Sec. 1. The legislative body of any city, village, township or any other municipal subdivision of the state, having the ownership or control over any cemetery or burial grounds is hereby authorized by resolution or ordinance adopted by the legislative body of said city, village, township or other municipality, to provide for the perpetual care and maintenance of any lot or lots in such cemetery or burial ground upon the payment by the owner of the said lot or any other person or persons of such sum or sums as said resolution or ordinance may provide, and in consideration for which said city, village, township or other municipal subdivision may bind itself to perpetually care for and maintain said lot. Any testamentary trustee appointed by any probate court in this state of any trust fund, the use and income from which is to be used to maintain any cemetery or burial lot, may, upon petition to the probate court which authorized his, her or its appointment, be authorized and directed by said court to transfer any fund or funds in his possession in the corpus of said trust to any city, village, township or other municipal subdivision which has complied with this section, under the provisions of such ordinance or resolution, and upon receipt for said funds duly filed with the probate court may be thereupon discharged from said trust.

HISTORY: CL 1948, 128.1.

Act 46, 1931, p. 62; Eff. Sep. 18.

AN ACT to supplement the laws providing for the establishment, control, maintenance and care of public cemeteries by cities and townships within this state; to define the powers and duties of cemetery boards and other public officials invested by law with the management thereof; to provide for the termination and forfeiture of rights in certain unused burial spaces in such cemeteries; to prescribe and regulate the procedure with reference thereto; to authorize the resale of such spaces and to direct the investment and use of the funds received therefrom; and to repeal all acts or parts of acts inconsistent with the provisions hereof. Am. 1947, p. 209, Act 149, Eff. Oct. 11.

The People of the State of Michigan enact:

128.11 City cemeteries; definitions.

Sec. 1. The term "cemetery" as used herein shall be deemed to refer to any public cemetery owned, managed or controlled by any city, village or township within this state. "Cemetery Board" as used herein shall be construed as referring to and includ-

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ing any board, trustees or public official or officials invested by law with the duty of managing or controlling any public cemetery as herein defined. "Burial space" means a lot or portion thereof in any cemetery as aforesaid designed and intended for the interment of human bodies or of a human body, but not used for such purpose. "Owner" means any person or persons owning or possessing the privilege, license or right of interment in any burial space.

HISTORY: Am. 1947, p. 209, Act 149, Eff. Oct. 11;—CL 1948, 128.11;—Am. 1949, p. 111, Act 107, Imd. Eff. May 17.

128.12 Burial space; proceedings for termination of rights, copy of resolution served on owner; petition, hearing; service on owner.

Sec. 2. Whenever the owner of any burial space or spaces in any public cemetery subject to the provisions hereof shall have failed and neglected for a period of 7 years or more to care for and maintain such space or spaces in accordance with the laws, rules and regulations relating thereto and providing for such care and maintenance, it shall be competent for the board or other officials having jurisdiction over such cemetery to institute proceedings for the termination and forfeiture of the rights and interest of such owner. Whenever such board or other officials shall determine the fact as to such failure and neglect, a resolution reciting such determination shall be duly adopted and a certified copy thereof shall be served on the owner personally by any competent person, or shall be sent by registered mail to his last known address. If compliance with said rules and regulations is not effected, or provision therefore made, within a period of 30 days said board may cause a petition to be filed in the circuit court of the county in which said cemetery is located, which petition shall set forth the facts relating to the sale and ownership of such burial space or spaces, the failure and neglect to comply with the rules and regulations for the care and maintenance thereof, and shall ask for the termination and forfeiture of the rights of such owner therein. Said petition shall be noticed for hearing, on a date not less than 40 days from the date of filing. A copy of said petition with said notice of hearing thereon shall be personally served on said owner within 15 days after filing or, in lieu of such personal service, copies thereof shall be sent by registered mail to the last known address of such owner within said 15 day period and a notice of the hearing thereon shall be published once each week for 3 successive weeks in some newspaper of general circulation in said county, the first publication being made not less than 30 days before the date of hearing. Thereupon, it shall be the duty of such owner to appear and make answer to the allegations of said petition and in case of his failure so to do prior to the day noticed for hearing, his default may be entered in the same manner as is or may be provided by law for the entering of defaults in equity cases generally.

HISTORY: CL 1948, 128.12.

128.13 Burial space; proceedings for termination of rights; forfeiture; city, village or township may re-sell; copy of order served on owner; redemption.

Sec. 3. On the day noticed for the hearing of said petition or on any subsequent day to which the hearing of the cause is adjourned, the proofs and allegations of the parties shall be presented to the court and if said court shall determine therefrom that the owner has failed and neglected for a period of 7 years preceding the filing of said petition to comply with the rules and regulations relating to the maintenance and the care of said burial space or spaces, an order shall be entered accordingly, forfeiting and terminating the rights and interest of such owner in and to said burial space or spaces, subject to the provisions of this act, and shall further provide that the city, village or township, through and by its proper board or other officials shall have the right to resell such spaces and to use the proceeds derived from such sale in the manner and for the purposes hereinafter provided. A duly certified copy of such order shall, within a

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period of 10 days after the entering thereof, be personally served on such owner or shall be sent by registered mail to his last known place of address. Following the entering of such order aforesaid, the owner shall have a period of 60 days in which to redeem the right or interest in and to such spaces by paying the costs incurred in the proceeding, not exceeding $15.00, and by complying with the rules and regulations provided for the care and maintenance thereof, or by making provision for such compliance. If it shall be made to appear to the court at any time before the expiration of such 60 day period that the owner has so redeemed the right or interest, an order shall be made and entered, setting aside the previous order of termination and forfeiture.

HISTORY: Am. 1933, p. 86, Act 72, Imd. Eff. May 5;—Am. 1935, p. 30, Act 18, Eff. Sep. 21;—Am. 1937, p. 234, Act 150, Imd. Eff. Jul. 2.—Am. 1939, p. 473, Act 257, Imd. Eff. Jun. 15;—Am. 1941, p. 284, Act 187, Imd. Eff. Jun. 16;—CL 1948, 128.13;—Am. 1949, p. 111, Act 107, Imd. Eff. May 17.

128.14 Duty of board.

Sec. 4. It shall be the duty of the cemetery board to keep an accurate account of all expenses incurred by it under the provision of this act and shall charge such expenses against the burial spaces involved. If, at the expiration of 60 days from and after the entering of the order of termination and forfeiture hereinbefore provided for, the owner shall not have redeemed his right or interest, the board is authorized and empowered to maintain and care for the burial space or spaces involved and shall keep an accurate and detailed account of all money expended for such purpose.

HISTORY: CL 1948, 128.14.

128.15 Reconveyance; perpetual care trust fund.

Sec. 5. At any time during the period of 2 years from and after the entering of the order of termination and forfeiture, the owner of any burial space or spaces shall be entitled to a reconveyance to him by the cemetery board on the payment of the costs and expenses incurred in said proceeding, not exceeding 15 dollars, in the care and maintenance of such space or spaces. If such reconveyance is not sought and obtained during said 2 year period, then and thereupon the cemetery board shall be authorized and empowered to offer such spaces for sale in accordance with the rules and regulations of said board governing the sale of lots and spaces in the cemetery concerned. The proceeds derived therefrom shall be used to defray the expenses incurred in accordance with the provisions of this act and the balance, if any, shall be placed in a fund to be known as the "Perpetual care trust fund" of the cemetery. The income therefrom shall be used by the board for the future maintenance, care and upkeep of the cemetery.

HISTORY: CL 1948, 128.15.

128.16 Rights not forfeited; conditions.

Sec. 6. Nothing in this act contained shall be construed to authorize the forfeiture or termination of rights or interest in and to any burial space that has been used for interment nor shall any such space be subject to resale under the provisions hereof.

HISTORY: CL 1948, 128.16.

Sec. 7. (This was a repeal section.)

HISTORY: Rep. 1947, p. 169, Act 129, Eff. Oct. 11.

Act 55, 1915, p. 81; Eff. Aug. 24.

AN ACT to regulate the establishment of cemeteries and to define the duties of local boards of health and of the state board of health in relation thereto.

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The People of the State of Michigan enact:

128.21 Cemeteries; establishment; local board, duties; additions.

Sec. 1. No person or incorporated cemetery association shall establish a cemetery at any place in this state until a description of the premises and a plat showing the division thereof shall have been filed in duplicate with the local board of health having jurisdiction of the premises and approved as hereinafter provided. The local board of health shall determine as soon as may be thereafter whether or not it is necessary or desirable for a cemetery to be established in the proposed location and if it approves of such location and the plat of said premises, it shall endorse such approval on both plats. When the establishment of any such cemetery has been approved as aforesaid 1 of said plats shall be returned to the proprietor thereof and the other shall be retained and preserved by the local board of health: Provided, That this act shall not apply to the acquiring of contiguous additions to existing cemeteries.

HISTORY: CL 1915, 5141;—CL 1929, 2656;—CL 1948, 128.21.

TOWNSHIP BOARD OF HEALTH: Purchase of cemetery ground, see Compilers' § 327.5 et seq.

VILLAGE CEMETERIES: See also Compilers' § 67.55 et seq.

CITY CEMETERIES: See also, as to fourth class cities, Ch. XV of Act 215 of 1895, being Compilers' § 95.1 et seq.

Act 49, 1895, p. 144; Eff. Aug. 30.

AN ACT to provide for vacating cemeteries in townships.

The People of the State of Michigan enact:

128.31 Private township cemetery; proceedings to vacate.

Sec. 1. That whenever complaint is made in writing to the board of health of any organized township in this state, by 10 or more residents of such township, setting forth the fact that any private cemetery, within the bounds of said township, should be removed, for the reason that such cemetery has become commons, or has become neglected or abandoned by its owner or owners, or has become a public nuisance, or shall impede the growth of any city or village in said township, or whenever such cemetery shall endanger the health of the people living in the immediate vicinity thereof, it shall become the duty of the said township board of health to forthwith institute proceedings to vacate said cemetery in the manner hereinafter provided. The circuit court in chancery, of the county in which such cemetery is located is hereby authorized to vacate the same, or any part thereof, on petition made to such court as herein provided.

HISTORY: CL 1897, 2387;—CL 1915, 2163;—CL 1929, 2657;—CL 1948, 128.31.

128.32 Petition by local health board; contents; notice; failure to act; costs.

Sec. 2. Said petition shall be made by the said board of health by an agent or attorney appointed by them for that purpose, who shall file a petition signed and sworn to by him, in the office of the register of said court for the proper county, which petition shall set forth his authority as attorney or agent, the particular reasons for making and filing such petition, and a distinct description of the premises on which such cemetery is located, which petition shall be filed, as aforesaid, 30 days previous to the first day of the term for which such petition shall be noticed for hearing. That notice of the pendency and hearing of such petition shall be given for the same space of time, by publishing the same in a newspaper, published in the proper county, once in each week for 4 successive weeks prior to the first day of the term when such case is noticed for hearing: Provided, That should said board of health neglect or refuse to appoint such attorney or agent within 30 days after the complaint in writing shall have

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been filed with said board, then any freeholder resident of said township may file said petition and proceed in the same manner as though regularly appointed as such agent or attorney: Provided further, Such freeholder may be required upon the order of said court to furnish security for costs should said petition be denied.

HISTORY: CL 1897, 2388;—CL 1915, 2164;—CL 1929, 2658;—CL 1948, 128.32.

128.33 Hearing; burden of proof; order, recording.

Sec. 3. That the hearing on such petition may be continued from term to term, in the discretion of the court, without further notice; that all testimony may be taken in open court, or the taking of the same may be referred, in the discretion of the court, to a circuit court commissioner of the proper county; that, under the discretion of the court, proper issues may be made for the determination of all questions of law and fact, and all questions of compensation to any person or persons to be affected by such proceedings, and all questions touching the compensation to be paid by the person or persons to whom said premises or any part thereof shall be sold after the same shall have been vacated as such cemetery, and all issues of fact may be tried by a jury, or 3 commissioners, if the court shall so order, and any person adversely interested may cause himself to be made defendant to such petition. In all cases where reference shall be made to a jury or commissioners to determine the compensation to be paid to or by any persons as aforesaid, the proceedings upon such reference, shall, so far as practicable, be like those had in cases where a jury is impaneled or commissioners are selected, to ascertain and determine the necessity of taking lands, franchises, and other property for the construction of railroads, and to appraise the damages and compensation to be allowed therefor. If upon *hearing, such petitioner shall produce satisfactory evidence to the court that the notice required by this act has been given, and that such cemetery should be vacated in whole or in part, as a place of burial, for any of the reasons given in this act for vacating cemeteries, such court shall thereupon order that such cemetery shall be vacated, in whole or in part, as a place of burial. That a copy of such order, certified by the register of such court under his seal, shall be recorded by the petitioners in the office of the register of deeds of the proper county.

HISTORY: CL 1897, 2389;—CL 1915, 2165;—CL 1929, 2659;—CL 1948, 128.33.

*NOTE: It is evident to the Compiler that the word "the" was omitted by error.

128.34 Reinterment; expenses.

Sec. 4. That when any cemetery shall be vacated as provided in this act, the said township board of health shall cause all the dead bodies and remains buried in said cemetery to be re-interred in the cemetery of such township, if they have one, and if not, then in some suitable cemetery in an adjoining township, in a prudent, careful and respectful manner, and shall cause to be removed and again erected over the proper remains, all permanent fences around graves and lots, all tombstones and monuments, with as little injury as the case will admit: Provided, That should the cemetery vacated belong to any religious society or church and there be another suitable cemetery belonging to the same church or denominational society within said township or an adjoining township then said removal may be maid [made] to such cemetery instead of to the township cemetery: And provided further, That no removal of said bodies and remains shall be made during the months of June, July, August, or September, excepting in the upper peninsula. Such removal and the cost of such proceedings under this act, shall be at the expense of, and paid by the township in which such cemetery is situated, except that in cases where the proceedings are instituted by an individual, without the consent of the township board of health, and the prayer of the pe-

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tition shall be denied by the court, then and in that case, the person so instituting the proceedings shall be required to pay such costs as may be allowed by order of the said court.

HISTORY: CL 1897, 2390;—CL 1915, 2166;—CL 1929, 2660;—CL 1948, 128.34.

128.35 Lot owner; reimbursement.

Sec. 5. In all cases where the land vacated shall revert to said township or to any person or persons, such township shall on demand, and upon the conveyance of said lot, where conveyance may be necessary, to said township board of health or private person, repay to any owner the price he may have paid for his lot.

HISTORY: CL 1897, 2391;—CL 1915, 2167;—CL 1929, 2661;—CL 1948, 128.35.

128.36 Reversion to original owner; conditions.

Sec. 6. In all cases where the land embraced in the cemetery so vacated shall not exceed 1 acre in area it shall revert to the original grantor or his heirs, or be so conveyed to him or them by the said township if necessary: Provided, said grantor or his heirs shall first pay to said township the value of said land based upon the market price of like land in the immediate vicinity.

HISTORY: CL 1897, 2392;—CL 1915, 2168;—CL 1929, 2662;—CL 1948, 128.36.

Act 164, 1871, p. 249; Eff. Jul. 18.

AN ACT to provide for vacating cemetery plats and cemetery grounds in the limits of incorporated cities and villages.

The People of the State of Michigan enact:

128.41 Vacation of cemetery; jurisdiction of chancery court.

Sec. 1. That whenever the trustees of any incorporated village, or the common council of any city, shall by resolution adopted by them, determine that the dead bodies buried in any public or private cemetery located in such city or village should be removed therefrom, for the reason that such cemetery shall have become commons, or has become neglected or abandoned by its owner or owners, or has become a public nuisance, or shall impede the growth of any such city or village, or shall endanger the health of the people living in the immediate vicinity thereof, the circuit court in chancery of the county in which such cemetery is located is hereby authorized to vacate the same, or any part thereof, on petition made to such court as hereinafter provided.

HISTORY: CL 1871, 3423;—How. 4790;—CL 1897, 3485;—CL 1915, 3481;—CL 1929, 2663;—Am. 1941, p. 194, Act 149, Eff. Jan. 10, 1942.—CL 1948, 128.41.

128.42 Petition of trustees or council to vacate; notice.

Sec. 2. That such petition shall be made in behalf of said trustees or common council by an attorney or agent appointed by them for that purpose, who shall file a petition signed and sworn to by him in the office of the register of said court for the proper county, which petition shall set forth his authority as attorney or agent, the particular reasons for making and filing such petition and a distinct description of the premises on which such cemetery is located, which petition shall be filed as aforesaid 30 days previous to the first day of the term for which such petition shall be noticed for hearing. That notice of the pendency and hearing of such petition shall be given for the same space of time by publishing the same in a newspaper published in the proper county once in each week for 4 successive weeks prior to the first day of the term when such case is noticed for hearing.

HISTORY: CL 1871, 3424;—How. 4791;—CL 1897, 3486;—CL 1915, 3482;—CL 1929, 2664;—CL 1948, 128.42.

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128.43 Court proceedings; order to vacate; recording.

Sec. 3. That the hearing of such petition may be continued from term to term in the discretion of the court, without further notice, that all testimony may be taken in open court or the taking of the same may be referred in the discretion of the court to a circuit court commissioner of the proper county. That under direction of the court proper issues may be made for the determination of all questions of law and fact and all questions of compensation to any person or persons to be affected by such proceedings and all issues of fact may be tried by a jury if the court shall so order, and any person adversely interested may cause himself to be made defendant to such petition. In all cases where reference shall be made to a jury to determine the compensation to be paid to any person or persons as aforesaid, the proceedings upon such reference shall so far as practicable be like those had in cases where a jury is empaneled to ascertain and determine the necessity of taking lands, franchises and other property for the construction of railroads and to apprize the damages and compensation to be allowed therefor. If upon the hearing of such petition the petitioner shall produce satisfactory evidence to the court that said trustees or common council have determined as aforesaid, that the notice required by this act has been given, and that such cemetery should be vacated in whole or in part as a place of burial for any of the reasons given in this act for vacating cemeteries, such court shall thereupon order that such cemetery shall be vacated in whole or in part as a place of burial. That a copy of such order certified by the register of such court under his seal shall be recorded by the petitioner in the office of the register of deeds of the proper county.

HISTORY: CL 1871, 3425;—How. 4792;—CL 1897, 3487;—CL 1915, 3483;—CL 1929, 2665;—CL 1948, 128.43.

EMPANELING OF JURY: In condemnation proceedings by railroads, see Compilers' § 464.20 et seq.

128.44 Reinterment; time of year; expenses, payment.

Sec. 4. That when any cemetery shall be vacated as provided in this act, the said trustees or common council shall cause all the dead bodies and remains buried in such cemetery to be re-interred in the cemetery of such city or village, if they have one, and if not, then in some suitable cemetery not more than 6 miles from the nearest corporate limits of said city or village in a prudent, careful and respectful manner, and shall cause to be removed and again erected over the proper remains, all permanent fences around graves and lots, all tombstones and monuments, with as little injury as the case will admit, Provided, That no removal of said bodies and remains shall be made during the months of June, July, August or September, such removal, and the costs of the proceedings under this act, shall be at the expense of and paid by the city or village in which such cemetery is located.

HISTORY: CL 1871, 3426;—How. 4793;—CL 1897, 3488;—CL 1915, 3484;—CL 1929, 2666;—CL 1948, 128.44.

128.45 Price of lots repaid.

Sec. 5. In all cases where the title to the land vacated shall revert to such city or village, such city or village shall on demand and upon the conveyance of said lot (where conveyance may be necessary) to said city or village, repay to any owner the price he may have paid for his lot.

HISTORY: CL 1871, 3427;—How. 4794;—CL 1897, 3489;—CL 1915, 3485;—CL 1929, 2667;—CL 1948, 128.45.

Act 297, 1929, p. 763; Imd. Eff. May 23.

AN ACT to provide for vacating private and public cemetery plats and cemetery grounds in the limits of incorporated cities and villages and to provide for the acquisition by said cities and villages of the cemetery grounds and plats vacated hereunder.

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The People of the State of Michigan enact:

128.51 Circuit court in chancery; jurisdiction to vacate cemeteries.

Sec. 1. That, whenever the trustees of an incorporated village, or the common council of any city, shall, by a resolution adopted by them, determine that the dead bodies buried in any private or public cemetery located in such city or village should be removed therefrom for the reason that such cemetery shall impede the establishment, maintenance, development or enhancement of any public improvement by such city or village, the circuit court in chancery of the county in which such cemetery is located, upon such findings, and under the conditions hereinafter set forth, is hereby authorized to vacate the same, or any part thereof, on petition made to such court, as hereinafter provided.

HISTORY: CL 1929, 2668;—CL 1948, 128.51.

128.52 Contract for sale of private cemetery to city, village; contents.

Sec. 2. That, upon the adoption of such a resolution, it shall be competent for the board of directors, or board of trustees, of such cemetery association, as is the owner of such cemetery, to agree upon a contract for the sale of such cemetery to such city or village: Provided, however, That the validity and enforceability of such contract shall be conditioned upon the aforesaid circuit court authorizing the vacating of such cemetery under the terms hereof: Provided further, That such contract shall be approved by a 3/4 vote of the scrip holders or stockholders of such cemetery association, at a special meeting called for that purpose, notice of such meeting to be mailed to the last known place of residence of such scrip holders or stockholders: And provided further, That such contract shall provide that such cemetery association agrees to provide, within a reasonable distance from such city or village, a cemetery ground suitable for the reinterment of such dead bodies and remains as are ordered to be vacated: And provided further, That such contract shall provide that such cemetery association agrees to reinter such dead bodies and remains, except as to such as are interred in the lots of objecting lot owners or grave owners, as hereinafter set forth.

HISTORY: CL 1929, 2669;—CL 1948, 128.52.

128.53 Petition of trustees or council to vacate; filing, notice.

Sec. 3. That, upon the execution of such contract, a petition shall be made in behalf of said village trustees, or common council, by an attorney, or agent, appointed by them for that purpose, who shall file a petition, signed and sworn to by him, in the office of the clerk of said court for the proper county, which petition shall set forth his authority, as attorney, or agent, the particular reasons for making and filing such petition, a copy of the aforesaid contract with the cemetery association, and a complete legal description of the premises on which said cemetery is located, which petition shall be filed as aforesaid, at least 30 days previous to the date for which such petition shall be noticed for hearing. That notice of the pendency and hearing of such petition shall be given by publishing the same in a newspaper circulated in the proper county, once in each week, for 4 successive weeks, prior to the date of the hearing.

HISTORY: CL 1929, 2670;—CL 1948, 128.53.

128.54 Compensation to objecting lot owners; credit on contract; condition precedent.

Sec. 4. That, should there appear at the hearing of such petition any objecting lot owner or grave owner of such cemetery, setting forth, by special petition, that he has not come to an agreement with said cemetery association in respect to the necessity for such removal under the terms of this act and in respect to compensation for the loss of burial rights, or for the removal of dead bodies interred on their lots, compensation shall be awarded to such lot owners and grave owners in the manner hereinafter

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set forth, and such compensation shall be paid by said city, or village, and shall, thereafter, be deducted from the purchase price theretofore agreed to be paid to said cemetery association: Provided, however, That as a condition precedent to the payment of such compensation, such objecting lot owner and grave owner shall remove and reinter the dead bodies and remains on his lot.

HISTORY: CL 1929, 2671;—CL 1948, 128.54.

128.55 Court proceedings; order to vacate, contents, recording; recorded under complete bar.

Sec. 5. That the hearing of such petition may be continued from term to term, in the discretion of the court, without further notice; that all testimony may be taken in open court, or the taking of the same may be referred, in the discretion of the court, to a circuit court commissioner of the proper county; that, under direction of the court, proper issues may be made for the determination of all questions of law and fact, and all questions of compensation to any person, or persons, to be affected by such proceedings, and all issues of fact may be tried by a jury, if the court shall so order, and any person adversely interested may cause himself to be made defendant to such petition. In all cases where reference shall be made to a jury to determine the compensation to be paid to any person or persons, as aforesaid, the proceedings upon such reference shall, so far as practicable, be like those had in cases where a jury is empaneled to ascertain and determine the necessity of taking lands and other property as provided by the charter of the municipality or as provided in Act No. 149 of the Public Acts of 1911, as amended by Act No. 37 of the Public Acts of 1925, entitled "An act to provide for the condemnation by state agencies and public corporations of private property for the use or benefit of the public, and to define the terms 'public corporations,' 'state agencies' and 'private property' as used herein," being sections 353 to 373, inclusive, of the Compiled Laws of 1915, or such other appropriate provisions therefor as exist or shall be made by law, and to appraise the damages and compensation to be allowed therefor. If, upon the hearing of such petition, the petitioner shall produce satisfactory evidence to the court, that said trustees, or common council, have determined, as aforesaid, that the notice required by this act has been given; that the aforesaid contract between such city or village and said cemetery association has been executed in accordance with the terms hereof, and that such cemetery should be vacated, in whole or in part, as a place of burial, for the reasons given in this act for vacating cemeteries, such court shall thereupon order that such cemetery shall be vacated, in whole or in part, as a place of burial; upon this condition, however, that said city or village shall perform its obligations and agreements under the terms of the said contract. That a copy of such order certified by the register of such court under his seal shall be recorded by the petitioner in the office of the register of deeds of the proper county. That such order, when so recorded, shall be a complete bar to the rights of any person or persons, as lot owners and grave owners of such cemetery: Provided, however, That the rights of objecting lot owners and grave owners shall not be barred until the compensation awarded hereunder shall be paid by said city or village to the person or persons entitled to same or to the clerk of the county where such judgment was rendered.

HISTORY: CL 1929, 2672;—CL 1948, 128.55.

NOTE: Act 149 of 1911, above referred to, is Compilers' §§ 213.21 to 213.41.

128.56 Appeal; bond.

Sec. 6. Any lot owner or grave owner whose property may be taken, and any municipality or person, party to the proceedings under this act, considering himself aggrieved, may appeal from the order of the court confirming the verdict of the jury or order of the court made at the proceedings without a jury by filing in writing with the clerk of said court notice of such appeal within 5 days after the confirmation or order, and filing a bond in said court, to be approved by the judge thereof, conditioned for

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the prosecution of said appeal to judgment, and the payment of all costs, damages and expenses that may be awarded against him in case the judgment or confirmation shall be affirmed. Such appeal shall be perfected within the same time and prosecuted as far as practicable like an appeal in chancery.

HISTORY: CL 1929, 2673;—CL 1948, 128.56.

128.57 Removal, reinterment of dead; time of year.

Sec. 7. That, when any cemetery shall be vacated as provided in this act, said cemetery association or objecting lot owner or grave owner shall remove the dead bodies and remains buried in such cemetery and shall reinter them, under the supervision of the board of health or health officer, such removal and reinterment to be had within 90 days from the date of recording of such order as aforesaid: Provided, That no removal of said bodies and remains shall be made during the months of June, July, August or September, and that no part of the aforesaid 90 days' period shall be computed during those months.

HISTORY: CL 1929, 2674;—CL 1948, 128.57.

Act 113, 1915, p. 187; Eff. Aug. 24.

AN ACT prescribing the powers and duties of township boards and legislative bodies of cities and villages with relation to the care of cemeteries; and to provide for perpetual care deposits, and the disbursement thereof. Am. 1951, p. 140, Act 109, Eff. Sep. 28;—Am. 1952, p. 186, Act 157, Eff. Sep. 18.

The People of the State of Michigan enact:

128.61 Cemeteries; joint maintenance by municipalities; money deposited in trust, limitation, expenditure.

Sec. 1. The township board of each township shall have the authority and it shall be its duty to cause all cemeteries within its township, except private cemeteries and cemeteries owned by cities and villages located in such townships, to be properly taken care of. The legislative body of any city or village may contribute to the maintenance and care of cemeteries owned by the township, and the township board may contribute to the maintenance and care of cemeteries owned by a city or village. Such contributions shall be paid from the respective contingent or general funds. The township boards of 2 or more adjoining townships, whether or not the townships are located in the same county may contribute to the maintenance and care of cemeteries owned by 1 or more of the townships. Any person or persons interested in the maintenance of a lot in any cemetery may deposit in trust with the township treasurer a sum of money not to exceed the sum of $500.00, the interest or principal of which shall be expended to maintain the lot described in such amounts each year as shall be designated in the letter of deposit, or by agreement with the township board. Said maintenance money shall be expended under the supervision of the township board.

HISTORY: CL 1915, 11190;—Am. 1919, p. 302, Act 163, Eff. Aug. 14;—CL 1929, 2676;—CL 1948, 128.61;—Am. 1949, p. 54, Act 57, Eff. Sep 23.—Am. 1951, p. 140, Act 109, Eff. Sep. 28;—Am. 1952, p. 186, Act 157, Eff. Sep. 18;—Am. 1957, p. 251, Act 204, Eff. Sep. 27.

128.62 Cemetery day.

Sec. 2. The third Wednesday in August of each year is hereby designated as "cemetery day" and is set aside as a day upon which the people in townships may devote a portion of their time to the improvement of their cemeteries. The township boards shall direct the manner of making such improvements.

HISTORY: CL 1915, 11191;—CL 1929, 2677;—CL 1948, 128.62.

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Act 95, 1909, p. 178; Eff. Sep. 1.

AN ACT to authorize township boards of health to receive and hold any property, real or personal, left to said board in trust for the upkeep of any cemetery or lots therein, and permitting said board to expend such funds in accordance with the provisions of such trust.

The People of the State of Michigan enact:

128.71 Township board; realty trusteeship duties.

Sec. 1. The township board of health of any township shall have power in its discretion to take, receive and hold any property, real or personal, which may be granted, transferred, bequeathed or devised to such board in trust, for the purpose of caring for or keeping in good repair any lot or lots, or any portion thereof, or the whole or a part of any township cemetery, and to expend the same as specified in such trust.

HISTORY: CL 1915, 5137;—CL 1929, 2678;—CL 1948, 128.71.

128.72 Trust fund; investment.

Sec. 2. All moneys and property which may be received by said board by way of gift, grant, devise or bequest, for cemetery purposes, shall be under the control of said board, and shall be held in trust by said board, subject to the terms and conditions on which the same were given, granted, devised or bequeathed, and the same shall constitute a trust fund. If left in money it shall, unless otherwise expressed by those making such gift, grant or bequest, be invested as a permanent fund in good, safe, interest bearing securities, the interest therefrom to be used as designated in said trust, under the supervision or direction of the said board; and no part of such income shall be used or appropriated for other than the purposes expressed in said trust, except the paying of the clerk of said board for his services in carrying out the provisions of said trust, which amount shall be determined by the board.

HISTORY: CL 1915, 5138;—CL 1929, 2679;—CL 1948, 128.72.

128.73 Trust fund; not transferable.

Sec. 3. Neither the whole nor any part of the principal or income derived from said trust fund shall be either temporarily or permanently transferred to the general cemetery or other fund, or used for general cemetery purposes, or diverted in any way contrary to the provisions of the trust under which the same was received.

HISTORY: CL 1915, 5139;—CL 1929, 2680;—CL 1948, 128.73.

128.74 Treasurer and custodian; bond.

Sec. 4. The clerk of said board shall be the treasurer of said board and custodian of such trust fund, and said board shall take into consideration this duty of the clerk in fixing the amount of his official bond, which in all cases shall be adequate to cover the moneys or property under his control for the purposes of this act.

HISTORY: CL 1915, 5140;—CL 1929, 2681;—CL 1948, 128.74.

Act 81, 1903, p. 107; Eff. Sep. 17.

AN ACT to provide for the care and preservation of cemetery lots.

The People of the State of Michigan enact:

128.81 Cemetery lots; deposit for care with county treasurer.

Sec. 1. Any person residing in the state of Michigan, or elsewhere, may, during his lifetime, by will, or otherwise, deposit any sum of money with any county treasurer in the state of Michigan, which sum shall not be less than 50 dollars, for the care of any 1

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lot, the interest only of which is to be used for the purpose of caring for such cemetery lot or lots in any cemetery within the state of Michigan, an accurate description of said lots, where and in what cemetery located, to be deposited by the person so depositing said money, giving the name of the county and township, village or city in which said cemetery is located, giving the number of the lot or lots, if said cemetery is platted, if not platted, then by giving the name of some person whose name shall be cut on a stone or monument on the lot or lots in the cemetery which he may wish to designate: Provided, This section shall not affect any municipality or association that has at this time provision for such deposit of money and laws governing the maintenance of cemetery lots.

HISTORY: CL 1915, 2397;—CL 1929, 1278;—CL 1948, 128.81.

128.82 Cemetery lots; deposit for care with county treasurer; investment, county may borrow.

Sec. 2. The county in which any such money shall have been so deposited shall have the first privilege of borrowing said money, or any part of it, and afterward any person, firm or corporation, in the discretion of the county treasurer, by paying interest at the rate of not less than 3 per cent per annum. The county treasurer may consolidate such funds for investment, with the approval of the finance committee of the board of supervisors.

HISTORY: CL 1915, 2398;—Am. 1925, p. 307, Act 206, Eff. Aug. 27;—CL 1929, 1279;—CL 1948, 128.82.

128.83 Interest; payment of sexton's claims.

Sec. 3. The county treasurer loaning such money shall pay the interest received by him on such loan to the sexton, or whoever may be in charge of the cemetery in which the lot or lots to be benefited are located, upon his order stating the amount of labor performed on the lot or lots properly described, said labor to be charged at a reasonable compensation therefor, said order to be certified to by the supervisor of the township or supervisor district in which said cemetery may be located, as having been performed and that the same is a reasonable compensation therefor.

HISTORY: CL 1915, 2399;—Am. 1917, p. 804, Act 324, Eff. Aug. 10;—CL 1929, 1280;—CL 1948, 128.83.

128.84 Treasurer's receipts; contents; duplicate, filing.

Sec. 4. Every county treasurer in this state, upon receiving any so called cemetery money, shall at once deliver to the person depositing the same, a receipt, stating the amount received, the name in full of the person depositing the same, with a full and accurate description of the lot or lots, for the benefit of which, said money is intended to be used, and shall also make and deliver duplicates of said receipt to the county clerk and the township or city clerk of the township or city in which the cemetery is located, and said county, township or city clerk shall file such duplicate receipts in a book kept specially for that purpose.

HISTORY: CL 1915, 2400;—CL 1929, 1281;—CL 1948, 128.84.

128.85 Treasurer's bond, increase.

Sec. 5. The bond of the county treasurer prescribed in sections 2361 and 2362 of the Compiled Laws of 1915 shall be holding for all funds deposited under this act. Such bond shall be increased from time to time as said funds increase, at the discretion of the board of supervisors.

HISTORY: CL 1915, 2401;—Am. 1917, p. 804, Act 324, Eff. Aug. 10;—CL 1929, 1282;—CL 1948, 128.85.

NOTE. Sections above referred to, are Compilers' §§ 48.35 and 48.36.

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128.86 Annual report.

Sec. 6. Every county treasurer having such funds shall make an annual report to the board of supervisors at its January session of the total amount of money so deposited, how invested, and the amount of interest received therefrom.

HISTORY: CL 1915, 2402;—Am. 1925, p. 307, Act 208, Eff. Aug. 27;—CL 1929, 1283;—CL 1948, 128.86.

128.87 Cemetery deposits; county liability.

Sec. 7. Every county in this state having any such cemetery fund, shall always be held accountable and liable for any and all such cemetery money in an action brought by any person having deposited such fund, or his heirs, or by any cemetery board, or township board, wherever the cemetery is located within the state of Michigan.

HISTORY: CL 1915, 2403;—CL 1929, 1284;—CL 1948, 128.87.

128.88 Cemetery deposits; tax exempt.

Sec. 8. All moneys set apart for the purposes specified in this act shall be exempt from taxation.

HISTORY: CL 1915, 2404;—CL 1929, 1285;—CL 1948, 128.88.

Act 201, 1911, p. 339; Eff. Aug. 1.

AN ACT to compel owners of private cemeteries to keep the same enclosed with a suitable fence to prevent encroachment of live stock.

The People of the State of Michigan enact:

128.91 Private cemeteries fencing.

Sec. 1. It shall be the duty of any owner or owners of private cemeteries wherein lots are sold for private or family burial purposes, to keep the same at all times enclosed with a fence with self locking gates of entrance and exit. Said fence and gates to be erected under the direction of the township board of health and of such a character and strength to prevent the encroachment of live stock, within the bounds of said cemetery.

HISTORY: CL 1915, 11192;—CL 1929, 2682;—CL 1948, 128.91.

128.92 Private cemeteries; notice to build or repair.

Sec. 2. It shall be the duty of the township board of health in any township in this state wherein is located any private cemetery, or cemeteries, coming within the provisions of this act, to serve a written notice on the owner or owners of said private cemetery or cemeteries to either build or repair, as to said board seems necessary within a certain specified period, not to exceed 90 days from the issuing of said notice such fence as in their judgment fails to meet the requirements of the law, and in lieu of the service of a written notice, publication of the notice may be made in any newspaper of general circulation in the county wherein said private cemetery or cemeteries are located, for a period of 6 successive weeks.

HISTORY: CL 1915, 11193;—CL 1929, 2683;—CL 1948, 128.92.

128.93 Noncompliance with fencing requirement; erection by township health board; expense.

Sec. 3. If at the expiration of the said notice, said owner or owners have neglected or refused to comply with the requirements of said notice and order of said board of health, it shall be the duty of the said board of health to enter upon the premises of said private cemetery and erect or cause to be erected such fence as shall comply with the provisions of this act, and shall certify the costs of said construction to the township board. And said costs shall become a lien against the estate held in such private

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cemetery and shall be assessed and collected the same as other taxes against real estate in the township wherein such private cemetery is located.

HISTORY: CL 1915, 11194;—CL 1929, 2684;—CL 1948, 128.93.

Act 211, 1911, p. 365; Eff. Aug. 1.

AN ACT to compel owners of private cemeteries in cities to keep the same enclosed with a suitable fence to prevent encroachment of live stock.

The People of the State of Michigan enact:

128.101 Private cemeteries in cities; fencing.

Sec. 1. It shall be the duty of any owner or owners of private cemeteries in cities wherein lots are sold for private or family burial purposes, to keep the same at all times enclosed with a fence with self locking gates of entrance and exit. Said fence and gates to be erected under the direction of the council of the city in which such cemetery may be located and of such a character and strength as to prevent the encroachment of live stock, within the bounds of said cemetery.

HISTORY: CL 1915, 11195;—CL 1929, 2685;—CL 1948, 128.101.

128.102 Private cemeteries in cities; notice to build or repair.

Sec. 2. It shall be the duty of the council of any city in this state wherein is located any private cemetery, or cemeteries, coming within the provisions of this act, to serve a written notice on the owner or owners of said private cemetery or cemeteries either to build or repair, as to said board seems necessary, within a certain specified period, not to exceed 90 days from the issuing of said notice such fence as in their judgment meets the requirements of the law and in lieu of the service of a written notice, publication of the notice may be made in any newspaper of general circulation in the city wherein said private cemetery or cemeteries are located, for a period of 6 successive weeks.

HISTORY: CL 1915, 11196;—CL 1929, 2686;—CL 1948, 128.102.

128.103 Noncompliance with fencing requirement; erection by city council; expense.

Sec. 3. If at the expiration of said notice, the said owner or owners have neglected or refused to comply with the requirements of said notice and order of said council, it shall be the duty of said council to enter upon the premises of said private cemetery and erect or cause to be erected such fence as shall comply with the provisions of this act, and shall certify the costs of said construction to the city clerk, and said costs shall become a lien against the estate held in such private cemetery and shall be assessed and collected the same as other taxes against real estate in the city wherein such private cemetery is located.

HISTORY: CL 1915, 11197;—CL 1929, 2687;—CL 1948, 128.103.

Act 88, 1875, p. 126; Eff. Aug. 3.

AN ACT to exempt private burial grounds and places of interment for the dead from taxation and levy on execution or attachment.

The People of the State of Michigan enact:

128.111 Private burial grounds; laying out; deed.

Sec. 1. That it shall be lawful for any person or persons in this state to lay out and survey any tract of land not included within the corporate limits of any city or village

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which may be owned by such person or persons, as a private burial ground for the use of their families or descendants for purposes of interment of members of such families and descendants, and for no other purpose, not exceeding in quantity 1 acre of land, and may make a deed of the same to some person or persons to be named therein as trustees, with such provisions for continuing such trusteeship as they shall deem necessary, which said deed shall be acknowledged by such persons making the same, in the same manner as other deeds of land, and shall be recorded in the county where such land shall lie.

HISTORY: How. 4788;—CL 1897, 8416;—CL 1915, 11203;—CL 1929, 2688;—CL 1948, 128.111.

128.112 Private burial grounds; exemptions.

Sec. 2. Such land so laid out and described in said deed, when recorded in the register's office of the county where such land lies, shall operate as a grant forever of the land described in such deed to said trustees and their successors forever, for the purposes described in said deed, and no sale, judgment, or decree shall be made which shall have the effect to divert the same from the objects of said grant, set forth in such deed, and the same shall not be taxed for any purpose, or be subject to any sale for taxes or any execution, attachment, or other order of sale made by any court, and any deed made by said trustees or their successors, or upon any sale made for taxes, or upon any execution, or decree, or order of sale made by any court of said lands or any part thereof, or any tenements, tombs, or other structures, thereon and appurtenant thereto, shall be void and shall convey no interest or title to the grantee named in such deed.

HISTORY: How. 4789;—CL 1897, 8417;—CL 1915, 11204;—CL 1929, 2689;—CL 1948, 128.112.

Act 22, 1905, p. 33; Imd. Eff. Mar. 20.

AN ACT to provide for the better care of cemeteries and of the graves therein.

The People of the State of Michigan enact:

128.121 Memory days; purpose.

Sec. 1. That the twenty-fifth day of May and the thirtieth day of September in each year be and hereby are set apart and designated as "Memory Days"; said days to be used for the purpose of improving and beautifying the various cemeteries throughout the state and of the graves therein; that all may thus show forth on these days by these appropriate acts a loving and tender remembrance for the dead: Provided, however, That if either of the days herein designated shall fall on Sunday, the next Monday following shall be deemed "Memory Day" for all or any of the purposes of this act.

HISTORY: CL 1915, 1097;—CL 1929, 2675;—CL 1948, 128.121.

Act 272, 1909, p. 476; Eff. Sep. 1.

AN ACT to authorize the boards of health of the several townships of this state to acquire and enlarge burying grounds and approaches thereto in their respective townships and to provide the manner of acquiring private property for such purpose.

The People of the State of Michigan enact:

128.151 Cemeteries provided by township health board; compensation, determination.

Sec. 1. The boards of health of the several townships of this state, whenever they may deem it desirable and necessary, may provide new burying grounds in their re-

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spective townships, or may enlarge the limits of any existing burying grounds therein, and may provide for suitable approaches thereto, or may enlarge the limits of any existing approach to any burying ground in said township; and, in case said board of health shall be unable to agree with the owner or owners of any land or any rights therein which said board of health desire to include within the limits of such burying ground or approaches thereto, as to the compensation to be paid therefor, said board of health may authorize 1 or more of its members to apply to the circuit judge or any circuit court commissioner of said county, or to any justice of the peace of said township for a jury of the vicinage to ascertain and determine the just compensation to be paid for the real estate acquired by said board of health for said burying ground or approaches thereto, or any enlargement thereof, and the necessity for using the same; which application shall be in writing and shall describe the real estate required by such board as accurately as is required in a conveyance of real estate.

HISTORY CL 1915, 5123;—CL 1929, 3867;—CL 1948, 128.151.

CONDEMNATION CROSS REFERENCES: See note to Compilers' § 213.1.

128.152 Compensation; jury determination; summoning of jurors; notice.

Sec. 2. It shall be the duty of such circuit judge, circuit court commissioner, or justice of the peace, upon such application being made to him, to issue a summons or venire, directed to the sheriff or any constable of the county, commanding him to summon 18 freeholders residing within the vicinity of such site, who are in no wise of kin to the owner of such real estate, and not interested therein, to appear before such judge, commissioner, or justice at the time and place therein named, not less than 20 or more than 30 days from the time of issuing such summons or venire, as a jury to ascertain and determine the just compensation to be made for the real estate required by such board of health for burying ground purposes, and the necessity for using the same, and to notify the owner or occupant of such real estate, if he can be found in the county, of the time when and the place where such jury is summoned to appear, and the object for which such jury is summoned; which notice shall be served at least 10 days before the time specified in such summons or venire for the jury to appear as hereinbefore mentioned.

HISTORY: CL 1915, 5124;—CL 1929, 3868;—CL 1948, 128.152.

128.153 Previous notice by board; contents, service.

Sec. 3. Thirty days previous notice of the time when and the place where such jury will assemble shall be given by the board of health of such township, where the owner or owners of such real estate shall be unknown, non-residents of the county, minors, insane, non compos mentis, or inmates of any prison, by publishing the same in a newspaper published in the county where such real estate is situated; or if there be no newspaper published in such county, then in some newspaper published in the nearest county where a newspaper is published, once in each week for 4 successive weeks, which notice shall be signed by the board of health or by the township clerk of such township, and shall describe the real estate required for such burying ground, and state the time when and place where such jury will assemble, and the object for which they will assemble; or such notice may be served on such owner personally, or by leaving a copy thereof at his last place of residence.

HISTORY: CL 1915, 5125;—CL 1929, 3869;—CL 1948, 128.153.

128.154 Judge; duties; jury summons, return, contents; empaneling.

Sec. 4. It shall be the duty of such judge, commissioner, or justice, and of the persons summoned as jurors, as hereinbefore provided, and of the sheriff or constable summoning them, to attend at the time and place specified in such summons or venire; and the officer who summoned the jury shall return such summons or venire to the officer who issued the same, with the names of the persons summoned by him as

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jurors, and shall certify the manner of notifying the owner or owners of such real estate, if he was found; and if he could not be found in said county, he shall certify that fact. Either party may challenge any of the said jurors for the same causes as in civil action. If more than 12 of said jurors in attendance shall be found qualified to serve as jurors, the officer in attendance, and who issued the summons or venire for such jury, shall strike from the list of jurors a number sufficient to reduce the number of jurors in attendance to 12; and in case less than 12 of the number so summoned as jurors shall attend, the sheriff or constable shall summon a sufficient number of freeholders to make up the number of 12; and the officer issuing the summons or venire for such jury, may issue an attachment for any person summoned as a juror who shall fail to attend, and may enforce obedience of such summons, venire or attachment, as courts of record, or justices' courts are authorized to do in civil cases.

HISTORY: CL 1915, 5126;—CL 1929, 3870;—CL 1948, 128.154.

128.155 Jury sworn; subpoena power; determination of necessity, compensation; certificates by judge and jury, contents.

Sec. 5. The 12 persons selected as the jury shall be duly sworn by the judge, commissioner, or justice in attendance, faithfully and impartially to inquire, ascertain, and determine the just compensation to be made for the real estate required by such board of health for such burying ground, and the necessity for using the same in the manner proposed by such board of health, and the persons thus sworn shall constitute the jury in such case. Subpoenas for witnesses may be issued, and their attendance compelled by such circuit judge, commissioner, or justice in the same manner as may be done by a circuit court or by a justice court in civil cases. The jury may visit and examine the premises, and from such examination and such other evidences as may be presented before them, shall ascertain and determine the necessity for using such real estate in the manner and for the purpose proposed by such board of health, and the just compensation to be made therefor; and if such jury shall find that it is necessary that such real estate shall be used in the manner or for the purpose proposed by such board of health, they shall sign a certificate in writing, stating that it is necessary that said real estate, describing it, should be used as a burying ground or as an addition to a burying ground already established in such townships, or as an approach thereto; also stating the sum to be paid by such township as the just compensation for the same. The said circuit judge, circuit court commissioner, or justice of the peace, shall sign and attach to and endorse upon the certificate thus subscribed by the said jurors, a certificate stating the time when and the place where the said jury assembled, that they were by him duly sworn as herein required, and that they subscribed said certificate. He shall also state in such certificate who appeared for the respective parties on such hearing and inquiry, and shall deliver such certificates to the township clerk, or to any member of the board of health of such township.

HISTORY: CL 1915, 5127;—CL 1929, 3871;—CL 1948, 128.155.

128.156 Judgement; collection.

Sec. 6. Upon filing such certificates in the circuit court of the county where such real estate is situated, such court shall, if it finds all the proceedings regular, render judgment for the sum specified in the certificate signed by such jury, against such township, which judgment shall be collected and paid in the manner as other judgments against townships are collected and paid.

HISTORY: CL 1915, 5128;—CL 1929, 3872;—CL 1948, 128.156.

128.157 Incompetent or unknown owner; county treasurer, duties; funds subject to court order.

Sec. 7. In case the owner of such real estate shall be unknown, insane, non compos mentis, or an infant, or cannot be found within such county, it shall be lawful for the

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said township to deposit the amount of such judgment with the county treasurer of such county, for the use of the person or persons entitled thereto; it shall be the duty of such county treasurer to receive such money, and at the time of receiving it, to give a receipt or certificate to the person depositing the same with him, stating the time when such deposit was made, and for what purpose; and such county treasurer and his sureties shall be liable on his bond for any money which shall come into his hands under the provisions of this act, in case he shall refuse to pay or account for the same, as herein provided: Provided, That no such money shall be drawn from such county treasury except upon an order of the circuit court, circuit court commissioner, or judge of probate, as hereinafter provided.

HISTORY: CL 1915, 5129;—CL 1929, 3873;—CL 1948, 128.157.

128.158 Vesting of fee; conditions; writ of possession.

Sec. 8. Upon satisfactory evidence being presented to the circuit court of the county where such real estate lies, that such judgment, or the sum ascertained and determined by the jury as the just compensation to be paid by such district for such burying grounds, has been paid, or that the amount thereof has been deposited according to the provisions of the preceding sections, such court shall, by an order or decree, adjudge and determine that the title in fee of such real estate shall, from the time of making such payment or deposit, forever thereafter be vested in such township and its successors and assigns, and shall, in and by such order or decree, award to such township a writ of possession for the recovery of the possession of such real estate, a copy of which order or decree, certified by the clerk of said county, shall be recorded in the office of the register of deeds of such county, and the title of such real estate shall thenceforth, from the time of making such payment or deposit, be vested forever thereafter in such township and its successors and assigns in fee.

HISTORY: CL 1915, 5130;—CL 1929, 3874;—CL 1948, 128.158.

128.159 Possession by township; writ of possession.

Sec. 9. Such township may, at any time after making the payment or deposit hereinbefore required, enter upon and take possession of such real estate for the use of said township. And it shall be the duty of the county clerk of said county, on the request of said township, to issue out of and under the seal of the circuit court of said county a writ of possession as awarded in such order or decree; which writ shall be directed to the sheriff of said county, and shall be tested and made returnable, and shall be substantially, so far as may be, in the same form provided for writs of possession in actions of ejectment; and it shall be the duty of such sheriff thereupon to remove the respondent or respondents in such proceedings, and all persons holding under them, or either of them, from the real estate described in such decree and in such writ, and deliver the possession thereof, with the appurtenances, to such township.

HISTORY: CL 1915, 5131;—CL 1929, 3875;—CL 1948, 128.159.

128.160 Jury disagreement; adjournment, limit.

Sec. 10. In case the jury hereinbefore provided for shall not agree, another jury may be summoned in the same manner, and the same proceedings may be had, except that no further notice of the proceedings shall be necessary; but instead of such notice, the judge, commissioner, or justice may adjourn the proceedings to such times as he shall think reasonable, not exceeding 30 days, and shall make the process to summon a jury returnable at such time and place as the said proceedings shall be adjourned to. Such proceedings may be adjourned from time to time by the said judge, or commissioner, or justice, on the application of either party, and for good cause, to be shown by the party applying for such adjournment unless the other party shall consent to such adjournment; but such adjournments shall not in all exceed 3 months.

HISTORY: CL 1915, 5132;—CL 1929, 3876;—CL 1948, 128.160.

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128.161 Parties to suit; proof of claims; settlement.

Sec. 11. In case the said burying grounds or addition or approach thereto, is encumbered by mortgage, levy, tax sale, or otherwise, as aforesaid, the mortgagee, or other parties claiming to be interested in said title, shall severally be made a party to the procedure as aforesaid, and shall be authorized upon filing of the certificate of the jury in the circuit court of said county, to appear before the circuit judge and make proof relative to their proportionate claims to the said burying grounds, or addition or approach thereto, or the compensation to be made therefor, as determined by said jury. And the said circuit judge shall, by decree, settle their several claims in accordance with the rights of the parties respectively, and may divide the sum awarded by said jury between the claimants as in his judgment will be equitable and right, rendering against said township a separate judgment for each of the amounts so awarded.

HISTORY: CL 1915, 5133;—CL 1929, 3877;—CL 1948, 128.161.

128.162 Payment order; issuance, receipt; evidence.

Sec. 12. The circuit judge, judge of probate, or circuit court commissioner of any county where any money has been deposited with the county treasurer of such county, as hereinbefore provided, shall, upon the written application of any person or persons entitled to such money, and upon receiving satisfactory evidence of the right of such applicant to the money thus deposited, make an order directing the county treasurer to pay the money thus deposited with him to said applicant; and it shall be the duty of such county treasurer, on the presentation of such order, with the receipt of the person named therein, endorsed on said order and duly acknowledged, in the same manner as conveyances of real estate are required to be acknowledged to pay the same; and such order, with the receipt of the applicant or person in whose favor the same shall be drawn, shall, in all courts and places, be presumptive evidence in favor of such county treasurer, to exonerate him from all liability to any person or persons for said money thus paid by him.

HISTORY: CL 1915, 5134;—CL 1929, 3878;—CL 1948, 128.162.

128.163 Subsequent proceedings.

Sec. 13. In case any circuit judge, circuit court commissioner, or justice of the peace, who shall issue a summons or venire for a jury, shall be unable to attend to any of the subsequent proceedings in such case, any other circuit court commissioner or justice of the peace may attend and finish said proceedings.

HISTORY: CL 1915, 5135;—CL 1929, 3879;—CL 1948, 128.163.

128.164 Fees; compensation.

Sec. 14. Circuit judges, circuit court commissioners, and justices of the peace, for any services rendered under the provisions of this act, shall be entitled to the same fees and compensation as for similar services in other special proceedings. Jurors, constables, and sheriffs shall be entitled to the same fees as for like services in civil cases in circuit court.

HISTORY: CL 1915, 5136;—CL 1929, 3880;—CL 1948, 128.164.

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CHAPTER 129. PUBLIC FUNDS

STATE GENERAL FUND DEFICIT

Act 108 of 1909

129.1 General fund deficit; state treasurer's report; board of state auditors, duty; loan, terms, limit; tax clause.

DEPOSIT OF PUBLIC FUNDS

Act 40 of 1932 (1st Ex. Ses.)

129.11 Public moneys; definition.
129.12 Public moneys; designation of depositories, liability of sureties.
129.13 Depositories of public funds; requirement of collateral; repeal; suspension of existing laws; severability clause.

Act 95 of 1935

129.21 Tax collectors relieved from liability for funds in a designated depository.
129.22 Fee collectors relieved from liability for funds in a designated depository.
129.23 Public officials relieved from liability for funds in a designated depository.

Act 99 of 1909

129.31 Approved banks; deposits; moneys on hand; interest.
129.32 Approved banks; deposits; bids solicited, manner; contracts; bonds; banks outside county.
129.33 Bank bonds; terms.
129.34 Interest, credit.
129.35 Additional bonds.
129.36 Deposits; withdrawal; suspension of payments, effect on treasurer's bond.
129.37 Board of county auditors; powers and duties.
129.38 County treasurer; accounts with banks.
129.39 Violation of act; penalty.
129.40 Bank; definition.

Act 321 of 1909

129.41 Village public moneys; deposits, profits, treasurer's liability, inspection.

BONDS OF PUBLIC OFFICIALS, LIABILITY OF SURETIES

Act 19 of 1934 (1st Ex. Ses.)

129.51 Bonds of public officials, deputies, assistants; liability of sureties.

MISAPPROPRIATION OF PUBLIC FUNDS

Act 94 of 1929

129.61 Misappropriation of public moneys; suit by taxpayer.

UNITED STATES SECURITIES, INVESTMENT IN

Act 70 of 1933

129.71 Investment of public moneys received by county treasurer and board of county road commissioners.

Act 23 of 1934 (1st Ex. Ses.)

129.81 Public funds, fiduciary funds; investment in bonds of home owner's loan corporation, federal home loan bank, insured banks.
129.82 Public funds; deposit as security.
129.83 Construction of act.

Act 20 of 1943

129.91 Surplus funds of municipalities and special assessment districts; investment.
129.92 School districts; investment sinking funds and insurance moneys.
129.93 Existing investments validated.

FACSIMILE SIGNATURES

Act 32 of 1956

129.101 Deposited public funds; facsimile signatures on checks or orders for payment of money.

BOND CREMATION ACT

Act 56 of 1962

129.121 Short title; bond cremation act.
129.122 Bond cremation act; definitions.
129.123 Public bonds and interest coupons; cremation; payment of agent.
129.124 Public bonds and interest coupons; certificate of cremation, contents, filing.
129.125 Public bonds and interest coupons; obligations not considered public records.

CONTRACTOR'S BOND FOR PUBLIC WORKS

Act 213 of 1963

129.201 Bonds of principal contractor on public building, work, or improvement.
129.202 Performance bond; amount, purpose.
129.203 Payment bond; amount, purpose.
129.204 Bond, surety, obligee.
129.205 Filing of bond.
129.206 Public works, contractor's bond; definitions.
129.207 Enforcement of claims; notice of supplier to principal contractor or governmental unit; payment to subcontractor.
129.208 Copies of bonds and contracts; fees.
129.209 Venue; statute of limitations.
129.210 Application of statute.
129.211 Repeal; restriction on other statute.

Act 108, 1909, p. 224; Imd. Eff. May 19.

AN ACT authorizing the board of state auditors to contract debts and borrow money to meet deficits in the revenue of this state.

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The People of the State of Michigan enact:

129.1 General fund deficit; state treasurer's report; board of state auditors, duty; loan, terms, limit; tax clause.

Sec. 1. Whenever there shall be an insufficient amount of money in the general fund in the state treasury to meet the current expenses of the government of the state or to pay the amount of any general or special appropriation of money appropriated by the legislature, it shall be the duty of the state treasurer to make and file with the governor a written report which shall show in detail the exact amount of money on hand in the state treasury, the amount of money, if any, in state depositaries*, and the amount on hand in the various funds. Upon receipt of such report from the state treasurer the governor may, if he deems it necessary and advisable for the state to contract debts or borrow money, file a copy of said report with the clerk of the board of state auditors and attach thereto his recommendation in regard to the action which he deems it advisable to be taken. It shall be the duty of the board of state auditors to meet on the Wednesday following the day when such report and recommendation is filed with its clerk, and if in its judgment it is necessary and advisable to contract debts or borrow money to meet deficits in revenue, it shall adopt such method as shall be deemed proper to borrow the amount agreed upon; and the said board is hereby authorized to borrow money and contract debts for and in behalf of the people of the state of Michigan and upon the faith and credit of this state. It shall be the duty of the said board of state auditors to cause said loan to be made at the lowest rate of interest that is deemed advisable; and upon the most favorable terms; and the length of time for which the loan shall be made, the manner of payment, and all other conditions in connection therewith shall be such as the said board of state auditors shall prescribe: Provided, however, That the total amount which may be borrowed in pursuance of this act shall not exceed the sum of 250,000 dollars. All money that may be borrowed in pursuance of this act shall be paid into the general fund in the state treasury and disbursed only on the warrant of the auditor general for such purposes as money in the general fund may be used. It shall be the duty of the board of state auditors to file with the auditor general and state treasurer a statement showing the amount of money borrowed and the purposes therefor, and it shall be unlawful for the auditor general to draw a warrant or for the state treasurer to pay out any money so borrowed for any other purpose than that indicated in the statement of the board of state auditors. For the purpose of providing for the payment of debts contracted or loans made under authority of this act, the auditor general shall add to and incorporate in the next state tax levied after any such loan is made or debt contracted the amounts so borrowed which shall be assessed upon the taxable property of the state and shall be incorporated in the state tax as aforesaid. Such amount when collected shall be retained in the state treasury for the purpose of paying any such debt contracted or loan made by the board of state auditors under authority of this act.

HISTORY: CL 1915, 315;—CL 1929, 375;—CL 1948, 129.1.

*NOTE: This word "depositories" is misspelled in the original act.

Act 40, 1932 (1st Ex. Ses.), p. 62; Imd. Eff. May 14.

AN ACT to provide for the designation of depositories for public moneys; to prescribe the effect thereof on the liability for such deposits; to suspend the requirement of surety bonds from depositories of public moneys; and to repeal all acts and parts of acts inconsistent with the provisions of this act.

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The People of the State of Michigan enact:

129.11 Public moneys; definition.

Sec. 1. All moneys which shall come into the hands of any officer of any county, or of any township, school district, city or village, or of any other municipal or public corporation within this state, pursuant to any provision of law authorizing such officer to collect or receive the same, shall be denominated public moneys within the meaning of this act.

HISTORY: CL 1948, 129.11.

129.12 Public moneys; designation of depositories, liability of sureties.

Sec. 2. The board of supervisors or board of county auditors of any county, in those counties in which there is a board of county auditors, the township board of any township, the district board or board of education of any school district, or the legislative body of any city or village of this state, shall provide by resolution for the deposit of all public moneys, including tax moneys, coming into the hands of the county treasurer, township treasurer, school district treasurer, city treasurer or tax collector, or village treasurer, respectively, in 1 or more banks or trust companies to be designated therein, and in such proportion and manner as may be therein provided. All such proceedings in connection with the deposit of moneys shall be conducted and be governed by all applicable provisions of law not in conflict with the provisions of this act. Upon designation of any depository or depositories in compliance with the provisions of this act, it shall be the duty of such treasurer or tax collector to deposit all funds coming into his hands, including tax moneys, therein in his name as treasurer or tax collector, and in such proportion and manner as may be provided by said resolution. As to any deposit or deposits made in any such designated bank or trust company in accordance with said resolution, neither such treasurer or tax collector, nor the sureties on their respective bonds, shall be liable for any loss occasioned or sustained by the failure or default of such designated depository or depositories, and this exemption from liability shall apply even though any requirement or requirements of any statute or statutes shall provide for the furnishing of a bond or bonds by depositories of public moneys. The treasurer or tax collector and the sureties on their respective bonds shall be liable for all moneys not deposited in accordance with the provisions of this act.

HISTORY: CL 1948, 129.12.

129.13 Depositories of public funds; requirement of collateral; repeal; suspension of existing laws; severability clause.

Sec. 3. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed. Notwithstanding any provision of law of this state or any requirement of any political subdivision of this state to the contrary, no security in the form of collateral, surety bond or in any other form shall be required for such deposits of public moneys to the extent that the said deposits are insured under the provisions of section 12-b of the federal reserve act, as amended, or any amendments thereto. The operation of any law in so far as it obtains to the requiring a depository bond or bonds for the deposit of public moneys, except section 3 of Act No. 105 of the Public Acts of 1855, as amended, being section 348 of the Compiled Laws of 1929, is hereby suspended. Should any provision or section of this act be held to be invalid for any reason, such holding shall not be construed as affecting the validity of any remaining portion of such section or of this act, it being the legislative intent that this act shall stand, notwithstanding the invalidity of any such provision or section.

HISTORY: Am. 1933, p. 86, Act 72, Imd. Eff. May 5;—Am. 1935, p. 30, Act 18, Eff. Sept. 21;—Am. 1937, p. 234, Act 150, Imd. Eff. July 2;—Am. 1939, p. 473, Act 257, Imd. Eff. June 15;—Am. 1941, p. 284, Act 187, Imd. Eff. June 16;—CL 1948, 129.13.

NOTE: Sec. 12-b of the federal reserve act, above referred to, is 12 U.S.C.A. 284.

Sec. 3, Act 105, 1855, above referred to, is Compilers' § 21.143.

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Act 95, 1935, p. 150; Imd. Eff. May 28.

AN ACT to relieve all tax collectors, fee collectors, custodians and other officers and former tax collectors, fee collectors, and other officers of the state of Michigan or any of its political subdivisions from liability to any county, township, city, village or school district of the state of Michigan and the state of Michigan, for failure to pay over tax funds, fees and moneys in the possession of such tax collector, fee collector, custodian or other officer but on deposit in a depository designated by or under the laws of the state of Michigan.

The People of the State of Michigan enact:

129.21 Tax collectors relieved from liability for funds in a designated depository.

Sec. 1. All tax collectors and former tax collectors of the state of Michigan or any of its political subdivisions are hereby relieved from any liability to any county, township, city, village or school district of the state of Michigan and the state of Michigan for failure to pay over tax funds in the possession of such tax collector but on deposit in a depository duly designated by or under the laws of the state of Michigan.

HISTORY: CL 1948, 129.21.

129.22 Fee collectors relieved from liability for funds in a designated depository.

Sec. 2. All fee collectors and former fee collectors of the state of Michigan or of any of its political subdivisions are hereby relieved from any liability to any county, township, city, village or school district of the state of Michigan and the state of Michigan for failure to pay over such fees in the possession of such fee collector but on deposit in a depository duly designated by or under the laws of the state of Michigan.

HISTORY: CL 1948, 129.22.

129.23 Public officials relieved from liability for funds in a designated depository.

Sec. 3. All officers of the state of Michigan or of any of its political subdivisions who in connection with the performance of the duties of their respective offices receive moneys as custodians, whether such moneys shall have been heretofore so deposited with them, or shall hereafter be so deposited with them, are hereby relieved from any liability to any county, township, city, village or school district of the state of Michigan and the state of Michigan for failure to pay over such moneys so deposited with them in the possession of such officer but on deposit in a depository duly designated by or under the laws of the state of Michigan.

HISTORY: CL 1948, 129.23.

Sec. 4. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 414, Act 267, Imd. Eff. May 25.

Act 99, 1909, p. 182; Eff. Sep. 1.

AN ACT authorizing the board of supervisors of any county or the board of auditors in those counties having a board of county auditors, to designate a bank or banks as a depository or depositories of public moneys received by county treasurers, and prescribing the duties of certain officers relative thereto, and prescribing certain penalties for the violation of its provisions. Am. 1911, p. 366, Act 212, Eff. Aug. 1.

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The People of the State of Michigan enact:

129.31 Approved banks; deposits; moneys on hand; interest.

Sec. 1. It shall be the duty of the county treasurer of any county to deposit daily all moneys, drafts or checks on hand received by him as such treasurer, in such bank or banks as may be designated by the board of supervisors or the board of county auditors in counties having a board of county auditors, as hereinafter provided: Provided, That in case no such bank shall be located in the county seat of the county, such deposits shall be made as soon as practicable after such funds are received by such county treasurer: Provided further, That nothing herein contained shall prevent the county treasurer from keeping on hand in his office such reasonable sum as may be necessary in conducting the affairs of such office. All moneys so deposited in such bank or banks shall bear interest at such rate to be approved by the board of supervisors or by the board of county auditors, as the case may be, to be computed upon the average daily balances, and placed to the credit of the county on the thirty-first day of December and the thirtieth day of June in each year, or at any time the account may be closed.

HISTORY: Am. 1911, p. 366, Act 212, Eff. Aug. 1;—CL 1915, 2376;—Am. 1929, p. 307, Act 135, Eff. Aug. 28;—CL 1929, 1193;—CL 1948, 129.31.

129.32 Approved banks; deposits; bids solicited, manner; contracts; bonds; banks outside county.

Sec. 2. It shall be the duty of the county clerk of any county, or in counties having boards of county auditors it shall be the duty of such auditors at least 30 days prior to the annual session of the board of supervisors in the year 1909, and not later than the first day of October in each year thereafter that a general election occurs, to send notices to each bank in the county soliciting sealed bids for the deposit of all public funds received by the treasurer of the county, said first designation to be for 1 year from and after the thirty-first day of December, 1909, but thereafter to be designated for a period of 2 years next ensuing, which said bids shall be by the clerk delivered unopened to the board of supervisors at its annual meeting, or to the county board of auditors at its first meeting next after the receipt of such proposals by the clerk, and they shall be opened and read, and such board may, for any reason by it deemed sufficient, reject any and all bids and order the disposition of such bids and funds as hereinafter specified. If 1 or more of such bids shall be deemed satisfactory by such board, it may contract with such bank or banks tendering such satisfactory bid or bids for the safe keeping of all public funds received by the county treasurer and agreeing to give good and ample security for the safe keeping and reimbursement of the same whenever called for and it shall be the duty of the board of supervisors or board of county auditors to fix and determine the amount and kind of said bond and the class and character of the surety executing same; said funds so held by such bank or banks to be subject to be drawn on account current by the county through its proper officer: Provided, That should no satisfactory bid or bids be received from any bank or banks of the county, the board of supervisors or the county board of auditors shall, by resolution, instruct the county clerk to request bids or to advertise for bids, or both, from banks outside of the county but within the state; said resolution to specify the manner of requesting bids or of advertising or both. The resolution shall specify the date, which shall precede the thirty-first day of the following December, at which time the bids shall be returnable and on such day the board of supervisors or the county board of auditors shall hold a special meeting to open and consider said bids. Otherwise the provisions of this act shall apply to such bids and all other matters pertaining thereto.

HISTORY: Am. 1911, p. 367, Act 212, Eff. Aug. 1;—CL 1915, 2377;—Am. 1929, p. 307, Act 135, Eff. Aug. 28;—CL 1929, 1194;—CL 1948, 129.32

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129.33 Bank bonds; terms.

Sec. 3. Before any deposit shall be made with any bank or banks as aforesaid, such banks or banks shall execute and deliver to the board of supervisors or the board of county auditors, as the case may be, a good and sufficient bond in an amount at least equal to the maximum amount to be deposited in such bank, and with such sureties as shall be approved by such board and the prosecuting attorney of the county. Said bonds shall be made to the county and shall be conditioned for the safe keeping and repayment of such moneys or any part thereof on demand and the payment of said interest, and shall contain such other conditions as may be required by the board of supervisors or the board of county auditors, not inconsistent with the provisions of this act.

HISTORY: CL 1915, 2378;—CL 1925, 1195;—CL 1948, 129.33.

BONDS: Not required, see Compilers' § 129.13.

129.34 Interest, credit.

Sec. 4. All interest moneys so paid by any bank or banks on the deposits as aforesaid, shall be credited to and form a part of the general fund of the county.

HISTORY: CL 1915, 2379;—CL 1929, 1196;—CL 1948, 129.34.

129.35 Additional bonds.

Sec. 5. The board of supervisors or the board of county auditors is hereby authorized to require new and additional bonds or security from the county treasurer and from the depository or depositories at any time or times, when it shall deem the interest of the county requires it shall be done to protect the county against loss or risk of loss of any moneys deposited or to be deposited with such county treasurer or county depository or depositories.

HISTORY: CL 1915, 2380;—CL 1929, 1197;—CL 1948, 129.35.

129.36 Deposits; withdrawal; suspension of payments, effect on treasurer's bond.

Sec. 6. The board of supervisors or the board of county auditors, whenever it shall deem it unsafe to continue said deposits with any such bank or banks, or if it deem the security insufficient, may direct the county treasurer to withdraw said deposits from such bank or banks, and it shall thereupon be the duty of said treasurer to withdraw such deposits from such bank or banks, and it shall thereupon be the duty of said treasurer to withdraw such deposits as so directed: Provided, That if any bank or banks should suspend payment of its deposits while it may hold deposits of said public moneys as a depository under the provisions of this act, the county treasurer and his bail or bondsmen shall not be liable for the amount of any loss that may be occasioned or sustained without the negligence of the county treasurer, by such suspension.

HISTORY: CL 1915, 2381;—CL 1929, 1198;—CL 1948, 129.36.

129.37 Board of county auditors; powers and duties.

Sec. 7. All powers conferred and duties imposed upon the boards of supervisors or the boards of county auditors under the provisions of this act, shall, in those counties having a board of county auditors, be exercised and performed by such board of county auditors exclusively.

HISTORY: CL 1915, 2382;—CL 1929, 1199;—CL 1948, 129.37.

129.38 County treasurer; accounts with banks.

Sec. 8. It shall be the duty of the county treasurer to keep the accounts of the treasurer with all banks or depositories, where any moneys may be kept or deposited,

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upon the regular books of his office, so that each item of all such accounts shall appear thereon. All items of interest, which may become due to the county from depositories, shall be entered on the books of the treasurer when received in such a manner that it shall appear upon what account and for what time such interest accrued.

HISTORY: Am. 1911, p. 367, Act 212, Eff. Aug. 1;—CL 1915, 2383;—CL 1929, 1200;—CL 1948, 129.38.

129.39 Violation of act; penalty.

Sec. 9. Any person guilty of a violation of any of the provisions of this act shall on conviction thereof be punished by a fine not exceeding 500 dollars or imprisonment in the county jail not exceeding 6 months, or both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1915, 2384;—CL 1929, 1201;—CL 1948, 129.39.

129.40 Bank; definition.

Sec. 10. Wherever the word bank or banks occurs in this act it shall be construed to mean any institution doing a banking business whether incorporated or not.

HISTORY: Add. 1911, p. 368, Act 212, Eff. Aug. 1;—CL 1915, 2385;—CL 1929, 1202;—CL 1948, 129.40.

Act 321, 1909, p. 794; Eff. Sep. 1.

AN ACT to provide for the depositing and safeguarding of public moneys belonging to villages within the state of Michigan.

The People of the State of Michigan enact:

129.41 Village public moneys; deposits, profits, treasurer's liability, inspection.

Sec. 1. The legislative bodies of incorporated villages of this state are hereby authorized to provide for the depositing and safeguarding of public moneys in the following manner: The treasurer of any incorporated village within the state of Michigan, upon giving bond as required by the council, may deposit all funds and public moneys of which he has charge in such bank or banks situated within the county which may seem best for the protection of said funds, which said deposit shall be subject at all times to the warrants and orders of the treasurer required by law to be drawn, and all profits arising from said deposit or deposits shall inure to the benefits of such funds: Provided, That such deposits shall in nowise release the treasurer from liability for any loss which may occur thereby. Such legislative body shall have authority to provide by ordinance or resolution for the deposit of all public moneys belonging to said village coming into the hands of the treasurer in a designated bank or banks situated within the county and to determine in such ordinance or resolution all details for carrying into effect the authority here given: Provided, That there shall not be deposited in any one bank an amount in excess of the paid in capital stock and surplus of such bank: Provided further, That all such proceedings in connection with the deposit of moneys shall be conducted in such manner as to insure full publicity and shall be open at all times to the inspection of any citizen: Provided further, That as to any deposits made under authority of an ordinance or resolution of the council pursuant hereto, neither the treasurer nor his bondsmen shall be liable for any loss occasioned thereby.

All profits arising from said deposit or deposits shall accrue to the benefit of the general fund of such villages.

HISTORY: CL 1915, 2809;—CL 1929, 1792;—CL 1948, 129.41;—Am. 1956, p. 32, Act 27, Eff. Aug. 11.

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Act 19, 1934 (1st Ex. Ses.), p. 94; Imd. Eff. Mar. 28.

AN ACT relative to the bonds of public officials, and the liability of sureties thereon; and to repeal all acts and parts of acts inconsistent therewith.

The People of the State of Michigan enact:

129.51 Bonds of public officials, deputies, assistants; liability of sureties.

Sec. 1. If any officer of the state, or any officer of any county, township, school district, highway district, drainage district, city or village, or of any other municipal or public corporation within this state, shall be required to file an official statutory bond or bonds, either as additional security or substituted security, the surety or sureties thereon shall not be liable, directly or indirectly, for any acts or defaults committed by such public officer prior to the date of signing of such bond or bonds, or for the failure of any such public officer to pay over on final settlement or to his successor in office, if such failure to pay over be due to an act or default committed prior to the signing of such bond or bonds, or for the failure of such surety or sureties to collect from themselves or from any prior surety or sureties the amount of any loss due to any act or default committed by such public officer prior to the date of the signing of such bond or bonds. The provisions of this act shall apply to all deputies of any such officer, and to all clerks, agents and servants of any such officer.

HISTORY: CL 1948, 129.51.

Sec. 2. (This was a repeal section.)

HISTORY: Rep. 1945, p. 408, Act 267, Imd. Eff. May 25.

Act 94, 1929, p. 235; Eff. Aug. 28.

AN ACT to authorize the institution of suits by taxpayers on behalf of townships or school districts for an accounting or to recover funds misappropriated or unlawfully expended by public officers.

The People of the State of Michigan enact:

129.61 Misappropriation of public moneys; suit by taxpayer.

Sec. 1. Any person or persons, firm or corporation, resident in any township or school district, paying taxes to such political unit, may institute suits or actions at law or in equity on behalf of or for the benefit of the treasurer of such political subdivision, for an accounting and/or the recovery of funds or moneys misappropriated or unlawfully expended by any public officer, board or commission of such political subdivision. Before such suit is instituted a demand shall be made on the public officer, board or commission whose duty it may be to maintain such suit followed by a neglect or refusal to take action in relation thereto. Security for costs shall be filed by the plaintiff or plaintiffs in any such suit or action and all costs and expenses of the same shall be paid by the person or persons instituting the same unless and until a recovery of such funds or moneys be obtained as the result of such proceedings.

HISTORY: CL 1929, 2711;—CL 1948, 129.61.

Act 70, 1933, p. 85; Imd. Eff. May 5.

AN ACT to authorize the board of supervisors of any county, or the board of county auditors in those counties having a board of county auditors, to invest public moneys received by county treasurers in interest bearing securities of the United States government; and to authorize the board of county road commissioners of any county to so

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invest moneys deposited to the credit of the county road fund. Am. 1956, p. 25, Act 18, Imd. Eff. Mar. 22.

The People of the State of Michigan enact:

129.71 Investment of public moneys received by county treasurer and board of county road commissioners.

Sec. 1. The board of supervisors of any county, or the board of county auditors in those counties having a board of county auditors, is hereby authorized to invest public moneys received by the county treasurers of their respective counties, in interest bearing bonds, notes or other securities of the United States government; and the board of county road commissioners of any county is hereby authorized to so invest moneys deposited to the credit of the county road fund.

HISTORY: CL 1948, 129.71;—Am. 1956, p. 26, Act 18, Imd. Eff. Mar. 22.

Act 23, 1934 (1st Ex. Ses.), p. 98; Imd. Eff. Mar. 28.

AN ACT authorizing the investment in bonds of the home owners' loan corporation and bonds of federal home loan banks by the state and all its departments and political subdivisions, including municipal corporations, and instrumentalities, and by any insurance company, building and loan association or company, savings and loan association or company, bank, trust company or other financial institution, and by any executor, administrator, guardian, trustee or fiduciary; authorizing the use of such bonds as security by any depository of funds; and authorizing certain deposits with the state treasurer to be in such bonds.

The People of the State of Michigan enact:

129.81 Public funds, fiduciary funds; investment in bonds of home owner's loan corporation, federal home loan bank, insured banks.

Sec. 1. It shall be lawful for the state of Michigan and any of its departments or political subdivisions, including municipal corporations, or instrumentalities, or any insurance company, building and loan association or company, savings and loan association or company, bank, trust company or other financial institution authorized by the laws of this state to operate in the state of Michigan, or for any executor, administrator, guardian, trustee or other fiduciary, and they are hereby authorized, to invest their funds, or moneys in their custody, in the bonds of the home owners' loan corporation or in the bonds of any federal home loan bank or in certificates of deposit or depository receipts of any bank which is a member of the federal deposit insurance corporation.

HISTORY: CL 1948, 129.81;—Am. 1964, p. 118, Act 122, Eff. Aug. 28.

129.82 Public funds; deposit as security.

Sec. 2. Wherever depositories of public or other funds are required or permitted by law to give security therefor, the bonds of the home owners' loan corporation or of any federal home loan bank may and are hereby authorized to be used as security for any depository bonds or obligations wherein any kind of bonds or other security are required or permitted by law to be deposited as security.

Deposits of trust companies and insurance companies with the state treasurer, are hereby authorized to be in the bonds of the home owners' loan corporation or in the bonds of any federal home loan bank.

HISTORY: CL 1948, 129.82.

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129.83 Construction of act.

Sec. 3. This act shall be construed as supplemental to the laws of this state, and as an additional authorization for the investment of funds and the type of security given by depositories, and the type of deposit authorized to be made by trust companies and insurance companies with the state treasurer.

HISTORY: CL 1948, 129.83.

Act 20, 1943, p. 18; Imd. Eff. Mar. 13.

AN ACT relative to the investment of surplus funds of political subdivisions of the state; and to validate investments heretofore made.

The People of the State of Michigan enact:

129.91 Surplus funds of municipalities and special assessment districts; investment.

Sec. 1. The legislative or governing bodies of the several counties, cities, villages, townships and special assessment districts are hereby authorized to direct the treasurers thereof to invest any surplus funds belonging to and under the control of such political subdivisions of the state in bonds and other direct obligations of the United States of America or in certificates of deposit or depository receipts of any bank which is a member of the federal deposit insurance corporation, in such amounts and issues as shall be directed by such legislative or governing bodies.

HISTORY: CL 1948, 129.91;—Am. 1964, p. 121, Act 126, Eff. Aug. 28.

129.92 School districts; investment sinking funds and insurance moneys.

Sec. 2. The district board or board of education of any primary, township, graded, or rural agricultural school district is hereby authorized to direct the treasurer thereof to invest sinking funds derived from taxes levied under the provisions of Act No. 223 and Act No. 323 of the Public Acts of 1941 and insurance moneys received by the district from the loss of school property in bonds or other direct obligations of the United States of America in such amounts and issues as shall be directed by said board.

HISTORY: CL 1948, 129.92.

NOTE: Act 223, 1941, above referred to, is Compilers' §§ 388.881-388.884. Act 323, 1941, above referred to, is Compilers' repealed § 388.311.

129.93 Existing investments validated.

Sec. 3. Investments heretofore made of the surplus funds, sinking funds or insurance funds of any such political subdivisions of the state in bonds and other obligations of the United States, or the several instrumentalities thereof or certificates of deposit or depository receipts of any bank which is a member of the federal deposit insurance corporation, in the manner provided under sections 1 and 2 of this act are hereby ratified and validated.

HISTORY: CL 1948, 129.93;—Am. 1964, p. 121, Act 126, Eff. Aug. 28.

Act 32, 1956, p. 38; Imd. Eff. Mar. 28.

AN ACT to provide for the use of a facsimile signature or signatures of the person or persons required to sign the same by persons signing checks, drafts or other orders for the payment of money by governmental units, municipal corporations and/or certain other public corporations.

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The People of the State of Michigan enact:

129.101 Deposited public funds; facsimile signatures on checks or orders for payment of money.

Sec. 1. Moneys on deposit in any duly designated depository to the credit of any account of the state of Michigan, when so authorized by resolution of the state administrative board, of any county, when so authorized by resolution of its board of supervisors or board of county auditors in those counties in which there is a board of county auditors, of any township, when so authorized by resolution of its township board, of any school district, when so authorized by resolution of its district board or board of education, of any city or village, when so authorized by resolution of its legislative body, or of any other municipal or public corporation within this state, when so authorized by resolution of its governing board, may be drawn upon by checks, drafts or other orders for the payment of money bearing, or purporting to bear, the facsimile signature or signatures of the person or persons required to sign the same; and when the drawing upon any such moneys in such manner is so authorized, such depository shall be entitled to honor and to charge the appropriate account for such checks, drafts and other orders regardless of by whom or by what means any such actual or purported facsimile signature may have been affixed thereto if, in the exercise of ordinary care, such signature would be honored by a bank as being the facsimile signature duly certified to the depository.

HISTORY: New 1956, p. 38, Act 32, Imd. Eff. Mar. 28;—Am. 1958, p. 18, Act 20, Eff. Sep. 13.

Act 56, 1962, p. 45; Eff. Mar. 28, 1963.

AN ACT to provide for the cremation of public obligations and matters incidental and necessary thereto.

The People of the State of Michigan enact:

129.121 Short title; bond cremation act.

Sec. 1. This act shall be known and may be cited as the "bond cremation act".

HISTORY: New 1962, p. 45, Act 56, Eff. Mar. 28, 1963.

129.122 Bond cremation act; definitions.

Sec. 2. As used in this act:

(a) "Public corporation" means any county, city, village, township, charter township, school district, community college district, port district, metropolitan district, drainage district, the state or any officer, agency, commission or department thereof, or any other public or governmental authority or agency within the state with the power to issue obligations.

(b) "Obligations" means any evidence of indebtedness, such as bonds, bills, notes, orders, certificates of indebtedness or other like instruments, issued by a public corporation.

(c) "Interest coupon" means the coupon pertaining to any obligation evidencing a right to the payment of a certain sum as interest on an obligation.

(d) "Governing body" means the board of supervisors of a county, the township board of a township, the council, common council, or commission of a city, the council, commission or board of trustees of a village, the board of education or district board of a school district, the county drain commissioner or drainage board of a drainage district, the legislative body of a metropolitan district, the port commission of a port district and, in the case of any other public corporation, the official or official body to whom is designated general governing or legislative powers by law.

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(e) "Paying agent" means any one of the banks or trust companies or other financial institutions where the obligations or interest coupons are made payable.

HISTORY: New 1962, p. 45, Act 56, Eff. Mar. 28, 1963.

129.123 Public bonds and interest coupons; cremation; payment of agent.

Sec. 3. Subject to the provisions of this act, the governing body of any public corporation may authorize the cremation of obligations or interest coupons. As an alternative, subject to the provisions of this act, any public corporation may enter into an agreement with a paying agent for the cremation of its obligations and interest coupons, which agreement shall be approved and its execution authorized by the governing body.

HISTORY: New 1962, p. 46, Act 56, Eff Mar. 28, 1963;—Am. 1963, p. 183, Act 130, Eff. Sep. 6.

129.124 Public bonds and interest coupons; certificate of cremation, contents, filing.

Sec. 4. Where obligations and interest coupons are cremated by a public corporation, it shall be done in the presence of the official of the public corporation having custody of the financial records of the public corporation, or a representative designated by such official, and in the presence of 2 additional persons designated by the governing body of the public corporation. Where the obligations and interest coupons are cremated by a paying agent, it shall be done in the presence of at least 2 authorized officers or employees of the paying agent. Within 24 hours after the cremation of any obligations or interest coupons, a certificate of cremation shall be prepared and executed by an officer of the paying agent and the persons in whose presence the obligations or interest coupons were cremated. The certificate shall show the name of the public corporation, the designation or title of the obligations cremated, which in the case of interest coupons shall include the title or designation of the obligations to which they pertain, the aggregate principal amount of obligations cremated, the maturity date of the obligations and interest coupons cremated, the date of the obligations cremated, the denomination of each of the obligations cremated, the number of each of the obligations cremated, the name of the printer of the obligations or interest coupons cremated, and where interest coupons are cremated, the quantity of coupons cremated for each coupon maturity date and the face value of each of the coupons cremated. A copy of the cremation certificate shall be filed within 30 days of its execution with the officer of the public corporation having custody of the financial records of the public corporation and the municipal finance commission or such other agency or body as may hereafter have power over the issuance of obligations by public corporations.

HISTORY: New 1962, p. 46, Act 56, Eff. Mar. 28, 1963.

129.125 Public bonds and interest coupons; obligations not considered public records.

Sec. 5. The powers conferred by this act shall be construed as constituting complete and independent power and authority to do the things herein authorized, the provisions of any other statute or charter to the contrary notwithstanding. Obligations and interest coupons of public corporations for the purposes of this act shall not be considered to be public records within the meaning of any other statute or charter.

HISTORY: New 1962, p. 46, Act 56, Eff. Mar. 28, 1963.

Act 213, 1963, p. 307; Eff. Sep. 6.

AN ACT to provide a procedure for bonding contractors for public buildings and public works of governmental units; and to repeal certain acts and parts of acts.

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The People of the State of Michigan enact:

129.201 Bonds of principal contractor on public building, work, or improvement.

Sec. 1. Before any contract, exceeding $5,000.00 for the construction, alteration or repair of any public building or public work or improvement of the state or a county, city, village, township, school district, public educational institution, other political subdivision, public authority or public agency, except the state highway department, hereinafter referred to as the "governmental unit", is awarded, the proposed contractor, hereinafter referred to as the "principal contractor", shall furnish at his own cost to the governmental unit a performance bond and a payment bond which shall become binding upon the award of the contract to the contractor. Neither the invitation for bids, nor any person acting, or purporting to act, on behalf of the governmental unit shall require that the bonds be furnished by a particular surety company, or through a particular agent or broker, or through a company, agent or broker in any particular locality.

HISTORY: New 1963, p. 307, Act. 213, Eff. Sep. 6.

129.202 Performance bond; amount, purpose.

Sec. 2. The performance bond shall be in an amount fixed by the governmental unit but not less than 50% of the contract amount, conditioned upon the faithful performance of the contract in accordance with the plans, specifications and terms thereof. The bond shall be solely for the protection of the governmental unit awarding the contract.

HISTORY: New 1963, p. 308, Act 213, Eff. Sep. 6.

129.203 Payment bond; amount, purpose.

Sec. 3. The payment bond shall be in an amount fixed by the governmental unit but not less than 50% of the contract amount solely for the protection of claimants, as defined in section 6, supplying labor or materials to the principal contractor or his subcontractors in the prosecution of the work provided for in the contract.

HISTORY: New 1963, p. 308, Act 213, Eff. Sep. 6.

129.204 Bond, surety, obligee.

Sec. 4. A bond shall be executed by a surety company authorized to do business in this state. In the case of a contract of the state or a department, board, commission, institution or agency thereof the bonds shall be payable to the people of the state. In the case of all other contracts the bonds shall be payable to the governmental unit.

HISTORY: New 1963, p. 308, Act 213, Eff. Sep. 6.

129.205 Filing of bond.

Sec. 5. The bonds shall be filed in the office of the governmental unit awarding the contract.

HISTORY: New 1963, p. 308, Act 213, Eff. Sep. 6.

129.206 Public works, contractor's bond; definitions.

Sec. 6. A "claimant" means a person having furnished labor, material, or both, used or reasonably required for use in the performance of the contract. "Labor and material" includes that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental of equipment directly applicable to the contract.

HISTORY: New 1963, p. 308, Act 213, Eff. Sep. 6.

129.207 Enforcement of claims; notice of supplier to principal contractor or governmental unit; payment to subcontractor.

Sec. 7. A claimant who has furnished labor or material in the prosecution of the work provided for in such contract in respect of which payment bond is furnished un-

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der the provisions of section 3, and who has not been paid in full therefor before the expiration of a period of 90 days after the day on which the last of the labor was done or performed by him or material was furnished or supplied by him for which claim is made, may sue on the payment bond for the amount, or the balance thereof, unpaid at the time of institution of the civil action, prosecute such action to final judgment for the sum justly due him and have execution thereon. A claimant not having a direct contractual relationship with the principal contractor shall not have a right of action upon the payment bond unless (a) he has within 30 days after furnishing the first of such material or performing the first of such labor, served on the principal contractor a written notice, which shall inform the principal of the nature of the materials being furnished or to be furnished, or labor being performed or to be performed and identifying the party contracting for such labor or materials and the site for the performance of such labor or the delivery of such materials, and (b) he has given written notice to the principal contractor and the governmental unit involved within 90 days from the date on which the claimant performed the last of the labor or furnished or supplied the last of the material for which the claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the material was furnished or supplied or for whom the labor was done or performed. Each notice shall be served by mailing the same by certified mail, postage prepaid, in an envelope addressed to the principal contractor, the governmental unit involved, at any place at which said parties maintain a business or residence. The principal contractor shall not be required to make payment to a subcontractor of sums due from the subcontractor to parties performing labor or furnishing materials or supplies, except upon the receipt of the written orders of such parties to pay to the subcontractor the sums due such parties.

HISTORY: New 1963, p. 308, Act 213, Eff. Sep. 6.

129.208 Copies of bonds and contracts; fees.

Sec. 8. The agent in charge of the office of the governmental unit shall furnish to anyone making application therefor who submits an affidavit that he has supplied labor or materials for such work and payment therefor has not been made, or that he is being sued on any such bond, or that it is the surety thereon, a certified copy of the bond and the contract for which it was given, which copy shall be prima facie evidence of the contents, execution, and delivery of the original. An applicant shall pay such reasonable fees for such certified copies as the agent in charge of the office of the governmental unit fixes to cover the actual cost of preparation thereof.

HISTORY: New 1963, p. 309, Act 213, Eff. Sep. 6.

129.209 Venue; statute of limitations.

Sec. 9. An action instituted on the payment bond shall be brought only in the appropriate court in the political subdivision in which the contract was to be performed. No action shall be commenced after the expiration of 1 year from the date on which final payment was made to the principal contractor.

HISTORY: New 1963, p. 309, Act 213, Eff. Sep. 6.

129.210 Application of statute.

Sec. 10. This act shall not apply to any contract awarded pursuant to an invitation for bids issued on or before the effective date hereof, or to any person or bonds in respect to any such contract. The rights, duties, and obligations of parties arising under, or incidental to, bonds executed prior to the effective date of this act shall continue to be governed by the statutes heretofore applicable to such bonds.

HISTORY: New 1963, p. 309, Act 213, Eff. Sep. 6.

129.211 Repeal; restriction on other statute.

Sec. 11. Section 64 of Act No. 59 of the Public Acts of 1915, as amended, being section 247.464 of the Compiled Laws of 1948 is repealed. The provisions of Act No. 187

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of the Public Acts of 1905, as amended, being sections 570.101 to 570.105 of the Compiled Laws of 1948, shall not apply to contracts for public buildings or other public works except construction and maintenance contracts of the state highway commissioner.

HISTORY: New 1963, p. 309, Act 213, Eff. Sep. 6.

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CHAPTERS 131-138. MUNICIPAL FINANCE ACT

Act 202 of 1943

			Sections
Chapter	I	Definitions	131.1-131.2
	II	Municipal Finance Commission	132.1-132.4
	III	General	133.1-133.8
	IV	Tax Anticipation Notes	134.1-134.8
	V	Bonds	135.1-135.7
	VI	Refunding Bonds and Certificates of Indebtedness	136.1-136.17
	VII	Tax Levies, Debt Retirement and Sinking Fund	137.1-137.3
	VIII	Repeal	138.1-138.2

Act 202, 1943, p. 317; Eff. Jul. 30.

AN ACT relative to the borrowing of money by municipalities, and the issuance of bonds, notes and certificates of indebtedness; to provide for tax levies and sinking funds; to create the municipal finance commission, and to prescribe its powers and duties; to create an advisory tax study committee, and to prescribe its powers and duties; to prescribe penalties; and to repeal all acts and parts of acts inconsistent with the provisions of this act. Am. 1944, 1st Ex. Ses., p. 31, Act 20, Imd. Eff. Feb. 19.

The People of the State of Michigan enact:

CHAPTER I
DEFINITIONS

131.1 Short title; Municipal finance act.
131.2 Municipal finance act; definitions.
131.3 Assessed valuation; definition for taxation and borrowing purposes.

131.1 Short title; Municipal finance act.

Sec. 1. This act shall be known and may be cited as the "Municipal Finance Act."

HISTORY: CL 1948, 131.1.

CITED IN OTHER SECTIONS: Sections 131.1 to 138.3 are cited in §§ 41.853, 46.175c, 46.177, 46.367, 121.15, 123.247, 123.655, 123.721, 123.741, 124.289, 124.292c, 125.77b, 125.948b, 125.1425, 125.1504, 141.41, 141.103, 141.373, 141.383, 141.451, 247.354, 247.355, 247.701, 259.629, 279.241, 280.275, 280.280, 280.479, 280.531, 281.67, 318.306, 318.354, 323.159, 323.374, 331.8a, 331.76, 340.77a, 340.122, 340.230, 340.295b, 340.330n, 340.567, 340.567a, 340.684, 340.686, 388.636, 389.122, 389.126, 390.926, and 830.418.

131.2 Municipal finance act; definitions.

Sec. 2. The following definitions shall apply for the purposes of this act unless the context shall otherwise indicate:

(a) "Municipality": Any county, township, city, village, school district, metropolitan district, port district, drainage district established under Act No. 316, Public Acts of 1923, as amended, or other governmental authority or agency within the state with power to issue any of the obligations authorized or regulated under this act.

(b) "Governing body": The board of supervisors of a county; the township board of a township; the council, common council or commission of a city; the council, commission or board of trustees of a village; the board of education or district board of a school district; the county drain commissioner or drainage board of a drainage district; the legislative body of a metropolitan district; the port commission of a port district; and in case of any other governmental authority or agency that official or official body to whom is designated general governing powers.

(c) "Obligations": A general term for evidences of indebtedness such as bonds, refunding bonds, notes, certificates of indebtedness and other like instruments (except those obligations authorized by Act No. 79 of the Public Acts of 1937) issued by a mu-

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nicipality, which on their face pledge the full faith and credit of the municipality and/or are payable primarily from taxes and/or special assessments.

(d) "Funded indebtedness": All indebtedness, including both principal and interest, evidenced by bonds, refunding bonds, notes or certificates of indebtedness lawfully issued or assumed, in whole or in part, by any municipality as a general obligation of the municipality or payable out of special assessments or which shall be evidenced by any judgment or decree against the municipality based upon any of the foregoing obligations. For the purposes of this act, interest coupons shall be deemed to be a part of the obligations to which they pertain and included therein without special reference.

(e) "Fiscal year": Such 12 months' period as shall be fixed by statute, charter or ordinance or if not so fixed, then as determined by the commission.

(f) "Commission": The municipal finance commission provided for in this act.

HISTORY: Am. 1945, p. 512, Act 300, Imd. Eff. May 25;—CL 1948, 131.2.

NOTE: Act 316, 1923, above referred to, is Compilers' § 261.1 et seq. Act 79, 1937, above referred to, is Compilers' § 141.221 et seq.

CITED IN OTHER SECTIONS: The above section is cited in §§ 12.51 and 17.454.

131.3 Assessed valuation; definition for taxation and borrowing purposes.

Sec. 3. The terms "assessed valuation", "valuation as assessed", "valuation as shown by the last preceding tax assessment roll", or similar terms, used in any statute or charter as a basis for computing limitations upon the taxing or borrowing power of any municipality, shall be deemed to mean the valuation as finally determined through the process of equalization. Any municipality, whose electors have heretofore voted to raise by tax or by loan an amount not exceeding the applicable limitation computed in terms of valuation as finally determined through the process of equalization, shall have power to raise such amount by tax or by loan, and any such election is in such respect hereby validated.

HISTORY: Add. 1960, p. 33, Act 42, Imd. Eff. Apr. 18.

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CHAPTER II
MUNICIPAL FINANCE COMMISSION

132.1 Municipal finance commission; members; records, transferred.
132.2 Municipal finance commission; powers and duties.
132.3 Complaints by aggrieved party; hearing; review by court.
132.4 Tax study; advisory tax study committee.

132.1 Municipal finance commission; members; records, transferred.

Sec. 1. There is hereby created a commission to be known as the municipal finance commission and to be composed of the state treasurer, the attorney general, the auditor general, and the superintendent of public instruction. Each member of the commission for the purposes of this act, may act under any and all circumstances through his deputy. The attorney general may also act through an assistant attorney general designated by him as the superintendent of public instruction may also act through an officer or employee of his department designated by him. Such designation shall be in a written instrument filed with the commission and shall be in full force and effect until revoked in like manner. The certification by the secretary of the commission that such an unrevoked designation is on file with the commission shall be conclusive proof thereof. The commission is hereby authorized to elect a chairman and to employ the necessary assistants to perform the duties hereby assigned to it. All records, files and other papers now in the custody of the state treasurer, the loan board, and the public debt commission, by reason of the provisions of the various acts expressly repealed by section 1 of chapter VIII of this act shall forthwith be transferred to and become a part of the files of the commission, and it shall succeed to all of the unexpended appropriation made for the public debt commission.

HISTORY: Am. 1945, p. 513, Act 300, Imd. Eff. May 25;—CL 1948, 132.1.

NOTE: Sec. 1, Ch. 8, above referred to, is Compilers' § 138.1.

CITED IN OTHER SECTIONS: The above section is cited in § 16.188.

132.2 Municipal finance commission; powers and duties.

Sec. 2. The commission is authorized and directed to protect the credit of the state and its municipalities, and to enforce the provisions hereof, and to that end is hereby given the following general powers:

(a) To act by an order issued in the name of the commission and signed by not less than 3 members thereof. The signature of the deputy of any such member when acting for his principal, or of any designated representative of the attorney general or superintendent of public instruction, shall have the same force and effect as the signature of such member.

(b) To aid, advise and consult with any municipality with respect to fiscal questions arising from and relating to its proposed or outstanding indebtedness.

(c) To adopt such rules and regulations as may be necessary to carry out the purposes of this act, including but not by way of limitation, the power to regulate the method by which applications may be addressed to it by municipalities, the form which such applications shall take, the information to be contained therein, and the manner of hearing on such applications. The rules shall be adopted in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

(d) To examine the books and records of any municipality for the purpose of ascertaining if such municipality is complying with the requirements of the commission, the statutes of the state of Michigan, and its charter, ordinances and resolutions, in rela-

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tion to its obligations, and for such purposes it may require sworn statements from any officer or employee of such municipality, or may require such municipality to furnish it with a statement of its financial condition. The commission shall have full power in furtherance of its investigations, to examine witnesses on oath, compel the attendance of witnesses, the giving of testimony, and the production of books, papers and records. Witnesses may be summoned by said commission by its process upon the payment of the same fees as are allowed to witnesses attending in the circuit court of the county in which such hearing is held. Any person duly subpoenaed under the provisions of this section who shall neglect to attend or testify at the place named in the subpoena, served for such purpose, shall be guilty of a misdemeanor.

(e) To serve notice upon any municipality of any order relating thereto issued by the commission, and such municipality shall be deemed to have prima facie notice of and be bound by such action, when such notice shall have been served upon it by registered mail addressed to any officer of such municipality upon whom legal process may be served.

(f) To enforce compliance with its orders or with any provision of this act or with any provisions of any law, charter, ordinance or resolution with respect to obligations subject to its jurisdiction including the levy and collection of taxes for the payment thereof, and the segregation, safekeeping, investment and application of money for the payment of debt. For the purpose of such enforcement the commission may, but not by way of limitation, institute appropriate proceedings in the courts of the state, including those for writs of mandamus and injunction.

HISTORY: Am. 1935, p. 513, Act 300, Imd. Eff. May 25;—CL 1948, 132.2;—Am. 1967, p. 626, Act 294, Imd. Eff. Aug. 1.

132.3 Complaints by aggrieved party; hearing; review by court.

Sec. 3. If any municipality shall feel aggrieved at any order of the commission, it may notify the commission which shall thereupon set a date, not more than 20 days therefrom, for the hearing of such complaint, which hearing may, in the discretion of the commission, be adjourned from time to time. At such hearing all information in the files of the commission shall be considered in evidence and the commission and the aggrieved party may procure or submit such further evidence or information as either may desire. The findings of fact made by the commission acting within its power shall in the absence of fraud be conclusive, but the Michigan supreme court shall have power to review all questions of law involved in any such proceedings of the commission: Provided, That application for such review be made by the aggrieved party within such time after the said final determination by the commission, as may be prescribed by statute or rule of said court. The foregoing provisions of this section shall not be construed to permit the amendment or modification of any order of the commission in respect to the issuance of bonds, after such bonds shall have been issued, if such amendment or modification would affect the bond contract adversely to the interests of the bondholders.

HISTORY: CL 1948, 132.3.

132.4 Tax study; advisory tax study committee.

Sec. 4. The municipal finance commission shall make a study of the tax structure of the state and local units of government, the relationship between state and local units of government with reference to tax revenues, the amount of state and local reserves requisite to meet current and post-war demands, the financial problems and fiscal conditions of local units of government, and the ways and means of providing necessary revenues to local units of government compatible with principles of strong local self-government and enterprise. For this purpose, an advisory tax study committee is hereby created to cooperate in conjunction with the municipal finance commission in the undertaking of such a comprehensive study and in making a report to the governor

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and the legislature as to such necessary legislation and other recommendations as shall be determined necessary to meet the needs of state and local government. Said advisory committee shall be appointed by the governor, and shall serve without compensation, but shall be entitled to actual and necessary traveling and other expenses incurred in connection with official duties. Said commission shall be authorized to incur necessary expenses and employ necessary personnel in carrying out its functions.

HISTORY: Add. 1944, 1st Ex. Ses., p. 31, Act 20, Imd. Eff. Feb. 19;—CL 1948, 132.4.

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CHAPTER III

GENERAL

133.1 Municipal borrowing and obligations; payable by taxes or special assessments; purchase contracts, leases, limitation.

133.1a Municipal borrowing or obligations; payable by taxes or special assessments; rate of interest.

133.2 Municipal obligations; net interest rate; sale, notice, approval; private sale; applicable to mortgage revenue bonds; sale to federal government.

133.3 Municipal obligations; registry, signatures.

133.4 Municipal obligations; order of commission not deemed approval of legality.

133.5 Reports filed by school and local authorities with commission, contents; failure to file, penalty.

133.5a Annual audit report; use as annual report to municipal finance commission.

133.6 Reports filed by school and local authorities with commission; additional information when obligations sold for cash.

133.7 Order of permission; implications.

133.8 New bonds in case of mutilation; coupon bonds.

133.1 Municipal borrowing and obligations; payable by taxes or special assessments; purchase contracts, leases, limitation.

Sec. 1. No municipality shall hereafter borrow money and issue any obligations payable out of taxes or special assessments except in accordance with the provisions of this act. The making of a contract for the purchase of real or personal property or leasing thereof with or without an option to purchase is not deemed the borrowing of money. Such a contract or lease, whether heretofore or hereafter made, or note or other obligation given in connection therewith, is not subject to this act. The aggregate of such contracts shall not exceed $250,000.00 at any period of time.

HISTORY: CL 1948, 133.1;—Am. 1967, p. 627, Act 294, Imd. Eff. Aug. 1;—Am. 1968, p. 692, Act 356, Eff. Nov. 15.

CITED IN OTHER SECTIONS: The above section is cited in § 123.721.

133.1a Municipal borrowing or obligations; payable by taxes or special assessments; rate of interest.

Sec. 1a. Notwithstanding the provisions of any other act, any obligations authorized by law to be issued by any municipality may bear any rate of interest which does not exceed 6% per annum.

HISTORY: Add. 1968, p. 692, Act 356, Eff. Nov. 15.

133.2 Municipal obligations; net interest rate; sale, notice, approval; private sale; applicable to mortgage revenue bonds; sale to federal government.

Sec. 2. No obligations, the issuance of which are governed by the provisions of this act shall be payable on demand or sold at a price which would make the net interest rate on the money borrowed exceed 6 per cent per annum or sold at a discount exceeding 10 per centum of the principal amount thereof. Obligations of an authorized issue of less than $10,000.00 may be sold at private sale. Obligations of an authorized issue of $10,000.00 or more shall be sold, except as herein provided, at public sale, after notice by publication at least 7 days before the sale, (a) in a publication printed in the English language and circulated in the state of Michigan, which carries, as a part of its regular service notices of the sale of municipal bonds and which has been approved by the commission as a publication complying with the foregoing qualifications, and also (b) in a newspaper of general circulation in the municipality designated by the governing body of the municipality: Provided, That the sale of an authorized issue of less than $20,000.00 need be advertised in 1 publication only, which shall comply with the requirements of either (a) or (b) above, and which shall be designated by the governing body of the municipality. Such approval by the commission or such designation by the governing body shall be deemed conclusive of the qualifications of publications for the insertion of such notices. No municipality shall advertise its pro-

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posed obligations for sale until it shall have first secured the approval of the commission to the notice of the sale to be published.

If the municipality shall have received a bid or bids at the time fixed for public sale which shall have been rejected by the governing body, then such obligations may be sold at private sale within 30 days thereafter at a price not less than the highest bid received at such public offering, or if the municipality shall have offered the obligations at 2 public offerings and shall not have received at the latter any bid or any bid satisfactory to the governing body, then such obligations may be sold at private sale within 30 days after such last public offering at a price not less than the highest bid, if any, received at such last public offering.

The provisions of this section shall be applicable to mortgage revenue bonds to be issued by any municipality.

Notwithstanding any of the foregoing provisions, any obligations which are issued for the purpose of defraying the whole or a part of the cost of purchasing, acquiring, constructing, improving, enlarging, extending and/or repairing any sewage disposal system may be sold to the federal government or any agency thereof, at private sale and without a public offering.

HISTORY: Am. 1945, p. 514, Act 300, Imd. Eff. May 25;—CL 1948, 133.2;—Am. 1949, p. 256, Act 223, Eff. Sep. 23.

CITED IN OTHER SECTIONS: The above section is cited in §§ 121.15, 247.668f, and 281.627.

133.3 Municipal obligations; registry, signatures.

Sec. 3. Obligations may be registerable as to principal alone or as to both principal and interest under such terms and conditions as may be determined by the governing body of the issuing municipality. In case any of the officers whose signatures appear on the obligations or attached coupons issued hereunder shall cease to be such officers before delivery of such obligations, such signatures shall nevertheless be valid and sufficient for all purposes, the same as if they had remained in office until such delivery.

HISTORY: CL 1948, 133.3.

133.4 Municipal obligations; order of commission not deemed approval of legality.

Sec. 4. No order of the commission permitting the issuance of any obligations shall be deemed an approval of the legality thereof: Provided, however, That any determination or finding made by the commission involving any question of fact, shall after the issuance of such obligations be deemed conclusive of such fact or facts.

HISTORY: CL 1948, 133.4.

133.5 Reports filed by school and local authorities with commission, contents; failure to file, penalty.

Sec. 5. The county commissioner or county superintendent of schools of each county shall file with the commission each year not later than August 1st a report setting forth the school districts in said county having outstanding as of June 30th of such year any bonds, notes, purchase contracts or other obligations whether governed by this act or not, together with the name and address of the director or secretary of each such district.

The director or secretary of each school district having outstanding on June 30th any bonds, notes, purchase contracts or other obligations whether governed by this act or not shall file with the commission each year not later than September 1st a report setting forth as of June 30th of such year the amount and description thereof and the debt retirement or sinking fund assets applicable thereto. Such report shall also set forth the assessed valuation, tax rates, tax levies and collections for the period requested by the commission.

The officer of each municipality, other than a school district, having charge of the financial records thereof shall file with the commission each year not later than July

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31st a report setting forth as of June 30th of such year the amount and description of all outstanding bonds, notes, purchase contracts and other obligations, if any, whether governed by this act or not, and the debt retirement or sinking fund assets applicable thereto. Such report shall also set forth the population, the assessed valuation, tax rates and levies for the period requested by the commission, and in addition thereto in the case of cities, townships and counties, the equalized valuation for such period.

The officer of each city, village and township having charge of the financial records thereof shall file with the commission each year not later than 90 days after the close of the fiscal year of such municipality a report made in accordance with the accounting method of such municipality, completely setting forth the financial operation for such fiscal year for its own purposes.

All reports required by this section shall be made on forms to be prepared by the commission. Any officer of a municipality, charged with the duty of filing such report who shall fail to file the same within the time herein fixed shall, upon conviction thereof, be punished by a fine of not more than $100.00 or by imprisonment not more than 10 days.

HISTORY: Am. 1947, p. 282, Act 202, Imd. Eff. June 13;—CL 1948, 133.5.
CITED IN OTHER SECTIONS: The above section is cited in § 141.424.

133.5a Annual audit report; use as annual report to municipal finance commission.

Sec. 5a. If the books of record and account pertaining to a municipality are audited annually by a certified public accountant and the audit contains the information required in the annual reports as required by section 5 and in the form prescribed by the municipal finance commission, the audit report of the annual audit for the purposes of section 5 and at the option of the governing body of the municipality, may be used in place of the report to the municipal finance commission required by section 5.

HISTORY: Add. 1969, p. 185, Act 96, Imd. Eff. May 24.

133.6 Reports filed by school and local authorities with commission; additional information when obligations sold for cash.

Sec. 6. When any municipality shall file with the commission an application to issue obligations in the principal sum of $10,000.00, or more, which are to be sold for cash, it shall also file therewith such additional information concerning the financial condition of the municipality as the commission may require for use of prospective purchasers. It shall be the duty of the commission, upon request, to furnish such information to any prospective purchaser.

HISTORY: CL 1948, 133.6.

133.7 Order of permission; implications.

Sec. 7. The issuance of the commission's order granting permission to issue any obligations, shall imply that the commission has made such determinations of fact or circumstance, has given such approvals and has reached such opinions, as are a necessary prerequisite to the issuance of such obligations in accordance with said order.

HISTORY: CL 1948, 133.7.

133.8 New bonds in case of mutilation; coupon bonds.

Sec. 8. In case any bond heretofore or hereafter issued by any municipality has heretofore or shall hereafter become mutilated, then the governing body of such municipality may by resolution provide for the issuance of a new bond with like terms, in exchange and substitution therefor. In case any bond heretofore or hereafter issued by any municipality, be registered as to both principal and interest, and the holder thereof shall request the issuance of a coupon bond in lieu thereof, then the governing body of such municipality may in its discretion, by resolution provide for the issuance of such a coupon bond in exchange and substitution therefor. Such new coupon bond

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shall be of the same tenor as the bond replaced except for such changes as may be necessary because of the conversion from registered to coupon form, or if such registered bond replaced a former coupon bond, then the new coupon bond shall be of the same tenor as the coupon bond for which such registered bond was issued. Such new coupon bond shall be executed in the manner provided in the resolution authorizing its issuance, signed by the officers holding office at the time it is issued and contain a recital to the effect it is issued in substitution for a certain bond (describing such bond sufficiently to identify it) and is to be deemed a part of the same issue as the original bond. A copy of such resolution shall be filed with the commission before any exchange shall be made thereunder and the mutilated or registered bond shall, after having been exchanged, be immediately cancelled. In all such cases the holder shall pay the reasonable expenses and charges of such an exchange.

HISTORY: Add. 1945, p. 515, Act 300, Imd. Eff. May 25;—CL 1948, 133.8.

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CHAPTER IV

TAX ANTICIPATION NOTES

134.1 Tax anticipation notes.
134.2 Tax anticipation notes; uses, limitation; newly incorporated city or village, limitations, certification by supervisor; amount set aside, purpose; deficiency in funds; capital improvements; limitation.
134.3 Tax anticipation notes; use; limitation; capital improvement; fund set aside, purpose.
134.4 Tax anticipation notes; deposit of moneys in special fund.
134.5 Tax anticipation notes; interest rate.
134.6 Repealed.
134.7 Decision of commission final.
134.8 Notes declared general obligations; previous validations continued in force.

134.1 Tax anticipation notes.

Sec. 1. Any municipality may, by resolution of its governing body, and without a vote of the electors, but subject to the prior permission of the commission, borrow money and issue its notes in anticipation of the collection of the taxes for its then next succeeding fiscal year, or the taxes for a current fiscal year, in accordance with the provisions of this chapter.

HISTORY: CL 1948, 134.1.

134.2 Tax anticipation notes; uses, limitation; newly incorporated city or village, limitations, certification by supervisor; amount set aside, purpose; deficiency in funds; capital improvements; limitation.

Sec. 2. Where the borrowing is made in anticipation of the collection of the taxes for a next succeeding fiscal year the resolution authorizing such a loan shall contain an irrevocable provision for the levying of a tax in such year for the purpose for which such loan is to be made and the repayment of such loan from the receipts of such taxes. The proceeds of such borrowing shall be used only for the payment of operating expenses and/or capital improvements as hereinafter provided.

(a) Where the money so borrowed is for operating it shall be used only for the purpose of paying such necessary operating expenses of the municipality as could not reasonably have been foreseen and adequately provided for in the tax levy for the then current fiscal year. The amount permitted to be so borrowed for this purpose shall not exceed 50 per centum of the operating tax levy for the current fiscal year, or if the operating tax levy for the next succeeding fiscal year shall have been determined, then 50 per centum of such levy. The total amount permitted to be so borrowed by a newly incorporated city or village, to which the foregoing limitations are not applicable, shall not exceed a total of 1/4 of 1 per cent of the assessed value of all real and personal property located in such city or village according to the last assessment roll of the township or townships from which or in which such city or village was incorporated, which assessed value shall be certified to the city or village and to the municipal finance commission by the supervisor of each of the said townships: Provided, That such borrowing shall be limited to the first 12 months of the existence of such city or village. The authorizing resolution shall provide that from the first collections of the taxes for the next succeeding fiscal year there shall be set aside in a special fund to be used for the payment of principal of and interest on said notes that percentage of such collections which the tax levied for operating bears to the total levy, until the amount so set aside shall be sufficient for such payment, and collections of such taxes to be so set aside shall be used for no other purpose. Whenever in the opinion of the commission borrowing for this purpose will result in a deficiency in the funds available to pay the necessary operating expenses of the next succeeding fiscal year, it shall require that the municipality levy additional taxes in the future to prevent a continuation of such deficit from year to year.

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(b) Where the money so borrowed is for capital improvement it shall be used only for the payment of 1 or more such capital improvements as can be legally and properly provided for in the budget of the municipality for such fiscal year. The amount permitted to be so borrowed for this purpose shall not exceed the sum or sums provided in the authorizing resolution to be levied for such improvement or improvements. If the applicant be a municipality subject to the provisions of section 21 of article 10 of the constitution, the commission shall not issue its order granting permission to borrow such money and issue the proposed notes unless it shall be made to appear that such municipality has voted an increase in the tax rate limitation in an amount necessary to permit a levy of taxes, the collection of which will be sufficient to meet the interest and principal requirements of the proposed notes. The authorizing resolution shall provide that from the first collections of the taxes for the next succeeding fiscal year there shall be set aside in a special fund to be used for the payment of principal of and interest on said notes that percentage of such collections which the tax levied for capital outlay bears to the total levy, and until the amount so set aside shall be sufficient for such payment, collections of such taxes to be so set aside shall be used for no other purpose.

HISTORY: Am. 1945, p. 516, Act 300, Imd. Eff. May 25;—CL 1948, 134.2;—Am. 1953, p. 92, Act 96, Eff. Oct. 2.

134.3 Tax anticipation notes; use; limitation; capital improvement; fund set aside, purpose.

Sec. 3. Where the borrowing is made in anticipation of the collection of the taxes for a current fiscal year, the proceeds of such borrowing shall be used only for the payment of operating expenses, debt service charges and/or capital improvements as hereinafter provided.

(a) Where the money so borrowed is for the payment of operation or debt service charges the amount which may be borrowed shall be limited to 75 per centum of the amount of such debt service taxes (if the borrowing is to pay debt service charges) or such operating taxes (if the borrowing is to pay operating expenses) as shall have been provided for in the budget of the current fiscal year and which remains unpaid at the time of passage of the authorizing resolution: Provided, That if such resolution shall be passed before the day upon which taxes for such year become due and payable, such loan shall not exceed 50 per centum of the tax levy made for debt service or operating, as the case may be, for the preceding fiscal year. The authorizing resolution shall provide that from the first collections of the taxes for the current fiscal year there shall be set aside in a special fund to be used for the payment of principal and interest on said notes that percentage of such collections which the tax levied for debt service or operating, as the case may be, bears to the total levy, and until the amount so set aside shall be sufficient for such payment, collections of such taxes to be so set aside shall be used for no other purpose.

(b) Where the money so borrowed is for the payment of capital improvement the sum or sums so borrowed shall be used only for the payment of 1 or more such capital improvements as have been legally and properly provided for in the tax budget of the current fiscal year. The amount permitted to be so borrowed for this purpose shall not exceed the anticipated collection (based on the delinquency in collections of the levy of the preceding fiscal year) of the sum or sums included in the tax budget for such purpose or purposes and remaining unpaid at the time of the passage of the authorizing resolution. If the applicant be a municipality subject to the provisions of section 21 of article X of the constitution, the commission shall not issue its order granting permission to issue the proposed notes unless it shall be made to appear that the allocation board has approved a tax rate that will permit the levy of a tax the collection of which will be sufficient to repay such borrowing or that such municipality has voted

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an increase in the tax rate limitation in an amount necessary to permit a levy of taxes the collection of which will be sufficient to meet the interest and principal requirements on the proposed notes.

The authorizing resolution shall provide that from the first collections of the taxes for the current fiscal year there shall be set aside in a special fund to be used for the payment of principal of and interest on said notes that percentage of such collections which the tax levied for capital outlay bears to the total levy, and until the amount so set aside shall be sufficient for such payment, collections of such taxes to be so set aside shall be used for no other purpose: Provided, That any outstanding loan made under section 2 hereof shall be deducted from the sum permitted to be borrowed under this section.

HISTORY: Am. 1945, p. 516, Act 300, Imd. Eff. May 25;—CL 1948, 134.3.

134.4 Tax anticipation notes; deposit of moneys in special fund.

Sec. 4. The moneys in each special fund required by this chapter shall be deposited in a bank account separate from any other moneys of the municipality and shall be used for no purpose other than to retire the loans for the payment of which such special fund was established.

HISTORY: CL 1948, 134.4.

134.5 Tax anticipation notes; interest rate.

Sec. 5. All notes issued under the provisions of this chapter shall bear interest at a rate not to exceed 6 per centum per annum and shall be payable not later than the estimated time or times of collection of an amount sufficient for their payment out of the taxes pledged therefor, as determined by the governing body of the municipality and approved by the commission.

HISTORY: CL 1948, 134.5.

134.6 Repealed. 1951, p. 42, Act 39, Eff. Sep. 28.

Section related to tax anticipation notes of first class school districts.

134.7 Decision of commission final.

Sec. 7. The decision of the commission shall be final as to whether any loan subject to the provisions of this chapter may be made and if so to what extent.

HISTORY: CL 1948, 134.7.

134.8 Notes declared general obligations; previous validations continued in force.

Sec. 8. Notes heretofore issued under Act No. 26, Public Acts of 1931, or any amendment thereto, and any notes hereafter issued under this act, are hereby declared to be a general obligation of the municipality. Validations made by the provisions of Act No. 26 of the Public Acts of 1931, of notes issued prior to the effective date of said act, shall continue in full force and effect.

HISTORY: CL 1948, 134.8.

NOTE: Act 26, 1931, above referred to, was repealed and superseded by this act.

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CHAPTER V
BONDS

135.1 Bonds excepted from provisions of chapter; exception.
135.2 Permission of commission precedent to issue.
135.3 Maturities.
135.4 Serial bonds with annual maturities; treatment as single issue; premium.
135.5 Special assessment bonds; limitation of amount, equalized assessed valuation.
135.6 Accrued interest; payment.
135.7 Municipal finance commission; bonds payable from taxes; information furnished.
135.8 Full faith and credit bonds for funding drain special assessments; permission of municipal finance commission, terms.
135.9 School district debt service funds belong to debt retirement fund.
135.10 Permission to issue school district bonds; prerequisite.

135.1 Bonds excepted from provisions of chapter; exception.

Sec. 1. The provisions of this chapter shall not apply to refunding bonds or certificates of indebtedness, except bonds of school districts issued in part for refunding existing bonded indebtedness and in part for purposes authorized by the school code, and the provisions of chapter 6 of this act shall not apply to school bonds issued for such purpose.

HISTORY: CL 1948, 135.1;—Am. 1953, p. 93, Act 97, Eff. Jul. 20.

135.2 Permission of commission precedent to issue.

Sec. 2. Any municipality which, by the provisions of its charter or any law, is authorized to issue bonds payable from taxes or special assessments, shall in addition to the requirements of such charter or law, and as a condition precedent to the lawful issuance thereof, secure the permission of the commission therefor, and such bonds shall be subject to the limitations and conditions hereinafter provided.

HISTORY: CL 1948, 135.2.

135.3 Maturities.

Sec. 3. No such bonds shall be issued for a longer time than the estimated period of usefulness of the property or improvement for which issued, as determined by the governing body of the municipality and approved by the commission. In school district building projects, the period of usefulness of the structure, and not the contents or equipment, shall be the determinant. In no event shall such bonds be issued for a longer time than the following:

(1) Bonds issued in anticipation of special assessments, 2 years from the time fixed by law for the payment of the last installment of the assessments from which the bonds are payable.

(2) Emergency bonds for relief from fire, flood or other calamity, 5 years.

(3) Bonds for payment of judgments against the municipality (except judgments in condemnation proceedings) and bonds for the purchase of personal property other than (a) material for permanent construction, (b) machinery for public utilities, and (c) original furnishings and equipment of new buildings, 10 years.

(4) Bonds for construction, opening, widening or improvement of highways, streets or alleys, 15 years.

(5) Bonds for sewage disposal, water or transportation systems, 40 years.

(6) All other bonds, 30 years.

HISTORY: CL 1948, 135.3;—Am. 1958, p. 61, Act 56, Eff. Sep. 13.

CITED IN OTHER SECTIONS: The above section is cited in §§ 125.77b and 125.946b.

135.4 Serial bonds with annual maturities; treatment as single issue; premium.

Sec. 4. Such bonds shall be serial bonds with annual maturities, the first of which shall fall due not more than 4 years from the date of issuance, and no maturity after 4

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years from date of issuance shall be less than 1/4 the amount of any subsequent maturity: Provided, That all outstanding and authorized bonds of a school district payable out of taxes may be treated as a single issue for the purpose of fixing maturities: Provided further, That several series of bonds issued under the same authorization may be treated as a single issue for the purpose of fixing maturities. The bonds of any series, or any part thereof, within the scope of this chapter, may be made redeemable on such terms and conditions as shall be provided by ordinance or resolution of the governing body and approved by the commission: Provided, That no premium shall be paid on any bond exceeding 3% of its par value and no bond shall be made redeemable except upon an interest payment date or dates. The terms upon which each bond may be redeemed shall be recited upon the face thereof.

HISTORY: Am. 1945, p. 517, Act 300, Imd. Eff. May 25;—CL 1948, 135.4;—Am. 1961, p. 137, Act 115, Eff. Sep. 8.

CITED IN OTHER SECTIONS: The above section is cited in §§ 46.367 and 141.43.

135.5 Special assessment bonds; limitation of amount, equalized assessed valuation.

Sec. 5. The total amount of special assessment bonds of any township, city or village pledging the full faith and credit of the municipality shall at no time by reason of future issues, other than issues of refunding bonds, exceed 12% of the assessed valuation of the taxable property in the municipality; nor shall such bonds be issued in any calendar year in excess of 3% of such assessed valuation unless authorized by majority vote of the electors, or by such larger vote as may be provided by statute or charter. Such assessed valuation shall be deemed to be that fixed by the last assessment roll of the municipality which has been reviewed by the board of review as last equalized by the process of state equalization.

HISTORY: Am. 1947, p. 283, Act 202, Imd. Eff. Jun. 13;—CL 1948, 135.5;—Am. 1951, p. 88, Act 71, Imd. Eff. May 25;—Am. 1952, p. 366, Act 221, Imd. Eff. May 2;—Am. 1958, p. 97, Act 89, Eff. Sep. 13.

CITED IN OTHER SECTIONS: The above section is cited in § 281.923.

135.6 Accrued interest; payment.

Sec. 6. Interest to accrue on any bond issue before the time of the first collection of the taxes or assessments from which such interest is payable, may be paid from the proceeds of the sale of such bonds.

HISTORY: CL 1948, 135.6.

135.7 Municipal finance commission; bonds payable from taxes; information furnished.

Sec. 7. Before any municipality shall issue any bonds payable from taxes or assessments it shall make sworn application to the commission for permission so to do, on blanks to be provided by the commission and designed to give to the commission such information as it shall deem necessary to permit it to pass upon the application, including, but not by way of limitation the dates of issuance, purposes, amounts and maturities of all bonds or other indebtedness outstanding, the assessed valuation of all taxable property in the municipality, the total amount of general taxes and special assessments falling due during the preceding fiscal year, and the amount of such taxes and assessments delinquent at the time of making such statement, the condition of all sinking funds, whether the municipality is in default in the payment of any of its bonds or other obligations or interest thereon, and the extent of such default, the existing tax rate, and with such other information as may be required to enable it to determine that the proposed bonds comply with the provisions of this act or any other provision of law.

Order granting permission, conditions, refusal.

If the commission, after reviewing such application, shall determine that the proposed bonds comply with the provisions of this act and other provisions of law, it shall issue its order granting the requested permission: Provided,

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(1) That no such order shall be issued as to any obligations other than (a) special assessment bonds which do not pledge the full faith and credit of the municipality, (b) judgment bonds, (c) bonds issued to replace schoolhouses destroyed by fire or other calamity, and (d) emergency bonds for relief from fire, flood or other calamity, if the taxes falling due during the preceding fiscal year are more than 25% delinquent;

(2) That if the application be for the approval of bonds other than those to be issued by any county which are primarily payable from moneys to be paid by a municipality or municipalities under a contract or contracts with the county, or other than those to be issued for an improvement for which a special assessment shall have been made against lands in a special assessment district or against such lands and the municipality at large, and if the applicant be a municipality subject to the provisions of section 21 of article X of the constitution, the commission shall not issue its order granting permission to issue the proposed bonds unless it shall be made to appear that such municipality has voted an increase in the tax rate limitation in an amount and for a period of time necessary to permit the collection of taxes in an amount sufficient to meet the interest and principal requirements on the proposed bonds; and

(3) That if the applicant is in default as to any provisions of this act or any order of the commission, then such permission may be refused.

HISTORY: Am. 1945, p. 518, Act 300, Imd. Eff. May 25;—CL 1948, 135.7;—Am. 1957, p. 146, Act 128, Eff. Sep. 27.

CITED IN OTHER SECTIONS: The above section is cited in §§ 46.367 and 141.43.

135.8 Full faith and credit bonds for funding drain special assessments; permission of municipal finance commission, terms.

Sec. 8. Any county, township, city or village may by resolution of its governing body and without a vote of its electors, but subject to the prior permission of the commission, issue its full faith and credit bonds for the purpose of funding any part or all of a county or inter-county drain special assessment made against such county, township, city or village at large under the provisions of Act No. 40 of the Public Acts of 1956, as amended, being sections 280.1 to 280.623 of the Compiled Laws of 1948. Such bonds shall be serial bonds with annual maturities, the first of which shall fall due not more than 2 years from the date of issuance and the last of which shall fall due not more than 10 years from the date of issuance or not more than 1 year after the due date of the last installment of such special assessment, whichever shall be later. No maturity shall be less than 1/2 of the amount of any subsequent maturity. Bonds may be issued in 1 or more series and may fund 1 or more drain special assessments. The principal amount of bonds which may be issued under this section shall not exceed the principal amount of the special assessments to be funded thereby. If any interest is to mature upon such bonds prior to the time of the next county, township, city or village tax collection, then the governing body of the county, township, city or village shall make provision for the payment of the same when due. Bonds issued under this section shall not be an indebtedness of the county, township, city or village within the terms of any debt limitation, and any bonds issued under this section shall not be considered to be an indebtedness of the issuing county, township, city or village for purposes of computing bonded debt limits. No installment or installments of a special assessment shall be funded hereunder unless payable in advance of the due date or due dates thereof, and if legal bonds of the drainage district have been issued, an equal amount of such bonds must be redeemable within 90 days from the delivery of the funding bonds to the purchaser thereof. The provisions of this chapter together with the general provisions of this act shall govern the issuance of bonds authorized in this section except where inapplicable or inconsistent herewith. All bonds issued under this section shall be the legal and valid obligations of the municipality issuing the same, notwithstanding any illegality in the special assessments funded thereby. The provisions of this sec-

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tion shall not permit the funding of any drain special assessments confirmed prior to January 1, 1946.

HISTORY: Add. 1951, p. 80, Act 62, Imd. Eff. May 24;—Am. 1953, p. 71, Act 75, Imd. Eff. May 15;—Am. 1955, p. 93, Act 57, Imd. Eff. May 10;—Am. 1957, p. 147, Act 128, Eff. Sep. 27;—Am. 1959, p. 8, Act 9, Imd. Eff. Apr. 15.

135.9 School district debt service funds belong to debt retirement fund.

Sec. 9. All debt service funds on hand or the proceeds from taxes levied therefor by a school district for bonds to be refunded, if there be such funds after the completion of the refunding and the refunded bonds are retired, shall belong to the debt retirement fund of the refunding bond issue.

HISTORY: Add. 1953, p. 93, Act 97, Imd. Eff. May 20;—Am. 1954, p. 381, Act 164, Eff. Aug. 13.

135.10 Permission to issue school district bonds; prerequisite.

Sec. 10. The commission shall not issue its order granting permission to issue bonds of a school district, the purpose of which is in part to refund existing indebtedness, unless it be furnished proof satisfactory to it that the bonds to be refunded can be redeemed within 6 months of the date of sale of the proposed issue of bonds.

HISTORY: Add. 1953, p. 94, Act 97, Imd. Eff. May 20;—Am. 1959, p. 96, Act 89, Eff. Mar. 19, 1960.

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CHAPTER VI

REFUNDING BONDS AND CERTIFICATES OF INDEBTEDNESS

136.1 Refunding bonds and certificates of indebtedness; refunding, permission by commission; classes of bonds.
136.2 Powers and duties of commission.
136.3 Indebtedness assumed in part by school district of first class; joint application for refund.
136.3a Public utility refunding bonds; issuance by municipalities authorized.
136.4 Inapplicability of statutory or charter limitations.
136.5 Drainage bonds continuation of former obligations.
136.6 Maturities; maximum rates of interest; form.
136.7 Tax reduction.
136.8 Moneys; use.
136.9 Cancellations; proof furnished to commission.
136.10 Sale or exchange of bonds.
136.11 Delivery to purchaser; redemption or retirement.
136.12 Maturity; interest rate; extension of maturity dates; callability; debt service tax.
136.13 Mortgage bonds; refunding; amending mortgage indentures.
136.14 Additional limitations.
136.15 Legal and valid obligations.
136.16 Debt service money; expenditure.
136.17 Extension of time of payment of special assessments; new roll; division into installments; interest rate.

136.1 Refunding bonds and certificates of indebtedness; refunding, permission by commission; classes of bonds.

Sec. 1. Any municipality may, by resolution of its governing body and without a vote of its electors, but subject to the prior permission of the commission, refund all or any part of its funded indebtedness in the following manner:

(a) By the issuance of certificates of indebtedness for the purpose of refunding obligations evidencing refunded interest, or for the purpose of refunding judgments or decrees (or portions thereof) taken for defaulted interest, or for the purpose of refunding interest accrued on its funded indebtedness; and

(b) By the issuance of refunding bonds for the purpose of refunding all or any portion of its other outstanding funded indebtedness: Provided, That the refunding of obligations issued under the provisions of Act No. 59, Public Acts of 1915, as amended, shall be made under the provisions of that act.

Refunding by any municipality shall not be permitted by the commission unless it is (a) necessary to correct a default; (b) necessary to prevent a default which in the opinion of the commission will occur within 1 year from the adoption of the resolution authorizing the refunding; (c) advisable for the purpose of readjusting a part or all of its outstanding funded indebtedness where there exists a default or prospective default as to any part thereof; (d) advisable in order to more nearly equalize its future annual debt requirements for principal due serially, sinking fund contributions and interest: Provided, That bonds for the purpose of this subdivision may be divided into 2 classes, viz: those issued for water supply and those issued for other purposes, and either class of bonds may be refunded separately for equalization as aforesaid of the bonds of such class; (e) advisable in order to reduce, at least after 1 year from the date of the refunding bonds, the annual interest rates on all or any part of its outstanding funded indebtedness; (f) advisable in order to readjust debt service requirements in conformity to a plan of composition approved by the court under the provisions of an act of congress of the United States of America entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved July 1, 1898, and acts amendatory thereof and supplementary thereto; or (g) for the purpose of refunding bonds outstanding on September first, 1925. The order of the commission permitting the issuance of any refunding obligations shall be deemed conclusive proof of the existence of the necessary basis for such refunding.

HISTORY: Am. 1945, p. 518, Act 300, Imd. Eff. May 25;—Am. 1947, p. 283, Act 203, Imd. Eff. June 13;—CL 1948, 136.1.

NOTE: Act 59, 1915, above referred to, is Compilers' repealed § 247.415 et seq.

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136.2 Powers and duties of commission.

Sec. 2. It shall be the duty of the commission to satisfy itself before issuing an order permitting the issuance of such refunding bonds or certificates of indebtedness, that the refunding proposed will in all reasonable probability afford the relief intended and for such purpose the commission shall have power:

(a) To permit the refunding requested in whole or in part.

(b) To prescribe reasonable terms and conditions upon which such refunding bonds or certificates of indebtedness may be issued.

(c) To deny permission to refund in whole or in part, if in the opinion of the commission refunding to the extent of such denial would not be in the public interest.

HISTORY: CL 1948, 136.2.

136.3 Indebtedness assumed in part by school district of first class; joint application for refund.

Sec. 3. Any outstanding funded indebtedness of a municipality which has been assumed in part by another municipality may be refunded by such municipalities as to their respective liabilities, upon joint application to the commission. Whenever such funded indebtedness has been assumed in part by a school district of the first class, pursuant to chapter 8 of Act No. 319 of the Public Acts of 1927 and acts amendatory thereto, such application shall be made on behalf of said school district by the legislative body of the city comprising such school district, with the approval of the board of education of said school district, and notwithstanding any other provision of law, refunding bonds, or certificates of indebtedness, to refund any such funded indebtedness of a school district of the first class may be authorized by the legislative body of the city comprising such school district and such refunding bonds or certificates of indebtedness may be issued upon the faith and credit of the city comprising such school district.

Nothing in this act shall be construed to prohibit a municipality from refunding any of its outstanding funded indebtedness even though some other municipality may have become obligated to contribute to the payment of such indebtedness, and such refunding is hereby expressly authorized; but no such refunding shall relieve such other municipality from its obligation to make such contribution.

HISTORY: CL 1948, 136.3.

NOTE: Chapter 8, Act 319, 1927, above referred to, is Compilers' repealed § 348.1 et seq. See § 340.181 et seq.

136.3a Public utility refunding bonds; issuance by municipalities authorized.

Sec. 3a. Any city which has prior to April 1, 1949 issued revenue bonds in accordance with the provisions of Act No. 94 of the Public Acts of 1933, as amended, for the purpose of purchasing, acquiring, constructing, improving, enlarging, extending or repairing transportation systems as defined in said act, which city is authorized by the provisions of its charter and Act No. 279 of the Public Acts of 1909, as amended, to issue general obligation bonds for transportation purposes, may issue refunding bonds under the provisions of and subject to the terms and conditions expressed in this act for the purpose of refunding all or any portion of its revenue bonds issued for such purposes. Such refunding bonds shall be designated public utility refunding bonds, and no such bonds shall be issued which would cause the total debt of the city, authorized for transportation purposes, to exceed the limits authorized for such purposes in its charter or in Act No. 279 of the Public Acts of 1909, as amended.

HISTORY: Add. 1949, p. 119, Act 116, Eff. Sep. 23.

136.4 Inapplicability of statutory or charter limitations.

Sec. 4. The said refunding bonds and certificates of indebtedness and the tax levies therefor shall not be deemed to be within any statutory or charter limitation of tax rate

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or of bonded indebtedness, but shall be deemed to be authorized in addition thereto: Provided, That no obligations except refunding bonds, certificates of indebtedness, and calamity bonds shall be issued which would cause the total debt to exceed any such limitation.

HISTORY: CL 1948, 136.4.

136.5 Drainage bonds continuation of former obligations.

Sec. 5. Refunding obligations issued to refund drainage bonds issued under the terms of Act No. 316, Public Acts of 1923, as amended, shall be obligations of the same character as the obligations refunded and shall be construed to be a continuation of the former obligations. All other refunding obligations issued hereunder shall, unless otherwise provided therein, be the general obligation of the issuing municipality and its full faith and credit shall be pledged to the payment thereof.

HISTORY: CL 1948, 136.5.

NOTE: Act 316, 1923, above referred to, is Compilers' § 261.1 et seq.

136.6 Maturities; maximum rates of interest; form.

Sec. 6. Refunding bonds issued hereunder shall mature in not to exceed 30 years from date of issuance, and certificates of indebtedness issued hereunder shall mature in not to exceed 10 years from date of issuance. Subject to the approval of the commission, such refunding obligations may be of serial maturities as to principal or term obligations with such sinking fund provisions as may be prescribed in the resolution authorizing their issuance and approved by the commission. If serial bonds are issued, then unless otherwise approved by the commission, the first annual maturity shall fall due not more than 3 years from date of issuance and no annual maturity after 3 years shall be less than 1/3 the amount of any subsequent maturity. Such serial obligations may and such term obligations shall be redeemable on any interest payment date at such price or prices and upon such terms and conditions as may be prescribed by the authorizing resolution, approved by the commission and recited upon the face of the bonds. The commission shall approve the maximum rates of interest which such refunding obligations shall bear, subject to any limitations contained in this act. Refunding obligations shall be executed in the form and manner prescribed by its governing body subject to the requirements of its charter or governing law.

HISTORY: CL 1948, 136.6;—Am. 1952, p. 68, Act 64, Eff. Sep. 18.

136.7 Tax reduction.

Sec. 7. The resolution authorizing the issuance of any such term refunding obligations may provide that if at the time of any annual tax levy, the amount of such refunding bonds or certificates of indebtedness which shall have been retired shall exceed the aggregate of the amounts required by such resolution to be provided for the principal of such bonds or certificates of indebtedness previous to such time, the tax required for the then current fiscal year may be reduced by an amount which shall not exceed such excess.

HISTORY: CL 1948, 136.7.

136.8 Moneys; use.

Sec. 8. Where taxes and/or special assessments have been levied for or pledged to the payment of obligations, all moneys on hand or thereafter received by reason of such taxes and/or special assessments shall, except as otherwise provided in section 16 of this chapter, be used (a) where there is a partial refunding of such obligations, for the payment of the principal of and/or interest on the refunding obligations and/or on that part thereof not to be refunded, or (b) where there is a total refunding of such obligations, for the payment of the principal of and interest on the refunding obligations. The commission shall make a determination at the time of approving such refunding as

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to the manner in which such moneys shall be so used and thereafter so long as such obligations remain outstanding such moneys shall be used for no other purpose.

HISTORY: Am. 1945, p. 519, Act 300, Imd. Eff. May 25;—CL 1948, 136.8.

136.9 Cancellations; proof furnished to commission.

Sec. 9. All evidences of indebtedness refunded under the provisions of this act shall be cancelled and the commission shall require proof of such cancellation to be furnished to it.

HISTORY: CL 1948, 136.9.

136.10 Sale or exchange of bonds.

Sec. 10. Such refunding bonds or certificates of indebtedness shall be sold by the issuing municipality in accordance with the terms of section 2 of chapter III of this act, or, unless otherwise provided in this act, they or any part of them may be exchanged for the evidences of indebtedness refunded in accordance with the commission's order.

HISTORY: Am. 1945, p. 519, Act 300, Imd. Eff. May 25;—CL 1948, 136.10.

136.11 Delivery to purchaser; redemption or retirement.

Sec. 11. All refunding bonds issued under this act which are sold for cash, shall not be sold more than 6 months in advance of the first date upon which the refunded bonds may be redeemed or otherwise retired and may, notwithstanding any statutory or charter limitation of bonded indebtedness, be delivered to the purchaser at any time after such sale, unless the time of delivery is restricted by the commission, upon the payment of the purchase price, and in such case the money received from the sale thereof, shall be deposited in a duly qualified bank or trust company designated by the governing body of the municipality in a special trust account for the payment of the outstanding refunded bonds and for no other purpose. The refunded bonds shall be redeemed or otherwise retired as soon as possible after the sale of the refunding bonds, but in no case shall such refunding bonds be invalidated by reason of the failure to redeem or retire such refunded bonds.

HISTORY: Am. 1945, p. 519, Act 300, Imd. Eff. May 25;—CL 1948, 136.11.

136.12 Maturity; interest rate; extension of maturity dates; callability; debt service tax.

Sec. 12. Refunding bonds issued for the purpose of reducing annual interest rates shall not mature beyond the last maturity date of the refunded indebtedness; during the first year, they shall bear an annual interest rate not greater than that specified in the refunded obligations and thereafter shall bear an annual interest rate of at least 1/2 of 1 per centum less than that specified in the refunded obligations; and they shall be sold for cash at not less than par and accrued interest: Provided, That where warranted by the amount of the outstanding funded indebtedness of a municipality, the commission may permit the extension of the maturity dates upon such refunding obligations to not exceeding 30 years from the date of issuance thereof, but in case of such extension the commission shall require that all serial bonds maturing after the last maturity date of the obligations to be refunded shall be made callable for redemption at such times and in such amounts as it shall prescribe, but in any event such bonds shall be callable on any interest payment date after the last maturity date of the obligations to be refunded, and also in event of such extension the commission shall prescribe a minimum annual debt service tax levy and shall require that all surplus moneys received currently or otherwise by reason of such minimum levy shall be used to redeem

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such callable bonds and provided further that the interest rate beyond the final maturity of the bonds to be refunded shall be at least 1/2 of 1% less than the last interest rate on the bonds to be refunded.

HISTORY: Am. 1945, p. 520, Act 300, Imd. Eff. May 25;—CL 1948, 136.12.

136.13 Mortgage bonds; refunding; amending mortgage indentures.

Sec. 13. Mortgage bonds heretofore or hereafter issued by any city or village may with the consent of the holders thereof, be refunded under the provisions of this act and the provisions hereof shall govern in so far as the same may be applicable. When in connection with such refunding it shall become necessary or advisable to amend the mortgage indenture and no procedure is provided therein for such amendment, then subject to the approval of the commission, such mortgage indenture may be amended in the manner agreed upon by the municipality and the holders of all the bonds secured thereby: Provided, That if such refunding is for the purpose of redeeming callable bonds, then the consent of the holders thereof shall not be required to such amendment.

HISTORY: CL 1948, 136.13.

136.14 Additional limitations.

Sec. 14. The commission shall have power to impose such additional limitations or regulations in connection with the issuance of any refunding obligations authorized herein as shall be reasonable.

HISTORY: CL 1948, 136.14.

136.15 Legal and valid obligations.

Sec. 15. All refunding bonds, notes and certificates of indebtedness heretofore issued under the provisions of Act No. 13 of the Public Acts of 1932, First Extra Session, as amended, or hereafter issued under the provisions of this act, shall be the legal and valid obligations of the municipality issuing the same notwithstanding any infirmity other than constitutional in the obligations refunded thereby.

HISTORY: CL 1948, 136.15.

NOTE: Act 13, 1st Ex. Ses., 1932, above referred to, has been repealed and superseded by Act 202, 1943, being Compilers' § 131.1 et seq.

136.16 Debt service money; expenditure.

Sec. 16. From debt service money on hand applicable to the retirement of obligations to be refunded and/or from proceeds of debt service taxes a municipality may expend:

(a) Where refunding obligations are to be exchanged:

1. A sufficient amount to cover the reasonable cost of the printing of and legal opinion on said refunding obligations;

2. And in addition thereto for other expenses, a sum not to exceed 1% of the par value of the obligations exchanged;

(b) Where refunding obligations are to be sold:

1. A sufficient amount to cover the reasonable cost of the printing of and legal opinion on said refunding obligations, the required legal notices, depository fees;

2. And in addition thereto for other expenses, a sum not to exceed 1/2 of 1% of the par value of the obligations to be sold.

Said expenditures shall be the total authorized therefor.

HISTORY: Am. 1945, p. 520, Act 300, Imd. Eff. May 25;—CL 1948, 136.16.

136.17 Extension of time of payment of special assessments; new roll; division into installments; interest rate.

Sec. 17. When it is proposed to refund any bonds issued in anticipation of the collection of special assessments, the time of payment of the unpaid portion of such special assessments may, subject to the approval of the commission, be extended. Such ex-

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tension shall be effected by the making and confirmation of a new special assessment roll by the proper officers of the municipality. Accrued interest on the unpaid assessments to the date of confirmation of the new roll, at the rate borne by the original assessments, shall be added to and become a part of the principal of the extended assessments, and any penalty or interest in excess of such rate may be cancelled. The amount of assessments on the new roll shall be divided into annual installments, the first of which shall fall due not more than 1 year after the date of confirmation and the last not later than 1 year before final maturity of the refunding bonds. The extended assessments shall bear interest at a rate or rates not less than that borne by the refunding bonds. The annual installments of such extended assessments shall be collected in the same manner as an original installment and all provisions of law, charter or ordinance providing for the spread and collection of an original installment shall apply in so far as applicable to any and all such extended installments. The installment or installments of a special assessment roll so extended shall be and remain a lien on the property assessed to the same extent as if no such extension had been made.

HISTORY: Am. 1945, p. 520, Act 300, Imd. Eff. May 25;—CL 1948, 136.17.

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CHAPTER VII
TAX LEVIES, DEBT RETIREMENT AND SINKING FUND

137.1 Tax levies, debt retirement and sinking funds; definitions.
137.1a Tax levies; where included; surplus moneys; moneys remaining in debt retirement fund, period hold, transfer; portion set aside, division.
137.1b Separation and use of debt retirement fund.
137.1c Retirement of debt; discontinuance of voted tax.
137.2 Sinking fund; provisions governing; investment, sale.
137.3 Sinking fund; retirement of term refunding bonds or certificates of indebtedness; tenders; advertising.

137.1 Tax levies, debt retirement and sinking funds; definitions.

Sec. 1. For the purpose of this chapter, the following definitions shall apply:

(a) "Term obligations": Any series of obligations maturing in 1 installment after 3 years from their date of issuance.

(b) "Serial obligations": Any series of obligations maturing in 2 or more installments, or maturing in 1 installment within 3 years from date of issuance: Provided, That if in any series of obligations, other than refunding obligations, any installments mature at intervals of more than 1 year or the final installment exceeds 3 times the smallest prior installment, the commission may classify the obligations of such installment or installments as term obligations.

(c) "Debt retirement fund": A fund for the payment of (1) interest on any issue of term or serial obligations; (2) principal on any issue of serial obligations; (3) both principal and interest on any issue of serial obligations; or (4) any combination of such principal and/or interest.

(d) "Sinking fund": A fund for the payment of principal only of term obligations.

HISTORY: CL 1948, 137.1.

CITED IN OTHER SECTIONS: Sections 137.1 to 137.3 are cited in § 340.565.

137.1a Tax levies; where included; surplus moneys; moneys remaining in debt retirement fund, period hold, transfer; portion set aside, division.

Sec. 1a. Whenever any municipality shall have outstanding any bonds, refunding bonds, notes or certificates of indebtedness payable from taxes, it shall be the duty of every officer or official body charged with any duty in connection with the determination of the amount of taxes to be raised or with the levying of such taxes, to include in the amount of taxes levied each year:

(a) An amount such that the estimated collections therefrom will be sufficient to promptly pay when due the interest on all such obligations and that portion of the principal thereof falling due before the time of the following year's tax collection;

(b) An amount, if there be any outstanding term refunding obligations, sufficient to provide the sum required to be deposited, by the ordinance or resolution authorizing each such issue, into the sinking fund therefor prior to the time of the following year's tax collection;

(c) An amount, if there be any outstanding term obligations (other than refunding obligations), which if deposited annually into a sinking fund will, with the existing sinking fund pertaining thereto and the increment thereof, be sufficient to pay such obligations at maturity;

(d) An amount, if any, required to be levied in such year for each principal and/or interest reserve:

Provided, That the foregoing shall not be construed to limit the amount required to be levied in any year for the foregoing purposes, by the terms of any ordinance or resolution authorizing the issuance of such obligations.

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If at the time of making any annual tax levy, there be surplus moneys on hand for the payment of principal or interest, and no provision shall have been made in the bond resolution for the disposition thereof, then credit therefor may be taken upon such annual levy for principal or interest as the case may be.

Any moneys remaining in a debt retirement fund or on account within such a fund after the retirement of all bonds payable therefrom shall remain in such fund for a period of 2 years after such retirement unless previous approval to transfer such funds shall have been authorized by the municipal finance commission: Provided, That such remaining moneys may be transferred within said 2 year period upon resolution of the governing body with prior approval of the municipal finance commission, regardless of the requirements of any other statute.

To prevent a deficiency in the sinking fund available for the payment of any term bonds, the commission may from time to time prescribe an amount to be levied in excess of the amounts required by any law, charter, ordinance or resolution, in order that the principal of such term bonds may be paid when due, and the commission may from time to time revise its determination in such regard.

As taxes are collected there shall be set aside that portion of such collections which is allocable to the payment of the principal and interest on said obligations and the portion so set aside shall be divided pro rata among the various sinking funds and debt retirement funds in accordance with the amount levied therefor. All such tax collections paid into any such debt retirement fund shall, if such fund is for the payment of more than 1 issue of obligations, be allocated on the books and records of the municipality between the various issues in accordance with the amounts levied therefor. No limitation in any statute or charter shall prevent the levy and collection of the full amount of taxes required by this section for the payment of debts, but nothing herein shall authorize the levy of a tax for any other purpose exceeding the existing statutory or charter tax limitation. Any officer who wilfully fails to perform the duties required of him by this section shall be personally liable to the municipality or to any bondholder for any loss or damage arising from such failure.

HISTORY: Add. 1945, p. 521, Act 300, Imd. Eff. May 25;—CL 1948, 137.1a;—Am. 1952, p. 166, Act 145, Imd. Eff. Apr. 24.

CITED IN OTHER SECTIONS: The above section is cited in § 117.3.

137.1b Separation and use of debt retirement fund.

Sec. 1b. All debt retirement funds shall be kept separate from each other and separate from all other moneys of the municipality and shall be used only to retire the funded indebtedness of the municipality for which such debt retirement fund was created.

HISTORY: Add. 1947, p. 283, Act 202, Imd. Eff. June 13;—CL 1948, 137.1b.

137.1c Retirement of debt; discontinuance of voted tax.

Sec. 1c. Whenever any municipality shall have completed the retirement of any outstanding bonds, refunding bonds, notes or certificates of indebtedness or shall have sufficient funds in the debt retirement fund to retire said obligation payable from taxes prior to the final levy of any tax voted to retire the outstanding debt, the governing body of the municipality shall certify the completed retirement of the outstanding debt or the sufficiency of funds to retire said debt to the commission. The commission, when it has satisfied itself that the debt has been retired or that sufficient funds are available in the debt retirement fund for which any voted tax has been authorized and that there is no longer any need for the extra voted tax, shall certify the fact to the county treasurer of the county in which the municipality is located and the treasurer shall no longer be required to include the extra voted tax in any notice or statement required under section 3 of Act No. 62 of the Public Acts of 1933, as amended, being section 211.203 of the Compiled Laws of 1948. When any municipality shall have is-

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sued unlimited tax bonds, and completed the retirement of outstanding bonds, or accumulated sufficient funds in the debt retirement fund for the retirement of the bonds, the governing body of the municipality shall certify such information to the municipal finance commission. The commission when satisfied that the bonds are retired or that the debt retirement fund is of sufficient amount to retire the bonds shall certify the fact to the county treasurer of the county in which the municipality is located, and the treasurer shall no longer be required to recognize a levy for the bond issue.

HISTORY: Add. 1957, p. 59, Act 55, Eff. Sep. 27.

137.2 Sinking fund; provisions governing; investment, sale.

Sec. 2. All sinking funds created for the retirement of term obligations other than refunding bonds and certificates of indebtedness shall be subject to the provisions of this section. All such funds shall be kept separate from each other and separate from all other moneys of the municipality, and shall be used only to retire the obligations of the municipality for which such sinking funds, respectively, were created: Provided, That any municipality investing in its securities only, shall not be required to segregate funds as to each issue as above provided. The commission in order to assure the adequacy of such sinking funds, shall from time to time review the sworn statements required to be filed in accordance with the provisions of section 5 of chapter III hereof, and if upon such review the commission shall determine any such sinking fund to be inadequate, it shall order such municipality to provide in the tax levy for the next succeeding year or years an amount or amounts which will be sufficient to make such sinking fund adequate. The money belonging to any such sinking fund may be invested in the obligations to which it pertains, or in such obligations of the municipality, the state of Michigan, or the United States of America, as pledge the full faith and credit of the issuer for the payment thereof, and any such funds not so invested shall be deposited in any bank or trust company authorized to do business in this state: Provided, That when a municipality shall purchase for any such sinking fund, obligations for the payment of which such fund was created then such obligations shall be immediately cancelled. Any municipality holding obligations in its sinking funds may without permission from the commission sell the same at any time in its discretion, and use the proceeds for the purpose for which the sinking fund was established, or reinvest the same in accordance herewith. Nothing herein contained shall compel the sale of any security now held in any sinking fund.

HISTORY: Am. 1945, p. 522, Act 300, Imd. Eff. May 25;—CL 1948, 137.2.

137.3 Sinking fund; retirement of term refunding bonds or certificates of indebtedness; tenders; advertising.

Sec. 3. Any municipality issuing term refunding bonds or certificates of indebtedness under the provisions of chapter VI hereof shall provide a sinking fund or funds for the retirement thereof, and there shall be deposited in each such sinking fund annually such amounts as shall be sufficient to pay the principal of such bonds or certificates of indebtedness at or before maturity, but such deposits may vary from year to year and may be omitted in any year or years, if the refunding proceedings so provide and the commission so approves. All sinking fund moneys for the retirement of refunding bonds or certificates of indebtedness shall be kept separate from each other and from all other moneys of the municipality and shall be used for no purpose except for the payment or purchase of such refunding bonds or certificates of indebtedness. From time to time, when the balance in the sinking fund for the retirement of any issue of refunding bonds or certificates of indebtedness shall warrant, the municipality shall advertise for tenders thereof at least once in a newspaper or publication circulated in the state of Michigan which carries as a part of its regular service notices of the sale of

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municipal bonds: Provided, That the municipality shall so advertise for tenders of its refunding bonds or certificates of indebtedness when such balance shall exceed the minimum amount prescribed by the authorizing resolution, or if not so prescribed, when such balance shall exceed 3 per cent of the face value of such refunding bonds or certificates of indebtedness as originally issued or shall exceed $2,000.00 in case such 3 per cent amounts to a smaller sum. Such advertisements shall be published at least 14 days prior to the time for presentation of such tenders of bonds or certificates of indebtedness and such tenders shall be publicly opened by the municipality on the date and at the place fixed in said notice. All tenders of bonds and certificates of indebtedness shall be presented to the municipality in writing and sealed and shall comply with any reasonable terms specified in the notice. The municipality shall open and examine such tenders, and shall accept the tender or tenders stipulating the lowest price or prices at which the owners of such bonds or certificates of indebtedness will sell the same to the sinking fund, up to the amount of the available balance of the sinking fund: Provided, That no tenders shall be accepted at a price in excess of the par value and accrued interest of such bonds or certificates of indebtedness without the approval of the commission. All refunding bonds or certificates of indebtedness so purchased shall be cancelled. If no tenders of bonds or certificates of indebtedness be received, and if the bonds or certificates of indebtedness be redeemable before maturity, then the municipality shall proceed with the redemption of such bonds or certificates of indebtedness to the extent of the available moneys in the sinking fund for the retirement of such bonds or certificates of indebtedness. If no tenders of such refunding bonds or certificates of indebtedness be received and if the bonds be not redeemable before maturity, then the municipality may invest or deposit such balance in the sinking fund in the manner provided for the investment and deposit of sinking fund moneys in section 2 of this chapter. No investment shall be made of any such balance, however, until tenders of bonds or certificates have been solicited as above provided.

HISTORY: CL 1948, 137.3.

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CHAPTER VIII
REPEAL

138.1 Repeal.
138.2 Hearings and proceedings; continuation.

138.1 Repeal.

Sec. 1. The following acts and all acts and parts of acts amendatory thereto, are hereby repealed, namely: Act No. 273, Public Acts of 1925; Act No. 26, Public Acts of 1931; Act No. 18, Public Acts of 1931; Act No. 13, Public Acts of 1932, First Extra Session; Act No. 1 of the Public Acts of 1932, Second Extra Session. It is not the intent of this act to supersede or repeal any act authorizing loans against revenues but which also pledge the full faith and credit of the municipality.

HISTORY: CL 1948, 138.1.

138.2 Hearings and proceedings; continuation.

Sec. 2. All hearings, matters and proceedings of whatsoever nature pending before the loan board created by Act No. 26, Public Acts of 1931 and the public debt commission created by Act No. 13, Public Acts of 1932, First Extra Session, shall not be terminated or abated but shall be considered to have been transferred to the municipal finance commission hereby created, and shall be continued, carried on and completed under the provisions of this act without any requirement of amendment, modification or change by reason of the transfer hereby made. Whenever reference is or has been made in any law to the public debt commission, such reference shall be construed to mean the municipal finance commission without further amendment or change thereof. Whenever reference is or has been made in any law to section 7 of Act No. 273, Public Acts of 1925, or to said section as amended, such reference shall be deemed to mean section 2 of chapter III of this act.

HISTORY: CL 1948, 138.2.

Sec. 3. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 416, Act 267, Imd. Eff. May 25.

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CHAPTER 141. MUNICIPAL FINANCING

FUNDING OF FLOATING INDEBTEDNESS
Act 369 of 1925

141.1 Floating indebtedness, bond issue.
141.2 Board of supervisors; resolution; referendum, notice, contents.
141.3 Board of supervisors; authorized bond issue; terms.
141.4 Board of supervisors; legalized acts; unauthorized bonds.

COUNTY SINKING FUND COMMISSION
Act 42 of 1913

141.11 County sinking fund commissioners.
141.12 County sinking fund commissioners; handling of fund, investment.
141.13 County sinking fund commissioners; control of fund, application.
141.14 County sinking fund commissioners; annual meeting, procedure; rules; authorizing vote; clerk, records.
141.15 County treasurer; duties as custodian, bond.
141.16 Condition reports to supervisors; tax recommendations.
141.17 Tax levy; bond sale proceeds, interest, deposit.
141.18 Per diem; expenses; county charge.
141.19 Commissioner's rules.
141.20 Approval of act by supervisors.

COUNTY SINKING FUNDS AND COMMISSION
Act 161 of 1923

141.31 Bond issues; requisite sinking funds.
141.32 Sinking fund commissioners.
141.33 Sinking fund commissioners; control of fund, application; payment, manner.
141.34 Sinking fund commissioners; handling of funds, investment; bonded debt.
141.35 Sinking fund commissioners; annual meeting, procedure; rules; authorizing vote; clerk, records.
141.36 Sinking fund commissioners; condition reports to board; tax recommendations.
141.37 Bond sale; interest, credit; expenses of commissioners.
141.38 Suit on securities.
141.39 Saving clause; construction of act.

COUNTY PUBLIC IMPROVEMENTS
Act 342 of 1965

141.41 County public improvements; definitions.
141.42 Acquisition of public improvements; credit, bonds, notes.
141.43 Interest on bonds or notes; rate; maturity, form.
141.44 Issuance of bonds; conditions.
141.45 Taxes; no limitation as to rate or amount; amount of bond and notes; limitations.
141.46 Bonds or notes; payment, funds available.
141.47 Resolution authorizing issuance of bonds; required covenant, pledge.

PUBLIC BUILDINGS, SINKING FUND FOR SITES
Act 14 of 1926 (Ex. Ses.)

141.51 Creation of sinking fund for public buildings and sites; tax referendum.
141.52 Tax referendum procedure.
141.53 Requisite notices.
141.54 Ballots; form, contents, distribution, counting; authorizing vote; levy.
141.55 Sinking fund control.

PERMANENT IMPROVEMENTS BY COUNTIES
Act 118 of 1923

141.61 Board of supervisors; borrowing money for permanent improvements; issuance of bonds, restrictions; sinking fund.
141.61a Board of supervisors; use of moneys on hand for construction, equipping, alterations; referendum.
141.62 Board's resolution; contents; referendum.
141.63 Board's resolution; required notices; election procedure; construed.
141.64 Election returns; certificate, recording; authorized acts.
141.65 Construction of act cumulative.
141.66 Validation clause.

PUBLIC BUILDINGS AND BRIDGES
Act 28 of 1911

141.71 Board of supervisors; power to raise money, manner; bonding petition.
141.72 Board of supervisors; excess sums; referendum, procedure.
141.73 Notice of election; posting.
141.74 Ballots; form, distribution, counting; authorizing vote, effect.

FIRE, FLOOD OR OTHER CALAMITY BONDS
Act 12 of 1932 (1st Ex. Ses.)

141.81-141.83 Repealed.

CITIES AND VILLAGES PROHIBITED TAXES
Act 243 of 1964

141.91 Cities and villages, prohibited taxes.

REVENUE BOND ACT
Act 94 of 1933

141.101 Short title; revenue bond act of 1933.
141.102 Construction of act.
141.103 Revenue bond act of 1933; definitions.
141.104 Municipal public improvements; limitations; bonds; acquiring utility for supplying light, heat or power; referendum; powers exercised.
141.105 Estimate of cost and period of usefulness.
141.106 Ordinances; adoption, record, publication.
141.107 Bonds; issuance, form, term, interest, payment, tax exemption, security, indebtedness.
141.108 Lien on revenue in favor of bondholders.
141.109 Lien on revenue in favor of bondholders; duration, enforcement.
141.110 Receiverships for public improvements.
141.111 Bonds; application of other laws and charters.
141.112 Bonds; maximum interest; public and private sale.
141.113 Bonds; statement on face.

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141.114 Bonds; qualities of negotiable instruments.
141.115 Bonds; proceeds of sale, deposit in banks covered by federal deposit insurance; investments, authorization, approval.
141.116 Bonds; use of proceeds of sale; payment of capitalized interest.
141.117 Bonds; validity of signatures.
141.118 Charges for services.
141.119 Additional bonds; issuance in separate series, maturities.
141.120 Revenue refunding bonds; maturities, sale or exchange.
141.120a Combined public improvements; bonds; revenues pledged; retirement.
141.120b Revenue bonds to retire outstanding bonds; validity, premium, sale or exchange.
141.120c Parking revenue bonds; special assessments on benefited properties.
141.121 Rates for service; delinquent charges a lien, enforcement.
141.122 Disposition of revenues; funds.
141.123 Payment of operating expenses from other sources.
141.124 Moneys in public improvement funds; deposit, investment.
141.125 Operating year.
141.126 Receiving fund surplus; deposit.
141.127 Permission to issue bonds; approval.
141.128 Order not deemed approval of legality of bond issue.
141.129 Service rates not subject to supervision by state agency.
141.130 Bonds; records, accounts, examination, inspection, statement or audit.
141.131 Calling of bonds before maturity; premium.
141.132 Breach of contract not authorized; pledging of revenues; disconnection of lands not to affect liability under bond issue.
141.133 Governing bodies; powers, issuance of bonds; referendum.
141.134 Liberal construction of act.
141.136 Immediate necessity.
141.137 Condemnation of property.
141.138 Trustee; appointment.
141.139 Water pollution; prevention or abatement; public corporation may accept grants or aid from U.S. government.

INTEREST RATES FOR PUBLIC CORPORATIONS

Act 342 of 1969

141.151 Interest rates; definition.
141.152 Bonds or other evidences of indebtedness; agreements prior to January 1 and July 1, 1971.
141.153 Assessments or contracts in anticipation of issuance of bonds prior to July 1, 1971.

CITY PARKING FACILITIES

Act 286 of 1947

141.161-141.163 Repealed.

TOWNSHIP PARKING FACILITIES

Act 219 of 1952

141.171 Automobile parking facilities; leasing space, limitation.
141.172 Automobile parking facilities; leasing of ground and basement floor space by township for purposes other than parking of automobiles.
141.173 Scope of act.

COMPROMISE OF MUNICIPAL INDEBTEDNESS

Act 151 of 1933

141.191 Compromise of municipal indebtedness; definitions.
141.192 Compromise of municipal defaulted funded indebtedness owned by state or other municipality.

MUNICIPAL DEBT ADJUSTMENT

Act 72 of 1939

141.201 Taxing agency or instrumentality; procedure under federal municipal debt adjustment act; plan, conditions; retroactive effect.

DEFAULTED MUNICIPAL BONDS

Act 204 of 1933

141.211 Defaulted municipal bonds.
141.212 Defaulted municipal bonds; call for tenders.
141.213 Defaulted municipal bonds; tenders, acceptance or rejection.
141.214 Defaulted municipal bonds; payment of accepted tenders.

MUNICIPAL UTILITY REVENUES, BORROWING

Act 79 of 1937

141.221 Definitions.
141.222 Municipal borrowing; bus and street railroad transportation or water supply utility purposes.
141.223 Municipal borrowing for utility purposes; public debt commission, application, authority.
141.224 Municipal borrowing for utility purposes; limitations.
141.225 Municipal borrowing for utility purposes; special sinking fund.
141.226 Municipal borrowing for utility purposes; liability of municipality; construction of act.

IMPOUNDED HIGHWAY SINKING FUND

Act 224 of 1939

141.231 Impounded moneys in sinking fund for county highway bonds; credit to county road fund if bonds have been paid.

MUNICIPAL ELECTRIC UTILITY, VALIDATION

Act 328 of 1941

141.241 Validation of city or village revenue certificates; proceedings for issuance; negotiability.
141.242 Act applicable only to existing proceedings.
141.244 Referendum; ballot; submission.

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WEIGHT TAX REVENUES, BORROWING
Act 143 of 1943

141.251 County road commissioners; authorization to borrow in anticipation of revenues returned to county.
141.252 Notes; payment, rate of interest; resolution.
141.253 Notes; approval, sale.
141.254 Saving clause; pledging allocated revenues prohibited.

PUBLIC IMPROVEMENT FUNDS
Act 177 of 1943

141.261 Funds for public improvements or buildings.
141.262 Funds for public improvements or buildings; transfer or encumbrance.
141.263 Funds for public improvements or buildings; allocation of miscellaneous revenues; sale of lands.
141.264 Tax limitation.
141.265 Additional powers; political subdivision construction.

PUBLIC UTILITY WATER BONDS, VALIDATION
Act 297 of 1945

141.271 Validating certain municipal bonds.
141.272 Sale or reinvestment; notice by publication before sale.

COUNTY ROAD FUND EXCESS
Act 106 of 1919

141.281 Repealed.

GOOD ROAD BONDS, VALIDATION
Act 407 of 1913

141.291, 141.292 Repealed.

COVERT ROAD AND DRAINAGE BONDS, REPORTS
Act 178 of 1931

141.301 Repealed.
141.302 Drainage district bonds; report by county drain commissioner.
141.303 Record of bonds by county and municipal clerks.

MUNICIPAL ELECTRIC PLANTS, VALIDATION OF CONDITIONAL SALES CONTRACTS
Act 11 of 1956 (Ex. Ses.)

141.311 Municipal electric plant; purchase of equipment on conditional sales contract, validation; negotiability of revenue obligations.
141.312 Municipal electrical plants; definitions.

TRANSFER OF UNEXPENDED BALANCES TO COUNTY
Act 7 of 1949

141.351 Transfer of unexpended balances by townships or municipalities to county.
141.352 Transfer of unexpended balances; submission to electors; conduct of election.

LOCAL IMPROVEMENT REVOLVING FUND
Act 57 of 1957

141.371 Local improvement revolving fund; definitions.
141.372 Local improvement revolving fund; establishment.
141.373 Local improvement revolving fund; sources of funds.
141.374 Local improvement revolving fund; repayment of advances.
141.375 Authority given by act.

ISSUANCE OF BONDS OR NOTES FOR CAPITAL IMPROVEMENTS
Act 121 of 1969

141.381 Issuance of bonds and notes; resolution; purpose; pledges; use of proceeds; debt limitation; general obligations.
141.382 Form and execution of bonds or notes; principal and interest; maximum due in one year, due dates; redemption; payment; tax exemptions.
141.383 Public sale of bonds and notes; approval of issuance.

METROPOLITAN DISTRICT BONDS, VALIDATION
Act 60 of 1959

141.401 Metropolitan district bonds; assumption by cities; refunding bonds.

BUDGET HEARINGS OF LOCAL GOVERNMENTS
Act 43 of 1963 (2nd Ex. Ses.)

141.411 Local unit of government; definition.
141.412 Local unit of government; public hearing on proposed budget, notice.
141.413 Local unit of government; final adoption of budget, hearing.
141.414 Local unit of government; changes in budget.
141.415 Local unit of government; public hearing on budget, charter, statute.

UNIFORM CHARTS OF ACCOUNTS AND REPORTS
Act 2 of 1968

141.421 Uniform charts of accounts; standard procedures and forms.
141.422 Local unit; definition.
141.423 Publication; hearings.
141.424 Annual financial report.
141.425 Annual audit; exception.
141.426 Certified public accountants; cost.
141.427 Procedures and standards of auditing.
141.428 Contents of audit report.
141.429 Public inspection of audit reports.
141.430 Orders and subpoenas.
141.431 Violations of act.
141.432 Verification of transactions.
141.433 Scope of examiner's authority.

FIRE FIGHTING EQUIPMENT PURCHASE BY MUNICIPALITIES
Act 205 of 1964

141.451 Fire trucks, fire fighting apparatus and equipment; purchase by municipalities; title retaining contract, chattel mortgage.

CITY INCOME TAX ACT
Act 284 of 1964

CHAPTER 1.

GENERAL PROVISIONS

141.501 City income tax act; short title.
141.502 Income tax; prohibited to villages; uniform city income tax ordinance; prior ordinance.
141.503 Uniform city income tax ordinance; rate; adoption, amendment or rescission; referendum; effective date.
141.504 State commissioner of revenue; rules and regulations, appeal procedure, notice of fi-

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nal assessment, refund, order.
141.505 State commissioner of revenue; compliance, de novo review by circuit court, refund.
141.506 Uniform city income tax ordinance; application.
141.507 Uniform city income tax ordinance; form.
141.508 Repealed.

CHAPTER 2.

UNIFORM CITY INCOME TAX ORDINANCE

141.601 Uniform city income tax ordinance; short title.
141.602 Uniform city income tax ordinance; rules of construction, definitions.
141.603 Administrator; definition.
141.604 City; definitions.
141.605 Doing business; definition; solicitation of orders and storage excepted.
141.606 Employee; definitions.
Employer.
Federal internal revenue code.
Financial institution.
141.607 Fiscal year; definition.
Net profits.
141.608 Nonresident; definition.
Person.
Predominant place of employment.
141.609 Resident, domicile; definitions.
Taxable year.
Taxpayer.
141.611 Excise tax on incomes; rates.
141.612 Excise tax on incomes; application to resident individuals.
141.613 Excise tax on incomes; application to nonresidents.
141.614 Excise tax on incomes; taxable net profits of a corporation, definition.
141.615 Excise tax on incomes; unincorporated business, profession; sole proprietorship, partnership.
141.616 Unincorporated business, profession, or activity; return.
141.617 Unincorporated business, profession, or activity; election to pay tax.
141.618 Partial business activity in city; apportionment of net profit.
141.619 Partial business activity in city; separate accounting method.
141.620 Partial business activity in city; business allocation percentage method.
141.621 Partial business activity in city; percentage of average net book value; gross rental value of real property.
141.622 Partial business activity in city; percentage of compensation paid employees.
141.623 Partial business activity in city; percentage of gross revenue.
141.624 Partial business activity in city; business allocation percentage.
141.625 Partial business activity in city; substitute methods.
141.626 Capital gains and losses; determination.
141.627 Estates or trusts, deemed nonresidents; definitions.
141.628 Income from estates and trusts.
141.631 Personal exemptions; limitations.
141.632 Payments and benefits not subject to tax.
141.633 Deductions, expenses.
141.641 Returns; annual and joint filing.
141.642 Returns; contents.
141.643 Tax; payment, refund.
141.644 Federal income tax return; eliminations.
141.645 Net profits; consolidated returns.
141.646 Amended return; change of method of accounting.
141.651 Tax withheld; rates for residents and nonresidents; employer as trustee; liability for taxes, penalties, interest.
141.652 Tax withheld; payments excepted.
141.653 Tax withheld; payment by employee or employer.
141.654 Tax withheld; exemptions claimed; percentage of work done at predominant place of employment.
141.655 Tax withheld; revised form, time for filing.
141.656 Tax withheld; refusal to furnish withholding certificate, rate of tax.
141.657 Tax withheld; withholding tables; first compensation taxable.
141.658 Tax withheld; overwithheld tax, refund.
141.659 Tax withheld; correction of error, refund.
141.660 Tax withheld; payment by employer, return.
141.661 Tax withheld; employer's reconciliation of quarterly returns; deficiency, refund; information return; cessation of business.
Information return.
Cessation of business.
141.662 Declaration of estimated tax not withheld; filing.
141.663 Declaration of estimated tax not withheld; computation, payment of tax.
141.664 Annual return; filing, extension of time; failure to file, penalty.
141.665 Credit for city income tax paid another city.
141.666 Fractional part of a cent.
141.671 Rules and regulations; adoption, enforcement; forms; collection of tax.
141.672 Special ruling; appeal to income tax board of review.
141.673 Examination of books and records, witnesses.
141.674 Information confidential; divulgence, penalty, discharge from employment.
141.681 Submission to examination.
141.682 Payment of tax, interest; penalty for delay.
141.683 Additional tax assessment; when interest and penalty not imposed.
141.684 Due and unpaid assessment; determination, procedure.
141.685 Final assessment; protest.
141.686 Return without payment of tax; demand by administrator.
141.687 Jeopardy assessment; procedure.
141.688 Statute of limitations; waiver; payment of tax.
141.689 Statute of limitations; refund.
141.691 Income tax board of review; appointment, officers, hearing procedure, quorum, qualifications, record.

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141.692 Income tax board of review; notice of appeal, transcript, hearing, confidential tax data, payment of deficiency or refund.
141.693 Income tax board of review; appeal to state tax commissioner, procedure.
141.694 Action in circuit court for judicial review.
141.695 Payment to taxpayer from general fund.
141.699 Violation of act; penalties.

CHAPTER 3.

ALTERNATIVE PROVISIONS

141.701 Alternative provisions; adoption.
141.760 Tax withheld; return, payment.
141.761 Tax withheld; reconciliation of quarterly returns; deficiencies, refunds; information returns; cessation of business.
Information return.
Cessation of business.
141.787 Jeopardy assessment; procedure.

CITY UTILITY USERS TAX ACT
Act 198 of 1970

CHAPTER 1

CITY UTILITY USERS TAX

141.801 City utility users tax; short title.
141.802 City utility users tax; city ordinance, rate; uniform city utility users tax ordinance, adoption, rescission; effective date.
141.803 Uniform rules for appeals; publication by commissioner, provisions.
141.804 Orders of commissioner; compliance; appeal; recovery.
141.805 Uniform city utility users tax ordinance; application.
141.806 Uniform ordinance; form.
141.807 Effective date of act; expiration.

CHAPTER 2

UNIFORM CITY UTILITY USERS TAX ORDINANCE

141.821 Uniform city utility users tax ordinance; short title.
141.822 Uniform city utility users tax ordinance; definitions.
141.823 City utility users tax; imposition, rate.
141.824 City utility users tax; billing; delinquency; payment; annual return.
141.825 Rules; publication; enforcement; taxes and payments, disposition; special rulings; examination of records.
141.826 Information; confidentiality; divulgence, penalty.
141.827 Examinations and investigations; submission.
141.828 Delinquent tax amounts; interest; penalties.
141.829 Failure to pay tax; determination; proposed assessment, issuance; hearing.
141.830 Final assessment; issuance; protest.
141.831 Refusal to pay tax; demand for payment, action.
141.832 Statute of limitations as to additional assessments.
141.833 Statute of limitations as to refunds; tax deficiency, payment.
141.834 Appeal; final order of commissioner.
141.835 Judicial review.
141.836 Recovery; payment.
141.837 Violations of ordinance; penalty.

Act 369, 1925, p. 719; Eff. Aug. 27.

AN ACT to authorize and regulate the funding of floating indebtedness of counties.

The People of the State of Michigan enact:

141.1 Floating indebtedness, bond issue.

Sec. 1. Any county having a floating indebtedness of 25,000 dollars or more may borrow money and issue bonds for the purpose of paying such floating indebtedness in the manner and on the conditions following:

HISTORY. CL 1929, 1158;—CL 1948, 141.1.

141.2 Board of supervisors; resolution; referendum, notice, contents.

Sec. 2. The board of supervisors may by resolution determine the amount of the outstanding floating indebtedness of the county, and may cause the question of borrowing money and issuing bonds for the purpose of paying such floating indebtedness to be submitted to vote of the qualified electors of the county at a general election or at a special election called for that purpose. Notice of such election shall specify the

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amount of money to be borrowed and shall be given in the same manner and for the same length of time as required by law for a general county election, and the election shall be conducted and the votes counted and canvassed in the same manner as required by law for a general county election.

HISTORY: CL 1929, 1159;—CL 1948, 141.2.

141.3 Board of supervisors; authorized bond issue; terms.

Sec. 3. When such propositions shall have been approved by the favorable vote of a majority of the electors voting thereon, the board of supervisors may, by resolution, provide for the issue of bonds in any amount not exceeding that specified in the notice of election, in such denominations, payable at such time and place and bearing such rate of interest, not exceeding 6 per cent, as the board may direct. Such bonds shall be made payable serially, in not more than 10 substantially equal annual installments, and the board of supervisors shall provide each year for the levy of a tax sufficient to pay all principal and interest falling due during the year.

HISTORY: CL 1929, 1160;—CL 1948, 141.3.

141.4 Board of supervisors; legalized acts; unauthorized bonds.

Sec. 4. No bonds shall be issued under this act unless approved by vote of the electors before November first, 1925. All acts heretofore done by the board of supervisors of any county in submitting the question of borrowing money and issuing bonds to pay the floating indebtedness of the county to vote of the electors, or in issuing bonds in pursuance of such vote, and all elections heretofore held and votes taken on the question so submitted are hereby legalized and made valid.

HISTORY: CL 1929, 1161;—CL 1948, 141.4.

Act 42, 1913, p. 61; Eff. Aug. 14.

AN ACT to provide for the creation of a county sinking fund commission, to prescribe the powers and duties thereof, and to repeal all acts and parts of acts contravening the provisions of this act.

The People of the State of Michigan enact:

141.11 County sinking fund commissioners.

Sec. 1. The county treasurer, the register of deeds, the county clerk, the chairman of the board of supervisors and the chairman of the finance committee of the board of supervisors of the several counties of this state, shall constitute and be a board of county sinking fund commissioners.

HISTORY: CL 1915, 2386;—CL 1929, 1235;—CL 1948, 141.11.

SINKING FUNDS: See Act 161 of 1923, being Compilers' § 141.31 et seq.; and Act 14 of 1928, Ex. Ses., being Compilers' § 141.51 et seq.

MUNICIPAL OBLIGATIONS: Regulation, see Act 202 of 1943, being Compilers' § 131.1 et seq.

141.12 County sinking fund commissioners; handling of fund, investment.

Sec. 2. The said board of sinking fund commissioners shall from time to time upon the best terms it can make, purchase or pay the outstanding bonded debt of the county, or such part thereof as it may be able to purchase or pay, until the full amount thereof be fully purchased or paid. Whenever it cannot arrange for the purchasing or paying of said debt, or any part thereof, it shall temporarily and until it can so arrange, invest the moneys belonging to the sinking fund in such interest bearing securities as it may deem advisable; and all matured bonds or evidences of debt so purchased shall be

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delivered to the county treasurer and shall become and be the property of the county, held and controlled by said board of sinking fund commissioners, and the interest thereon as it thereafter becomes due shall be credited and belong to the sinking fund.

HISTORY: CL 1915, 2387;—CL 1929, 1236;—CL 1948, 141.12.

141.13 County sinking fund commissioners; control of fund, application.

Sec. 3. Said board of sinking fund commissioners shall have exclusive control of the money of the sinking fund, and shall faithfully apply the same whenever possible, or it may appear to the county's interests, to the payment of the principal and interest of the bonded indebtedness of the county, and to no other purpose whatever, excepting as herein otherwise provided.

HISTORY: CL 1915, 2388;—CL 1929, 1237;—CL 1948, 141.13.

141.14 County sinking fund commissioners; annual meeting, procedure; rules; authorizing vote; clerk, records.

Sec. 4. The annual meeting of said board of sinking fund commissioners shall be held on the first Tuesday in September of each year. Said board of sinking fund commissioners may meet from time to time for the transaction of business, and may adopt rules of proceeding for its meeting. A majority of the whole board shall constitute a quorum for the transaction of business, but they shall not purchase or pay the outstanding debt of said county or invest any of the money belonging to the sinking fund as above provided, except under a resolution for such purpose passed and approved by a 2/3 vote of the whole board by "Ayes" and "Nays" to be entered on record at a regular meeting or a special meeting called for such purpose. The chairman of the board of supervisors, or in case of his absence, some member to be designated by those present, shall preside at the meeting of said board. The county clerk shall be the clerk of the board of sinking fund commissioners, and it shall be his duty to keep a true record of all meetings of said board, which record shall be kept on file in and be a part of the records of the office of the county clerk.

HISTORY: CL 1915, 2389;—CL 1929, 1238;—CL 1948, 141.14.

141.15 County treasurer; duties as custodian, bond.

Sec. 5. The county treasurer shall have custody of all moneys, securities and evidences of debt belonging to or pertaining to said sinking fund, and he shall pay out the moneys of said fund only by order of the board of sinking fund commissioners by a 2/3 vote of the members thereof as aforesaid, and upon the warrant of the chairman of the board of supervisors, countersigned by the clerk. The official bond of the county treasurer shall cover any and all funds in his hands belonging to the sinking fund.

HISTORY: CL 1915, 2390;—CL 1929, 1239;—CL 1948, 141.15.

141.16 Condition reports to supervisors; tax recommendations.

Sec. 6. Said board of sinking fund commissioners shall from time to time, but at least annually, and whenever requested by the board of supervisors, make report of the condition of the sinking fund, which report shall be made to the board of supervisors and then referred to and filed with the county clerk and be recorded by him. It shall recommend to the board of supervisors the sum of money that in its judgment should be raised by direct taxation for the benefit of the sinking fund.

HISTORY: CL 1915, 2391;—CL 1929, 1240;—CL 1948, 141.16.

141.17 Tax levy; bond sale proceeds, interest, deposit.

Sec. 7. The board of supervisors shall in each year levy and collect a tax for the benefit of the sinking fund. Whenever any bonds of the county shall be sold for more than par value all of the premium or amount received on such sale more than the par face value of the bonds sold, not including interest accrued upon said bonds that may be paid by the purchaser, shall be credited and belong to the sinking fund. All of the

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interest paid to the county on the securities held by the county shall belong to and be placed in the sinking fund.

HISTORY: CL 1915, 2392;—CL 1929, 1241;—CL 1948, 141.17.

141.18 Per diem; expenses; county charge.

Sec. 8. The necessary expenses of the board of sinking fund commissioners incurred in the performing of any of their duties imposed upon them by this act shall be a proper charge against said county to be paid from the general fund. The chairman of the board of supervisors and the chairman of the finance committee shall receive as compensation the sum of 3 dollars per day for each and every day they shall actually attend any regular or special meeting of said board of sinking fund commissioners, and they shall also receive their traveling expenses at the rate of 10 cents a mile 1 way figuring over the usual traveled route from their residence to the place of meetings of said board.

HISTORY: CL 1915, 2393;—CL 1929, 1242;—CL 1948, 141.18.

141.19 Commissioner's rules.

Sec. 9. Said board of sinking fund commissioners is authorized to adopt rules not in conflict herewith for the government of its actions, and shall be authorized for the purpose of enforcing the collection of any bonds or securities taken by it to bring suit in the name of the county board of sinking fund commissioners.

HISTORY: CL 1915, 2394;—CL 1929, 1243;—CL 1948, 141.19.

141.20 Approval of act by supervisors.

Sec. 10. Before this act shall be operative in any county in this state it shall be adopted by a 2/3 vote of the board of supervisors regularly convened at any regular, adjourned or special meeting of said board of supervisors for that particular county.

HISTORY: CL 1915, 2395;—CL 1929, 1244;—CL 1948, 141.20.

Sec. 11. (This was a repeal section.)

HISTORY: CL 1915, 2396;—CL 1929, 1245;—Rep. 1945, p. 404, Act 267, Imd. Eff. May 25.

Act 161, 1923, p. 252; Eff. Aug. 30.

AN ACT to provide for the establishment of county sinking funds and to create a county sinking fund commission, to prescribe the powers and duties thereof, and to repeal all acts and parts of acts contravening the provisions of this act.

The People of the State of Michigan enact:

141.31 Bond issues; requisite sinking funds.

Sec. 1. That from and after the passage of this act, before any county in the state of Michigan shall issue any bonds except serial bonds and bonds having a special security, the legislative body of such county shall pass a resolution providing for the levying and assessment in each year during the life of the bonds to be issued of a tax which shall raise annually a sufficient sum to pay the interest on said bonds as the same shall accrue and to pay the principal of said bonds at maturity. Said resolution may contain a proviso that the amount levied and assessed in any 1 year under the provisions of the resolution may be reduced by the amount of money earned by the sinking fund during the immediately preceding year. The county treasurer shall keep a separate and distinct account for each item of the sinking fund set aside and pledged to the retirement of each issue of county bonds.

HISTORY: CL 1929, 1246;—CL 1948, 141.31.

SINKING FUNDS: See Act 42 of 1913, being Compilers' § 141.11 et seq.; and Act 14 of 1926, Ex. Ses., being Compilers' § 141.51 et seq.

MUNICIPAL OBLIGATIONS: See Compilers' § 131.1 et seq.

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141.32 Sinking fund commissioners.

Sec. 2. The county treasurer, the county clerk, the register of deeds, the chairman of the board of supervisors and the chairman of the finance committee of the board of supervisors of the several counties of this state shall constitute and be a board of sinking fund commissioners: Provided, however, That in counties having a board of auditors, the board of sinking fund commissioners shall consist of the county treasurer, the county clerk, chairman of the board of supervisors and the chairman of the board of county auditors.

HISTORY: CL 1929, 1247;—CL 1948, 141.32.

141.33 Sinking fund commissioners; control of fund, application; payment, manner.

Sec. 3. The said board of sinking fund commissioners shall have exclusive control of the money of the sinking fund and shall faithfully apply the same whenever possible, or it may appear to the county's interests, to the payment of the principal and interest of the bonded indebtedness of the county, and to no other purpose whatever, excepting as herein otherwise provided. The moneys in the sinking fund and the various accounts thereof shall be held by the county treasurer but no warrant shall be paid from said fund except in compliance with the resolution duly passed by said board of sinking fund commissioners, appearing upon the minutes of said board, and upon a warrant countersigned by the chairman of the board of sinking fund commissioners: Provided, however, That the countersigning of any warrant by the chairman of the board of sinking fund commissioners shall be invalid unless the signature include the designation "chairman of the board of sinking fund commissioners."

HISTORY: CL 1929, 1248;—CL 1948, 141.33.

141.34 Sinking fund commissioners; handling of funds, investment; bonded debt.

Sec. 4. The said board of sinking fund commissioners shall from time to time, as it shall deem expedient, purchase or pay the outstanding bonded debt of the county or such part thereof as it may be able to purchase or pay until the full amount thereof be fully purchased or paid. Whenever the board of sinking fund commissioners cannot arrange for the purchasing or paying of said debt or any part thereof, it shall temporarily, or until it can so arrange, invest the moneys belonging to the sinking fund in such interest bearing securities issued by the state of Michigan or by any municipal subdivision thereof or by the United States government as it may deem advisable; and all matured bonds or evidences of debt so purchased shall be delivered to the county treasurer and shall become and be the property of the county, held and controlled by said board of sinking fund commissioners, and the interest thereon as it thereafter becomes due shall be credited and belong to the sinking fund.

HISTORY: CL 1929, 1249;—CL 1948, 141.34.

141.35 Sinking fund commissioners; annual meeting, procedure; rules; authorizing vote; clerk, records.

Sec. 5. The annual meeting of the said board of sinking fund commissioners shall be held on the first Tuesday of each year. Said board may, however, meet from time to time for the transaction of business and may adopt rules of procedure for its meetings. A majority of the whole board shall constitute a quorum for the transaction of business but they shall not purchase or pay the outstanding debt of said county, or invest any of the money belonging to the sinking fund as above provided, unless by affirmative vote taken by yeas and nays, entered upon the record, showing a 3/5 vote of all the members-elect at a regular meeting or a special meeting called for such purpose. The county clerk shall be clerk of the board of sinking fund commissioners and the chairman shall be either the chairman of the board of supervisors or the chairman of the

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board of county auditors as the case may be. The records of the sinking fund commission shall be kept on file in the office of the county clerk as part of his official records.
HISTORY: CL 1929, 1250;—CL 1948, 141.35.

141.36 Sinking fund commissioners; condition reports to board; tax recommendations.

Sec. 6. The board of sinking fund commissioners shall from time to time, but at least annually, and whenever requested by the board of supervisors, make report of the condition of the sinking fund, which report shall be made to the board of supervisors and then referred to and filed with the county clerk and be recorded by him. It shall recommend to the board of supervisors the sum of money that in its judgment should be raised by direct taxation for the benefit of the sinking fund.
HISTORY: CL 1929, 1251;—CL 1948, 141.36.

141.37 Bond sale; interest, credit; expenses of commissioners.

Sec. 7. Whenever any issue of the bonds of the county shall be sold for more than par value all the premium and accrued interest shall be credited and belong to the sinking fund. All the interest paid to the county on securities held by the county shall belong to and be placed in the sinking fund. The board of sinking fund commissioners shall receive their actual expenses incurred in the performance of their duties which shall be a proper charge against the county to be paid from the general fund.
HISTORY: CL 1929, 1252;—CL 1948, 141.37.

141.38 Suit on securities.

Sec. 8. The said board of sinking fund commissioners shall have power and authority to bring suit for the purpose of enforcing the collection of any bonds or securities taken by it for the benefit of the sinking fund or for any purpose within the scope of their duties, but said suits shall be instituted and carried on in the name of the county.
HISTORY: CL 1929, 1253;—CL 1948, 141.38.

141.39 Saving clause; construction of act.

Sec. 9. In any county within the state of Michigan, which may have elected to act under the provisions of Act No. 42 of the Public Acts of 1913, the provisions of said act shall continue in force in said county until said county shall by referendum elect to operate under the provisions of this act. This act shall not be construed to supersede the provisions of any local or special act relating to the establishment or maintenance of a county sinking fund effective in any county of the state of Michigan until such county by referendum shall elect to come under the provisions of this act. Such referendum may be had by resolution of the board of supervisors, either of its own motion or upon the petition of 10 per centum of the electors of the county.
HISTORY: CL 1929, 1254;—CL 1948, 141.39.
NOTE: Act 42 of 1913, above referred to, is Compilers' § 141.11 et seq.

Sec. 10. (This was a repeal section.)
HISTORY: CL 1929, 1255;—Rep. 1945, p. 406, Act 267, Imd. Eff. May 25.

Act 342, 1965, p. 672; Imd. Eff. Jul. 23.

AN ACT to authorize the borrowing of money by a county to finance the acquisition of public improvements on or in connection with lands owned by it and the issuance, payment and security of bonds or notes; to prescribe the powers and duties of the municipal finance commission relative to such bonds or notes; and to provide for other matters in respect to such public improvements, borrowings and bonds or notes and the payment thereof.

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The People of the State of Michigan enact:

141.41 County public improvements; definitions.

Sec. 1. As used in this act:

(a) "Members elect" means, when applied to the governing body of a county, both members elected and appointed.

(b) "Public improvement" means any improvement or combination of improvements including, without limitation, streets, highways, curbs, gutters and sidewalks; parks and parkways; water mains and pipes and water supply facilities; sewers and sewage disposal facilities; drains and drainage facilities; transportation facilities owned by the county; landscape and beautifying facilities; public buildings or structures owned by the county; or any combination or combinations thereof used or useful in developing the lands owned or for sale to private users.

(c) "County" means any county or charter county existing under the laws of the state and having a population of from 300,000 to 370,000.

(d) "Resolution" means a resolution or an ordinance in event the governing body of any county chooses to act by ordinance rather than by resolution.

(e) "Governing body" means the board of supervisors or other body having legislative powers in a county.

(f) "Cost" of a public improvement shall mean all construction or acquisition expenses; all financial, legal and administrative expenses; all surveying, platting, planning, designing, advertising and selling expenses; and all other expenses incurred in connection with the acquisition by a county of public improvements on or in connection with lands owned by it and may not include the cost of the acquisition of such lands but may include the selling thereof after improvement by the county.

(g) "Municipal finance commission" shall mean the commission by that name created by Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2 of the Compiled Laws of 1948.

HISTORY: New 1965, p. 673, Act 342, Imd. Eff. Jul. 23.

141.42 Acquisition of public improvements; credit, bonds, notes.

Sec. 2. Any county may, by resolution adopted by a majority of the members elect of its governing body, and without a vote of the electors, but subject to the prior permission of the municipal finance commission, acquire a public improvement on or in connection with lands owned by the county, which public improvement is determined to be self-liquidating, and may borrow money, pledge its full faith and credit for the repayment thereof, and issue its bonds or notes to pay all or part of the cost of the public improvement which bonds or notes shall be issued in anticipation of the collection of taxes to be levied by the county in an amount and at the time or times required to pay the principal of and interest on the bonds or notes.

HISTORY: New 1965, p. 673, Act 342, Imd. Eff. Jul. 23.

141.43 Interest on bonds or notes; rate; maturity, form.

Sec. 3. The bonds or notes issued pursuant to this act shall bear interest at not to exceed 4% per annum, shall mature serially or in 1 installment in not more than 10 years from the date thereof and may be made redeemable, at the option of the county, prior to maturity on such terms and conditions as shall be provided by the resolution of the governing body of the county issuing the same. The form of the bonds or notes to be issued shall be set forth in the said resolution. The limitations in section 4 and section 7 of chapter 5 of Act No. 202 of the Public Acts of 1943, as amended, being sections 135.4 and 135.7 of the Compiled Laws of 1948, shall not apply to bonds or notes issued pursuant to this act.

HISTORY: New 1965, p. 673, Act 342, Imd. Eff. Jul. 23.

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141.44 Issuance of bonds; conditions.

Sec. 4. The issuance of bonds or notes under this act shall be subject to the provisions of Act No. 202 of the Public Acts of 1943, as amended, except as provided in this act, and no municipality shall advertise for sale its bonds or notes to be issued pursuant to this act until it shall have first secured the approval of the municipal finance commission to the form of the notice of sale to be published.

HISTORY: New 1965, p. 673, Act 342, Imd. Eff. Jul. 23.

141.45 Taxes; no limitation as to rate or amount; amount of bond and notes; limitations.

Sec. 5. Any taxes levied to pay bonds or notes issued pursuant to this act to defray any part of the cost of acquisition of a public improvement shall be without limitation as to rate or amount. The amount of bonds or notes issued pursuant to this act shall not be subject to any limitations or provisions contained in any law applicable to the county issuing the same, except that no county may issue bonds or notes pursuant to this act in an amount which taken together with other indebtedness of the county will exceed 10% of the assessed valuation of the county as last equalized by the state.

HISTORY: New 1965, p. 674, Act 342, Imd. Eff. Jul. 23.

141.46 Bonds or notes; payment, funds available.

Sec. 6. Bonds or notes issued by a county pursuant to this act may be paid out of any funds of the county available therefor even though not specifically pledged to the payment of the bonds or notes and the county may specifically pledge, in whole or in part, the proceeds of the sale of all or part of its lands on which or in connection with which the public improvement has been made.

HISTORY: New 1965, p. 674, Act 342, Imd. Eff. Jul. 23.

141.47 Resolution authorizing issuance of bonds; required covenant, pledge.

Sec. 7. The resolution authorizing the issuance of any bonds or notes pursuant to this act shall contain an irrevocable covenant to levy and collect taxes to pay the principal of and interest on the bonds or notes issued and shall pledge such taxes to the payment of the bonds or notes and shall provide for the deposit of the proceeds thereof in a separate bank account to be used for no other purpose than the payment of the bonds or notes so authorized and issued. Such resolution shall also pledge the full faith and credit of the county to the payment of the principal of and interest on the bonds or notes.

HISTORY: New 1965, p. 674, Act 342, Imd. Eff. Jul. 23.

Act 14, 1926 (Ex. Ses.), p. 26; Imd. Eff. Mar. 13.

AN ACT to authorize the board of supervisors of any county to create a sinking fund for the purpose of purchasing real estate for sites for, and constructing or repairing public buildings; to authorize such boards to submit the question of levying a tax to create such sinking fund to the electors of their certain counties and to provide for the manner of submission.

The People of the State of Michigan enact:

141.51 Creation of sinking fund for public buildings and sites; tax referendum.

Sec. 1. The board of supervisors of any county are hereby authorized to levy a tax of not to exceed 2 mills on the assessed valuation of said county each year for a period of not to exceed 10 years, for the purpose of creating a sinking fund to be used for the

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purchase of real estate for sites for, and the construction or repair of public buildings; provided the proposition of levying such tax to create such sinking fund shall be submitted to the electors of the county and approved by a majority of those voting thereon in the manner provided in this act.

HISTORY: CL 1929, 1256;—CL 1948, 141.51.

SINKING FUNDS: See Act 42 of 1913, being Compilers' § 141.11 et seq.; and Act 161 of 1923, being Compilers' § 141.31 et seq.

MUNICIPAL OBLIGATIONS: See Compilers' § 131.1 et seq.

141.52 Tax referendum procedure.

Sec. 2. Whenever the board of supervisors of any county shall by resolution vote in favor of levying a tax to create a sinking fund as provided in section 1 of this act, the question of levying such tax shall be submitted to the electors of the county at the general November election, the annual spring election, or at any special election called for that purpose, subsequent to the passage of such resolution by the board of supervisors. A copy of such resolution shall be served upon the sheriff of the county by the county clerk. It shall be the duty of the sheriff at least 20 days prior to the date of the election, at which such question shall be submitted to the electors, to cause to be delivered to the township clerk in each township, and to the city clerk in each city in his county, a notice in writing that at such election there will be submitted to the electors of such county the question of raising the amount prescribed in the resolution passed by the board of supervisors, and to cause the same to be published in 1 or more newspapers printed and circulating in said county, if one be printed and circulated therein, at least once during each of 2 consecutive weeks before said election.

HISTORY: Am. 1927, p. 374, Act 184, Eff. Sept. 5;—CL 1929, 1257;—CL 1948, 141.52.

141.53 Requisite notices.

Sec. 3. It shall be the duty of the township clerk or city clerk upon receipt of the notice herein required, to give notice in writing under his hand of the time and place when such question will be submitted to the electors. Such township clerk or city clerk shall cause such notice to be posted up in at least 5 of the most public places in the said township or in 5 of the most public places in each ward of said city at least 10 days before said election.

HISTORY: Am. 1927, p. 374, Act 183, Eff. Sept. 5;—CL 1929, 1258;—CL 1948, 141.53.

141.54 Ballots; form, contents, distribution, counting; authorizing vote; levy.

Sec. 4. It shall be the duty of the board of election commissioners of such county to prepare the necessary ballots for the use of the electors in voting upon the question referred to in this act. The said question shall be printed upon a ballot separate and distinct from all other ballots, which ballot shall be in the following form:

INSTRUCTION TO VOTER.

Mark a cross in the square to the left of the word "Yes" or "No."

"To authorize the board of supervisors to levy a tax of ..... each year for a period of ..... years, to create a sinking fund to be used for .....

.....

..... ☐ "Yes".

..... ☐ "No".

There shall be inserted in the above blanks the amount of the tax to be assessed each year, not exceeding 2 mills in any case, the number of years for which the tax is to be levied and the purpose for which the sinking fund to be created shall be used. The ballots so prepared shall be distributed by the board of election commissioners within the same time and in the same manner that ballots are distributed prior to a general election. All ballots upon which an elector marks a cross in the square to the

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left of the word "Yes," shall be counted in favor of levying the tax stated in the resolution of the board of supervisors, and all ballots upon which an elector marks a cross in the square to the left of the word "No", shall be counted against the question of levying the tax stated in the resolution of the board of supervisors. All ballots cast at any election on such question, shall be received, counted, canvassed and returned in the manner now governing for the election of county officers. If at any election a majority of the electors voting on such question shall decide in favor of authorizing the board of supervisors to levy the tax in the amount and for the period of years set forth in said resolution, it shall be the duty of the board of supervisors to levy said tax, commencing with the next annual tax roll following said election and continuing for the full period of years as set forth in said resolution.

HISTORY: CL 1929, 1259;—CL 1948, 141.54.

141.55 Sinking fund control.

Sec. 5. The sinking fund to be created under the provisions of this act shall be under the control of the board of county sinking fund commissioners provided by Act No. 42 of the Public Acts of 1913, the same being sections 2386 to 2396 of the Compiled Laws of 1915, or provided by Act No. 161 of the Public Acts of 1923, subject to the supervision and direction of the board of supervisors.

HISTORY: CL 1929, 1260;—CL 1948, 141.55.

NOTE: Act 42, 1913, above referred to, is Compilers' §§ 141.11—141.20. Act 1961, 1923, above referred to, is Compilers' §§ 141.31—141.39.

Act 118, 1923, p. 163; Eff. Aug. 30.

AN ACT to authorize counties to raise by loan, expend from unallocated monies on hand, or borrow money for permanent improvements and to issue bonds of the county to secure the repayment thereof and validating proceedings heretofore taken authorizing the issuance of county bonds. Am. 1941, p. 491, Act 282, Eff. Jan. 10, 1942.

The People of the State of Michigan enact:

141.61 Board of supervisors; borrowing money for permanent improvements; issuance of bonds, restrictions; sinking fund.

Sec. 1. Whenever the board of supervisors of any county within the state of Michigan shall deem it expedient for the county or its lawful officers, agents and servants to make or cause to be made any permanent improvement or improvements, in or additions to or about roads, highways, bridges, boulevards, parks, buildings, court house, infirmaries, sanatoria, or any other permanent improvements, authorized by law, relating to county property or to public property under the control or management of county authorities, said board of supervisors may, by resolution, of a majority of the members-elect, authorize and direct the borrowing or raising by loan on the faith and credit of the county of such sums of money as in the judgment of said board may be needed, subject to the constitutional and statutory limitations upon county indebtedness, and said board of supervisors may, in said resolution, authorize and direct the issue and sale of bonds of said county to secure the repayment of the sums borrowed or raised by loan. For any permanent improvement that may lawfully be made by the county authorities on the faith and credit of the county, the bonds of said county may be issued and sold to raise the money to pay for said improvement, or said bonds may be issued and negotiated to secure the payment of indebtedness incurred in making said permanent improvements: Provided, That such bonds shall draw interest at the rate of not to exceed 6 per cent per annum, payable semi-annually, and be payable in not to exceed 30 years from the date of issue. Unless such bonds are payable serially, commencing not less than 5 years from the date of issue, the board of supervisors shall

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provide a sinking fund which shall be added to the taxes to be assessed from year to year, and which shall be sufficient to take care of the said bonds as and when the same respectively come due. Such said sinking fund shall remain intact and shall be used for no purpose other than the payment of the said bonds as and when the same respectively become due; excepting that said fund may, by resolution of the board of supervisors, be invested in municipal securities of this state, or of the United States, and the income from such securities shall be added to and become a part of said sinking fund: Provided, That this act shall not be construed to enlarge or extend the term of any bonds the term of which is now limited by statute. Bonds issued under the provisions of this act shall not be sold for less than par value.

HISTORY: CL 1929, 2347;—Am. 1941, p. 491, Act 282, Eff. Jan. 10, 1942;—CL 1948, 141.61.

AUDIT COMMITTEE: See Act 301 of 1923, being Compilers' § 46.61 et seq.

CITED IN OTHER SECTIONS: Sections 141.61 to 141.66 are cited in § 331.156.

141.61a Board of supervisors; use of moneys on hand for construction, equipping, alterations; referendum.

Sec. 1a. The board of supervisors without submitting the same to the vote of the electors shall have the right or power to authorize annually the expenditure from any funds on hand not raised by taxation a sum not in excess of 1 mill of the assessed valuation of the county for the purpose of constructing, equipping or making alterations in any of the public buildings in the county if said board of supervisors shall by resolution of a majority of the total membership of said board authorize the same: Provided, That no such monies shall be expended without the vote of the people if said monies are to be raised by taxation.

HISTORY: Add. 1941, p. 492, Act 282, Eff. Jan. 10, 1942;—CL 1948, 141.61a;—Am. 1957, p. 237, Act 186, Imd. Eff. Jun. 4.

141.62 Board's resolution; contents; referendum.

Sec. 2. The resolution of the board of supervisors shall contain a proviso that it shall not become effective or binding upon the county until it shall be approved by a majority of the electors voting at an election to be designated. The board of supervisors may submit the question of the issue and sale of said bonds at any regular election held under the general laws of the state of Michigan at which the electors of the entire county vote, or it may designate a special election to be called by the county clerk by direction of said board of supervisors for the purpose of submitting to the electors the question of issuing said bonds. The board of supervisors may call a special election for the purposes of this act upon a date coincident with any local or municipal election or primary election for any portion of the county.

HISTORY: CL 1929, 2348;—CL 1948, 141.62.

141.63 Board's resolution; required notices; election procedure; construed.

Sec. 3. The county clerk shall, at least 30 days before any election at which the electors are to vote on any county bond issue, serve a copy of said resolution on the sheriff of the county and the sheriff shall, at least 20 days before said election, cause to be posted in 2 of the most public and conspicuous places in each election precinct or district in the county notices of said election containing the full text of the resolution aforesaid. The county clerk shall also cause to be published in at least 1 newspaper having a general circulation in the county, one published in the county, if such there be, a like notice for 3 successive weeks immediately prior to said election. The county clerk shall also cause to be served on the clerk of each city, village and township a copy of said resolution, at least 30 days before the time fixed for the holding of said election. All municipal and township authorities shall take such action relating to said election as shall be necessary to provide for the holding thereof but no election called under the provisions of this act shall be construed as a special municipal election within the limitations of Act No. 278 or Act No. 279 of the Public Acts of 1909 and amendments thereto. The notice required to be posted by the sheriff and published by

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the county clerk shall be deemed sufficient notice of said election. All elections herein provided for shall be conducted, all votes shall be received and counted, and all returns shall be made in accordance with the general election laws of the state of Michigan, unless herein otherwise provided: Provided, Where in any bond issues heretofore approved, the giving and posting of the notices required by this section have been made in accordance with the provisions of Act No. 351 of the Public Acts of 1925, rather than as heretofore provided for in this section, the said bond issues and all bonds issued thereunder are hereby validated, approved and confirmed as to the giving and posting of such notices.

HISTORY: Am. 1929, p. 588, Act 243, Imd. Eff. May 22;—CL 1929, 2349;—CL 1948, 141.63.

NOTE: Act 278 of 1909, above referred to, is Compilers' § 78.1 et seq.

Act 279 of 1909, above referred to, is Compilers' §§ 117.1 to 117.38.

Act 351 of 1925, above referred to, is Compilers' § 145.1 et seq.

141.64 Election returns; certificate, recording; authorized acts.

Sec. 4. When the returns from the election herein provided for shall show that a majority of the electors of the county voting thereon have approved the resolution of the board of supervisors aforesaid, the county clerk shall make a certificate to this effect and shall record the same with the official record of the proceedings of the board of supervisors and thereupon said resolution shall become and be effective and binding upon the county, its officers, agents, servants and electors, and the authority delegated to and the duties imposed upon officers, agents and servants shall attach to and become and be binding upon such officers, agents and servants of the county and all who deal with them as representatives of the county; and all things provided for in said resolution may be done for, on behalf of, and on account of said county.

HISTORY: CL 1929, 2350;—CL 1948, 141.64.

141.65 Construction of act cumulative.

Sec. 5. This act and the powers and authority hereby granted shall be deemed cumulative and confirmatory of any power heretofore granted to counties to borrow money for county purposes and issue bonds of the county to secure repayment of moneys borrowed, and where provision has been heretofore made for borrowing money and issuing bonds by counties, either such provisions or the provisions of this act may be followed at the election of county authorities.

HISTORY: CL 1929, 2351;—CL 1948, 141.65.

141.66 Validation clause.

Sec. 6. Nothing in this act shall invalidate any bonds heretofore authorized or any proceedings heretofore taken to authorize the issuance of bonds by any county of the state, but all proceedings and elections heretofore since January 1, 1920, taken and held to authorize the issuance of bonds of any county, and all bonds heretofore issued under authority of a vote of a majority of the electors in said county, voting upon the question at an election held for that purpose are hereby validated, approved and confirmed.

HISTORY: CL 1929, 2352;—CL 1948, 141.66.

Act 28, 1911, p. 37; Eff. Aug. 1.

AN ACT to authorize the board of supervisors of any county to raise by taxation or borrow money for the purpose of purchasing real estate for sites for, and constructing or repairing public buildings and bridges; to limit the amount that can be raised or borrowed for such purpose by such boards in certain cases; to authorize such boards to submit the question of raising or borrowing money for such purposes to the electors of their certain counties; to provide for the manner of submission; and to repeal Act No. 41 of the Public Acts of 1909, entitled "An act limiting the amount which may be

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raised in any county in any 1 year by the board of supervisors," approved April twenty-first, 1909.

The People of the State of Michigan enact:

141.71 Board of supervisors; power to raise money, manner; bonding petition.

Sec. 1. The board of supervisors of any county may in any 1 year levy a tax of 1/10 of 1 mill on the assessed valuation of said county for purchase of real estate for sites for, and the construction or repair of public buildings or bridges, or may borrow an equivalent sum for such purpose; and in any county where the assessed valuation is less than 10,000,000 dollars, the board may levy a tax or borrow for such purpose to the amount of 1,000 dollars, but no greater sum shall be raised for such purpose in any county in any 1 year unless submitted to the electors of the county and approved by a majority of those voting thereon in the manner provided in this act: Provided, That upon petition of not less than 25 per centum of the electors of said county, according to the vote cast for secretary of state in said county at the last general election, presented to said board of supervisors at any regular or special meeting of said board, it shall be the duty of said board to submit to the electors of said county the proposal to bond said county for such proposed improvement, such submission to be at the next regular election held after the meeting at which such petition was presented, or at a special election called for that or any other purpose.

HISTORY: CL 1915, 2306;—Am. 1919, p. 69, Act 40, Imd. Eff. March 31;—CL 1929, 2353;—CL 1948, 141.71.

FORMER ACT: Act 41 of 1909.

BORROWING POWER: See Act 118 of 1923, being Compilers' § 141.61 et seq.

MUNICIPAL OBLIGATIONS: Regulation, see Compilers' § 131.1 et seq.

COUNTY ROADS, BRIDGES AND CULVERTS: Power of board of supervisors in apportionment of tax determination of county road commissioners, see Compilers' § 224.20.

141.72 Board of supervisors; excess sums; referendum, procedure.

Sec. 2. Whenever the board of supervisors of any county shall by resolution vote in favor of levying a tax or borrowing money in excess of the amounts prescribed in section 1 of this act, the question of levying or borrowing such sum shall be submitted to the electors of the county at the general November election, or the biennial spring election, or at an election to be held on the first Monday in April subsequent to the passage of such resolution by the board of supervisors. A copy of such resolution shall be served upon the sheriff of the county by the county clerk. It shall be the duty of the sheriff at least 20 days prior to the date of the election, at which such question shall be submitted to the electors, to cause to be delivered to the township clerk in each township, and to the chairman of the board of election inspectors in each ward in any city in his county, a notice in writing that at such election there will be submitted to the electors of such county the question of raising the amount prescribed in the resolution passed by the board of supervisors, and cause the same to be published in 1 or more newspapers printed and circulating in said county, if 1 be printed and circulated therein, at least 2 consecutive weeks before said election.

HISTORY: CL 1915, 2307;—CL 1929, 2354;—CL 1948, 141.72.

141.73 Notice of election; posting.

Sec. 3. It shall be the duty of the township clerk or chairman of the board of election inspectors, upon receipt of the notice herein required, to give notice in writing under his hand of the time and place when such question will be submitted to the

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electors. Such township clerk or chairman of the board of election inspectors shall cause such notice to be posted up in at least 5 of the most public places in the said township or ward, at least 10 days before said election.

HISTORY: CL 1915, 2308;—CL 1929, 2355;—CL 1948, 141.73.

141.74 Ballots; form, distribution, counting; authorizing vote, effect.

Sec. 4. It shall be the duty of the board of election commissioners of such county to prepare the necessary ballots for use of the electors in voting upon the question referred to in this act. The said question shall be printed upon a ballot separate and distinct from all other ballots, which ballot shall be in the following form:

INSTRUCTION TO VOTER.

Mark a cross in the square to the left of the word "Yes" or "No."

To authorize the board of supervisors to borrow $ .....

☐ Yes.

To authorize the board of supervisors to borrow $ .....

☐ No.

There shall be inserted in the above blank the amount set forth in the resolution of the board of supervisors. The ballots so prepared shall be distributed by the board of election commissioners within the same time and in the same manner that ballots are distributed prior to a general election. All ballots upon which an elector marks a cross in the square to the left of the word "Yes" shall be counted in favor of raising the amount stated in the resolution of the board of supervisors, and all ballots upon which an elector marks a cross in the square to the left of the word "No" shall be counted against the question of raising the amount set forth in the resolution of the board of supervisors. All ballots cast at any election on such question, shall be received, counted, canvassed and returned in the manner now governing for the election of county officers. If at any such election a majority of the electors voting on such question shall decide in favor of authorizing the board of supervisors to raise the amount set forth in said resolution, such amount may be borrowed in the same manner as the amounts referred to in section 1 of this act may be borrowed in the 1st instance.

HISTORY: CL 1915, 2309;—CL 1929, 2356;—CL 1948, 141.74.

Sec. 5. (This was a repeal section.)

HISTORY: CL 1915, 2310;—CL 1929, 2357;—Rep. 1945, p. 404, Act 267, Imd. Eff. May 25.

ACT REPEALED: Act 41, 1909.

141.81-141.83 Repealed. 1962, p. 67, Act 81, Eff. Mar. 28, 1963.

Sections related to power of municipality to borrow in case of calamity.

Act 243, 1964, p. 337; Eff. Aug. 28.

AN ACT to prohibit the imposition, levy or collection of taxes other than ad valorem property taxes by cities and villages.

The People of the State of Michigan enact:

141.91 Cities and villages, prohibited taxes.

Sec. 1. Except as otherwise provided by law and notwithstanding any provision of its charter, a city or village shall not impose, levy or collect a tax, other than an ad valorem property tax, on any subject of taxation, unless the tax was being imposed by the city or village on January 1, 1964.

HISTORY: New 1964, p. 337, Act 243, Eff. Aug. 28.

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Act 94, 1933, p. 117; Imd. Eff. May 26.

AN ACT to authorize public corporations to purchase, acquire, construct, improve, enlarge, extend or repair public improvements within or without their corporate limits, and to own, operate and maintain the same; to authorize the condemnation of property for such public improvements; to provide for the imposition and collection of charges, fees, rentals or rates for the services, facilities and commodities furnished by such public improvements; to provide for the issuance of bonds and refunding bonds payable from the revenues of public improvements; to provide for a pledge by public corporations of their full faith and credit for the payment of the bonds; to provide for the payment, retirement and security of such bonds; to provide for the imposition of special assessments against properties benefited by such public improvements, and for the issuing of special assessment bonds for the purpose of refunding outstanding revenue bonds; to prescribe the powers and duties of the municipal finance commission relative to such bonds; and to provide for other matters in respect to such public improvements and bonds. Am. 1935, p. 101, Act 66, Imd. Eff. May 17;—Am. 1946, 1st Ex. Ses., p. 45, Act 23, Eff. Jun. 7;—Am. 1959, p. 88, Act 78, Imd. Eff. Jun. 29;—Am. 1969, p. 171, Act 87, Imd. Eff. Jul. 24.

The People of the State of Michigan enact:

141.101 Short title; revenue bond act of 1933.

Sec. 1. This act shall be known and may be cited as "the revenue bond act of 1933."

HISTORY: Am. 1935, p. 101, Act 66, Imd. Eff. May 17;—Am. 1939, p. 4, Act 2, Imd. Eff. Feb. 15;—Title and Sec. 1 Am. 1946, 1st Ex. Ses., p. 45, Act 23, Eff. June 7;—CL 1948, 141.101.

NOTE: Act repealed by section 2 of amendatory Act 23, 1946, 1st Ex. Ses.: Act 39, 1934, 1st Ex. Ses., as amended by Act 247, 1937, and Act 32, 1939

CITED IN OTHER SECTIONS: Sections 141.101 to 141.139 are cited in §§ 41.831, 46.177, 46.367, 120.16, 121.19, 123.309, 123.365, 123.676, 123.677, 123.741, 123.961, 124.259, 124.292, 124.357, 124.416, 125.982, 141.171, 252.61, 259.131, 259.131a, 259.623, 259.628, 291.35, 315.202, 323.162, 331.3, 331.8, 389.126, and 399.172.

Sec. 1a.

HISTORY: Add. 1943, p. 354, Act 219, Imd. Eff. April 20;—Rep. 1946, 1st Ex. Ses., p. 46, Act 23, Eff. June 7.

The provisions of this section on short title now covered in Sec. 1.

141.102 Construction of act.

Sec. 2. This act shall be construed as cumulative authority for the exercise of the powers herein granted and shall not be construed to repeal any existing laws with respect thereto, it being the purpose and intention of this act to create full and complete additional and alternate methods for the exercise of such powers. The powers conferred by this act shall not be affected or limited by any other statute or by any charter, except as otherwise herein provided. The functions, powers and duties of the state commissioner of health in connection with any such public improvement shall remain unaffected by this act.

HISTORY: Am. 1946, 1st Ex. Ses., p. 46, Act 23, Eff. June 7;—CL 1948, 141.102.

141.103 Revenue bond act of 1933; definitions.

Sec. 3. Whenever used in this act, except when otherwise indicated by the context:

(a) The term "public corporation" shall be construed to mean any county, city, village, township, school district, port district or metropolitan district, of the state of Michigan, or any combination thereof when authorized by law to act jointly, or any authority created by or pursuant to an act of the legislature.

(b) The term "public improvements" is hereby defined as and limited to the following improvements: Housing facilities; garbage disposal plants; rubbish disposal plants; incinerators; transportation systems (including all plants, works, instrumentalities and properties used or useful in connection therewith); sewage disposal systems (including all sanitary sewers, combined sanitary and storm sewers, plants, works, instrumentali-

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ties and properties used or useful in connection with the collection, treatment and/or disposal of sewage and/or industrial wastes); water supply systems (including all plants, works, instrumentalities and properties used or useful in connection with obtaining a water supply, the treatment of water and/or the distribution of water); electric utility systems presently existing and gas utility systems hereafter acquired in public corporations having less than 160,000 population according to the latest federal decennial census, for supplying light, heat and/or power (including all plants, works, instrumentalities and properties used or useful in connection therewith); automobile parking facilities (including within or as part of the facilities areas or buildings which may be rented or leased to private enterprises serving the public); yacht basins; harbors; docks; wharves; terminal facilities; elevated highways; bridges over, tunnels under, and ferries across lakes or any part thereof, rivers, streams, straits and/or channels; community buildings; public wholesale markets for farm and food products; stadiums; convention halls; auditoriums; dormitories; hospitals; buildings devoted to public use; parks; recreational facilities; reforestation projects; aeronautical facilities; and marine railways; or any right or interest therein. The term "public improvement" shall be construed to mean the whole or any part of any one of the above named improvements or of any combination thereof, as determined by the governing body. It being within the power of each public corporation to limit the extent of any public improvement made by it under this act, the definitions contained in this subdivision shall not be construed as broadening or enlarging the extent of any particular public improvement heretofore or hereafter made by such a public corporation.

(c) The term "borrower" shall be construed to mean any public corporation as above defined exercising the power to issue bonds as herein provided.

(d) The term "governing body" shall be construed to mean, in the case of a county, the board of supervisors; in the case of a city, the council, common council, commission or other body having legislative powers; in the case of a village, the council, common council, commission, board of trustees or other body having legislative powers; in the case of a township, the township board; in the case of a school district, the district board or board of education; in the case of a port district, the port commission; in the case of a metropolitan district, the legislative body of the district; and in the case of an authority, the body in which is lodged general governing powers.

(e) The term "rates" shall be construed to mean the charges, fees, rentals and rates which may be fixed and imposed for the services, facilities and commodities furnished by any public improvement.

(f) The term "revenues" shall be construed to mean all the income derived from the rates charged for the services, facilities and commodities furnished by any public improvement.

(g) The term "net revenues" shall be construed to mean the revenues of any public improvement remaining after deducting the reasonable expenses of administration, operation and maintenance of such public improvement.

(h) The term "ordinance" shall be construed to mean and include an ordinance, resolution or other appropriate legislative enactment of the governing body of a public corporation.

(i) The term "municipal finance commission" shall mean the commission by that name created by Act No. 202 of the Public Acts of 1943, being sections 131.1 to 138.2 of the Compiled Laws of 1948.

HISTORY: Am 1943, p. 354, Act 219, Imd. Eff. Apr. 20;—Am. 1946, 1st Ex. Ses., p. 46, Act 23, Eff. Jun. 7;—Am 1947, p. 284, Act 204, Imd. Eff. Jun. 13;—CL 1948, 141.103;—Am 1949, p. 307, Act 244, Eff. Sep. 23;—Am. 1952, p. 181, Act 152, Imd. Eff. Apr. 24;—Am. 1954, p. 324, Act 136, Eff. Aug. 13;—Am. 1956, p. 245, Act 134, Imd. Eff. Apr. 13;—Am. 1966, p. 493, Act 294, Imd. Eff. Jul. 14;—Am. 1968, p. 437, Act 253, Imd. Eff. Jul. 1.

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141.104 Municipal public improvements; limitations; bonds; acquiring utility for supplying light, heat or power; referendum; powers exercised.

Sec. 4. Any public corporation is authorized to purchase, acquire, construct, improve, enlarge, extend or repair 1 or more public improvements and to own, operate and maintain the same, within or without its corporate limits, and to furnish the services, facilities and commodities of any such public improvement to users within or without its corporate limits. The exercise by any public corporation of such powers outside its corporate limits shall be subject to the legal rights of the political subdivision within which such powers are to be exercised and shall also be subject to any and all constitutional and statutory provisions relating thereto. The authority herein granted shall be further limited as follows:

(a) No public corporation shall establish warehouses for the purpose of storing or dispensing alcoholic beverages.

(b) School districts shall be limited to such public improvements as are within the scope of their powers under other statutory provisions.

(c) Port districts shall be limited to such public improvements as are within the scope of their powers under acts creating the same.

(e) No public corporation may acquire a utility for the supplying of light, heat or power unless such proposition shall have first received the affirmative vote of 3/5 of the electors of such public corporation voting thereon at a regular or special municipal election.

The powers in this act granted may be exercised notwithstanding that no bonds are issued hereunder.

HISTORY: Am. 1946, 1st Ex. Ses., p. 47, Act 23, Eff. Jun. 7;—Am. 1947, p. 285, Act 204, Imd. Eff. Jun. 13;—CL 1948, 141.104;—Am. 1954, p. 325, Act 136, Eff. Aug. 13;—Am. 1966, p. 201, Act 179, Imd. Eff. Jul. 1.

141.105 Estimate of cost and period of usefulness.

Sec. 5. Whenever the governing body of any public corporation shall determine to purchase, acquire, construct, improve, enlarge, extend and/or repair any public improvement and to issue bonds under this act, it shall first cause an estimate to be made of the cost and the period of usefulness thereof, and the fact that such estimate has been made and the amount and period of time thereof shall appear in the ordinance authorizing and providing for the issuance of the bonds.

HISTORY: Am. 1935, p. 102, Act 66, Imd. Eff. May 17;—Am. 1939, p. 5, Act 2, Imd. Eff. Feb. 15;—Am. 1946, 1st Ex. Ses., p. 47, Act 23, Eff. Jun. 7;—CL 1948, 141.105;—Am. 1949, p. 308, Act 244, Eff. Sep. 23.

141.106 Ordinances; adoption, record, publication.

Sec. 6. For the purposes of this act, the governing body of any public corporation by the affirmative vote of a majority of its members elect, is authorized to adopt an ordinance or ordinances relating to the exercise of the powers herein granted and to any other matters necessary or desirable to effectuate the full intent and purposes of this act, to provide for the adequate operation of any public improvement established hereunder, and to insure the security of any bonds issued hereunder: Provided, That such adoption shall be subject to any applicable statutory or charter provisions in respect to the approval or disapproval of the chief executive or other officer of the public corporation and the adoption of such ordinance over his veto, except that in case of the adoption of an ordinance under this act by the board of supervisors of a county, it shall not be necessary to submit the same to the governor of the state for his approval or disapproval. Any ordinance adopted hereunder shall become effective upon its adoption unless otherwise specified therein. It shall not be subject to a referendum vote of the electors of such public corporation except as provided in section 33 of this act. Any such ordinance shall be recorded in the minutes of the meeting of the governing body of the public corporation as soon as practicable after its passage which record shall be authenticated by the signatures of the presiding officer and the clerk

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(or other recording officer) of such governing body. Such ordinance shall be published once in a newspaper of general circulation within the boundaries of the public corporation. The publication of such ordinance as a part of the minutes of the meeting at which it was adopted, shall be deemed a publication in conformity with this act. Except as otherwise provided herein, the provisions of this section shall constitute the sole requirements in respect to the adoption and publication of any such ordinance and shall not be limited by any charter or other statutory provisions.

HISTORY: Am. 1943, p. 354, Act 219, Imd. Eff. April 20;—Am. 1946, 1st Ex. Ses., p. 48, Act 23, Eff. June 7;—CL 1948, 141.106.

141.107 Bonds; issuance, form, term, interest, payment, tax exemption, security, indebtedness.

Sec. 7. (1) For the purpose of defraying the whole or a part of the cost of purchasing, acquiring, constructing, improving, enlarging, extending or repairing any public improvement, any public corporation may borrow money and issue its negotiable bonds therefor. No such bonds shall be issued unless and until authorized by an ordinance which shall set forth a brief description of the contemplated project, the estimated cost thereof, and the amount, maximum rate of interest and time of payment of the bonds. Such bonds shall be serial bonds payable either semiannually or annually with the first installment not more than 5 years from the date thereof and the last installment not longer than the estimated period of usefulness of the public improvement for which issued, but in no event shall such last installment be more than 40 years from the date thereof. Such bonds shall bear interest at not more than 6% per annum, payable semiannually, except that the first coupon may be for any number of months not exceeding 10. Except as otherwise provided in this act, no annual installment payable after 4 years from date thereof shall be less than 1/5 the amount of any subsequent installment of the same series of bonds. The bonds and coupons shall be substantially in the form provided in the authorizing ordinance and shall be executed in the manner prescribed therein, which as to coupons may be by facsimile signature or signatures. Such bonds and coupons shall be made payable in lawful money of the United States of America, and shall be exempt from any and all taxation whatsoever by the state of Michigan or by any taxing authority within the state.

(2) The principal of and interest upon such bonds shall be payable, except as hereinafter provided, solely from such net revenues derived from the operation of the public improvement purchased, acquired, constructed, improved, enlarged, extended or repaired from the proceeds of such bonds, as shall be pledged thereto in the authorizing ordinance, which may include, if the ordinance so provides, net revenues derived by reason of future improvements, enlargements, extensions or repairs thereto.

As additional security for the payment of such bonds used to finance the local share of projects which receive more than 25% of financing from federal or state grants, a public corporation, by majority vote of the members-elect of its governing body, may include as a part of the ordinance authorizing the issuance of such bonds a pledge of its full faith and credit for payment of the principal of and interest on such bonds. If such pledge is made, and the net revenues primarily pledged to such payment are at any time insufficient therefor, the public corporation shall be obligated to pay the bonds and interest thereon in the same manner and to the same extent as other general obligation bonds of the public corporation, including the levy, when necessary, of a tax on all taxable property therein without limitation as to rate or amount, and it shall be reimbursed from net revenues subsequently received by the public improvement for which the bonds are issued which are not otherwise pledged or encumbered. No bond or coupon issued pursuant to this act shall be a general obligation or constitute an indebtedness of the borrower unless its full faith and credit are so pledged. Whether or not a public corporation pledges its full faith and credit for the payment of bonds is-

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sued pursuant to this act, the amount of the bonds shall not be included in computing the net bonded indebtedness of the public corporation for the purposes of debt limitations imposed by any statutory or charter provisions. Bonds may be made registerable as to principal or principal and interest under such terms and conditions as may be determined by the governing body of the issuer.

HISTORY: Am. 1935, p. 102, Act 66, Imd. Eff. May 17;—Am. 1939, p. 5, Act 2, Imd. Eff. Feb. 15;—Am. 1946, 1st Ex. Ses., p. 48, Act 23, Eff. Jun. 7.—Am. 1947, p. 286, Act 204, Imd. Eff. Jun. 13;—CL 1948, 141.107;—Am. 1949, p. 309, Act 244, Eff. Sep. 23;—Am. 1960, p. 21, Act 34, Eff. Aug. 17;—Am. 1969, p. 171, Act 87, Imd. Eff. Jul. 24.

141.108 Lien on revenue in favor of bondholders.

Sec. 8. There shall be created in the authorizing ordinance a lien, by this act made a statutory lien, upon the net revenues pledged to the payment of the principal of and interest upon such bonds, to and in favor of the holders of such bonds and the interest coupons pertaining thereto, and each of such holders, which liens shall be a first lien upon such net revenues, except where there exists a prior lien or liens then such new lien shall be subject thereto.

HISTORY: Am. 1935, p. 104, Act 66, Imd. Eff. May 17;—Am. 1939, p. 7, Act 2, Imd. Eff. Feb. 15;—Am. 1946, 1st Ex. Ses., p. 49, Act 23, Eff. June 7;—CL 1948, 141.108.

141.109 Lien on revenue in favor of bondholders; duration, enforcement.

Sec. 9. The net revenues so pledged shall be and remain subject to said statutory lien until the payment in full of the principal of and interest upon said bonds. The holder or holders of said bonds representing in the aggregate not less than 20 per cent of the entire issue then outstanding may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce said statutory lien and enforce and compel the performance of all duties of the officials of the borrower, including the fixing of sufficient rates, the collection of revenues, the proper segregation of revenues and the proper application thereof: Provided, however, That said statutory lien shall not be construed to give any holder or owner of any bond or coupon authority to compel the sale of the public improvement, the revenues of which are pledged thereto.

HISTORY: Am. 1946, 1st Ex. Ses., p. 49, Act 23, Eff. June 7;—CL 1948, 141.109.

141.110 Receiverships for public improvements.

Sec. 10. If there be any default in the payment of the principal of or interest upon any of said bonds, any court having jurisdiction in any proper action may appoint a receiver to administer and operate on behalf of the borrower, under the direction of said court, any public improvement the revenues of which are pledged to the payment of such principal and interest; and by and with the approval of said court, to fix and charge rates and collect revenues sufficient to provide for the payment of any bonds or other obligations outstanding against the revenues of said public improvement and for the payment of the expenses of operating and maintaining the same and to apply the income and revenues of said public improvement in conformity with this act and the ordinance providing for the issuance of such bonds and in accordance with such orders as the court shall make.

HISTORY: Am. 1946, 1st Ex. Ses., p. 49, Act 23, Eff. June 7;—CL 1948, 141.110.

141.111 Bonds; application of other laws and charters.

Sec. 11. The bonds authorized hereunder shall not be subject to any limitations or provisions contained in the laws of the state of Michigan, pertaining to public corporations or in the charters of public corporations, as now in force or hereafter amended, other than as provided for in this act.

HISTORY: Am. 1946, 1st Ex. Ses., p. 49, Act 23, Eff. June 7;—CL 1948, 141.111.

141.112 Bonds; maximum interest; public and private sale.

Sec. 12. Bonds issued hereunder shall not be sold at a price which would make the interest cost on the money borrowed after deducting any premium or adding any discount exceed 6% per annum or sold at a discount exceeding 10% of the principal

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amount thereof. Except as hereinafter provided, no obligations of an authorized issue of $10,000.00 or more shall be sold except at public sale, after notice by publication at least 14 days before the sale in a publication printed in the English language and circulated in the state of Michigan, which carries as a part of its regular service, notices of the sale of municipal bonds and which has been approved by the municipal finance commission as a publication complying with the foregoing qualifications. Such approval by the municipal finance commission shall be deemed conclusive of the qualifications of the publication for the insertion of such notice. No public corporation shall advertise its proposed obligations for sale until it shall have first secured the approval of the municipal finance commission to the form of the notice of sale to be published.

If the public corporation shall have received a bid or bids at the time fixed for public sale, which shall have been rejected by the governing body, then in such case the obligations may be sold at private sale within 30 days thereafter at a price not less than the highest bid received at such public offering, or if the public corporation shall have offered the obligations at 2 or more public offerings and shall not have received at the latter any bid or bids satisfactory to the governing body, then in such case the obligations may be sold at private sale within 30 days after such last public offering at a price not less than the highest bid, if any, received thereat. During any period in which such obligations may be sold at private sale, the governing body of such public corporation may enter into an agreement for the delivery of such bonds in payment of the cost of the particular project for which the bonds are to be issued. Notwithstanding any of the foregoing provisions, any such obligations may be sold to the federal government or any agency thereof, at private sale within 60 days after the first public offering, at a price not less than the highest bid, if any, received thereat, and without a second public offering, or where the governing body of any public corporation issuing bonds for the purpose of defraying the whole or a part of the cost of purchasing, acquiring, constructing, improving, enlarging, extending or repairing any sewage disposal system shall have contracted to sell all or any part of such bonds to the United States government or any agency thereof, then such bonds so contracted for may, without any public offering, be so sold. Where such a contract is for the sale of less than all of the bonds authorized, then no such part shall be delivered until the balance of the bonds so authorized shall have been sold in the manner hereinbefore provided.

HISTORY: Am. 1941, p. 317, Act 210, Imd. Eff. Jun. 16;—Am. 1943, p. 355, Act 219, Imd. Eff. Apr. 20;—Am. 1946, 1st Ex. Ses., p. 49, Act 23, Eff. Jun. 7;—Am. 1947, p. 286, Act 204, Imd. Eff. Jun. 13;—CL 1948, 141.112;—Am. 1949, p. 309, Act 244, Eff. Sep. 23;—Am. 1968, p. 114, Act 68, Imd. Eff. May 28.

141.113 Bonds; statement on face.

Sec. 13. There shall be plainly stated on the face of each such bond that it is issued under the provisions of this act; that it is a self-liquidating bond and is not a general obligation of the borrower, unless the full faith and credit of the issuer are pledged and also plainly stated on the face of each bond; that it does not constitute an indebtedness of the borrower within any constitutional or statutory limitation; that the principal thereof and the interest thereon are payable solely from revenues, which shall be identified by reference to the public improvement, or part thereof, from which such revenues are to be derived; and that the payment of such principal and interest are secured by a statutory lien on such revenues, the priority of which lien shall be stated and there shall also be plainly stated on the face of each interest coupon substantially as follows: This coupon is not a general obligation of the borrower and is payable solely from certain revenues as set forth in the bond to which this coupon pertains; except, that if the public corporation authorizing the bonds pledges its full faith and credit as secondary security for payment of the principal and interest on the bonds as provided in section 7, the statement shall reflect such pledge.

HISTORY: Am. 1946, 1st Ex. Ses., p. 50, Act 23, Eff. Jun. 7;—CL 1948, 141.113;—Am. 1969, p. 172, Act 87, Imd. Eff. Jul. 24.

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141.114 Bonds; qualities of negotiable instruments.

Sec. 14. Such bonds shall have all the qualities of negotiable instruments under the law merchant and the negotiable instruments law.

HISTORY: CL 1948, 141.114.

141.115 Bonds; proceeds of sale, deposit in banks covered by federal deposit insurance; investments, authorization, approval.

Sec. 15. The governing body shall require that the proceeds of the sale of bonds issued under the provisions of this act be deposited in an account or accounts separate from other moneys of the borrower in 1 or more banks, each having unimpaired capital and surplus amounting to at least $2,000,000, or which are insured by the Federal Deposit Insurance Corporation: Provided, That such proceeds may be invested, in whole or in part, in the manner provided in section 24 for other funds, if such investment shall be authorized in the ordinance or approved by the municipal finance commission.

HISTORY: Am. 1946, 1st Ex. Ses., p. 50, Act 23, Eff. Jun. 7;—Am. 1947, p. 287, Act 204, Imd. Eff. Jun. 13;—CL 1948, 141.115;—Am. 1951, p. 81, Act. 63, Eff. Sep. 28.

141.116 Bonds; use of proceeds of sale; payment of capitalized interest.

Sec. 16. All moneys received from the sale of any such bonds shall be used solely for the purchase, acquisition, construction, improvement, enlargement, extension and/or repair of the public improvement for which issued, including any engineering, legal and other expenses incident thereto, and including also the payment of the interest on such bonds during a period not to exceed the first 3 years following the date of such bonds and the amount required for operation and maintenance prior to the receipt of the first revenues: Provided, That any unexpended balance of the proceeds of the sale of any such bonds remaining after the completion of the project for which issued, may to the extent of 15 per centum of the amount of the issue, be used for the improvement, enlargement and/or extension of such public improvement, if such use shall be approved by the municipal finance commission, and any remaining balance shall be paid immediately into the bond and interest redemption fund for such bonds, and the same shall be used only for the redemption, or purchase at not more than the fair market value, of outstanding bonds of the issue from which such proceeds were derived. Any bonds so acquired by purchase shall be cancelled and shall not be reissued. Each ordinance shall state the period for which interest is to be capitalized, and upon receipt of the proceeds of the bonds, there shall be set aside therefrom, in the bond and interest redemption fund, the amount of interest which will accrue during such period at the interest rate or rates specified in the bonds. Money so set aside shall be used solely for the payment of such capitalized interest.

HISTORY: Am. 1946, 1st Ex. Ses., p. 50, Act 23, Eff. June 7;—Am. 1947, p. 287, Act 204, Imd. Eff. June 13;—CL 1948, 141.116.

141.117 Bonds; validity of signatures.

Sec. 17. In case any of the officers whose signatures or counter-signatures appear on the bonds or coupons shall cease to be such officers before delivery of such bonds, such signatures or counter-signatures shall nevertheless be valid and sufficient for all purposes the same as if they had remained in office until such delivery.

HISTORY: CL 1948, 141.117.

141.118 Charges for services.

Sec. 18. No free service shall be furnished by any such public improvement to any person, firm or corporation, public or private, or to any public agency or instrumentality. The reasonable cost and value of any service rendered to any such borrower by any such public improvement shall be charged against the borrower and shall be paid for as the service accrues from the borrower's current funds and/or from the proceeds of taxes which such borrower, within constitutional limitations, is hereby authorized

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and required to levy in an amount sufficient for that purpose, and such charges when so paid, shall be accounted for in the same manner as other revenues of such public improvement.

HISTORY: Am. 1946, 1st Ex. Ses., p. 51, Act 23, Eff. June 7;—CL 1948, 141.118.

141.119 Additional bonds; issuance in separate series, maturities.

Sec. 19. (1) Any borrower issuing bonds for any public improvement pursuant to the provisions of this act, may, at the time of the authorization of such bonds, provide in the authorizing ordinance for the issuance of additional bonds of equal standing, for its completion in the event the bonds first authorized shall prove to be insufficient therefor, or for its subsequent enlargement, extension, improvement or repair, or for any of such purposes, which additional bonds may be issued and be negotiated from time to time as the proceeds therefrom may be necessary for such purpose. Such bonds, when so negotiated, shall have equal standing with those issued in the first instance. Such additional bonds may be issued from time to time in separate series from the original bonds, with different dates of issuance, and with such changes in the form thereof as are consistent with such equality of standing.

(2) The provisions of section 7 providing for annual installments and the amounts thereof, and the due date of the first installment, shall not be controlling as to each such additional series. However, after 4 years from the date of the additional bonds, the total amount of bonds in such series and in all previously issued series of equal standing therewith, maturing in any 1 operating year, shall not be less than 1/5 of the total amount of all such bonds maturing in any subsequent year. No such additional bonds of equal standing shall be issued unless authorized as provided in this section.

HISTORY: Am. 1943, p. 355, Act 219, Imd. Eff. Apr. 20;—Am. 1946, 1st Ex. Ses., p. 51, Act 23, Eff. Jun. 7;—Am. 1947, p. 288, Act 204, Imd. Eff. Jun. 13;—CL 1948, 141.119;—Am. 1969, p. 172, Act 87, Imd. Eff. Jul. 24.

141.120 Revenue refunding bonds; maturities, sale or exchange.

Sec. 20. Where a borrower has outstanding any bonds issued under the provisions of this act, it may thereafter issue and negotiate new bonds under this act for the purpose of providing for the retirement of such outstanding bonds, in whole or in part. Such new bonds shall be designated "revenue refunding bonds," and except as in the refunding ordinance otherwise provided shall be secured to the same extent and shall have the same source of payment as the bonds which have been thereby refunded. Such refunding bonds may be issued to include the amount of any premium to be paid upon the calling of the bonds to be refunded or if such bonds are not callable, any premium necessary to be paid in order to secure the surrender of the bonds to be refunded: Provided, That the amount of premium so included shall not in either case exceed 5 per centum of the principal amount of the bonds to be refunded. Nothing in this section shall be construed as providing for the refunding of non-callable unmatured bonds without the consent of the holder or holders thereof. Any such refunding bonds may be sold as provided in section 12 of this act or may be exchanged for the obligations to be refunded thereby, and if sold, the proceeds shall be deposited in a bank or trust company in a special trust account to be used only for the redemption or purchase of such outstanding bonds. Where refunding bonds are to be issued and sold for the purpose of refunding unmatured non-callable bonds, the latter must be surrendered and cancelled at the time of the delivery to the purchaser of such refunding bonds.

HISTORY: Am. 1941, p. 317, Act 210, Imd. Eff. June 16;—Am. 1943, p. 355, Act 219, Imd. Eff. April 20;—Am. 1946, 1st Ex. Ses., p. 51, Act 23, Eff. June 7;—Am. 1947, p. 288, Act 204, Imd. Eff. June 13;—CL 1948, 141.120.

141.120a Combined public improvements; bonds; revenues pledged; retirement.

Sec. 20a. Any public corporation may determine to operate 2 or more public improvements as a combined public improvement and in such case it may pledge the

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revenues of such combined public improvement to the payment of revenue bonds issued to defray the cost of purchasing, acquiring, constructing, improving, enlarging, extending and/or repairing the whole or any part of such combined public improvement. Whenever any public corporation shall determine to issue any bonds under this act and pledge thereto the revenues of a public improvement or a combined public improvement, if there shall be outstanding bonds pledging the revenues of such public improvement or any unit or units of such combined public improvement, then such new bonds may be issued subject to such prior pledge, or may include an amount sufficient to retire such outstanding bonds, and to the extent that they are issued for such retirement, they shall be subject to the provisions of section 20 of this act, except that in lieu of being designated as refunding bonds, such new bonds shall recite the extent to which they refund outstanding obligations.

HISTORY: Add. 1943, p. 356, Act 219, Imd. Eff. April 20;—Am. 1946, 1st Ex. Ses., p. 52, Act 23, Eff. June 7;—CL 1948, 141.120a.

141.120b Revenue bonds to retire outstanding bonds; validity, premium, sale or exchange.

Sec. 20b. Where any township, city or village has outstanding any bonds issued for acquiring or constructing water works, water mains, water supply systems, sewers or sewage disposal systems, or for refunding any such bonds, whether such bonds are payable from revenues, special assessments and/or taxes, it may thereafter issue revenue bonds under this act for the purpose of retiring any such outstanding bonds. In case any city or village shall have issued refunding bonds, including in a single series, bonds for 1 or more of the purposes aforesaid together with bonds for other purposes, the governing body may designate by number and amount the refunding bonds of said series which represent the original bonds issued for the aforesaid designated purposes, and may refund the bonds so designated by the issuance of revenue refunding bonds under this act. Such revenue refunding bonds shall be valid notwithstanding any defect in the proceedings for the issuance of the bonds refunded or for the acquisition of the public improvement, if at the time of refunding such improvement can be acquired and revenue bonds issued therefor, under this act. Insofar as the provisions of this act shall be applicable thereto, such new bonds shall be authorized in the same manner, shall be subject to the same conditions, shall be secured to the same extent and shall have the same source of payment as other bonds issued under this act for like improvements. Such bonds may include the amount of the premium to be paid on the calling of such outstanding bonds, or if such bonds be not callable, the premium necessary to be paid in order to secure the surrender of such bonds, which premium shall not in any case exceed 5 per centum of the principal amount. Where revenue refunding bonds are to be issued, the amount due upon any bond or bonds to be refunded, may be reduced by consent of the holder or holders thereof, and refunding bonds issued for the reduced amount. Nothing in this section shall be construed as providing for the retirement of noncallable unmatured bonds without the consent of the holder or holders thereof. Any such bonds may be exchanged for the outstanding bonds, or may be sold as provided in section 12 of this act, and if sold, the proceeds shall be deposited in a bank or trust company in a special trust account to be used only for the redemption or purchase of such outstanding bonds. Where refunding bonds are to be issued and sold for the purpose of refunding noncallable unmatured bonds, the latter must be surrendered and cancelled at the time of the delivery to the purchaser of such refunding bonds.

HISTORY: Add. 1943, p. 356, Act 219, Imd. Eff. April 20;—Am. 1946, 1st Ex. Ses., p. 52, Act 23, Eff. June 7;—CL 1948, 141.120b.

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141.120c Parking revenue bonds; special assessments on benefited properties.

Sec. 20c. When a borrower has outstanding any parking revenue bonds issued under the provisions of this act, it may thereafter levy special assessments against properties specially benefited by the parking facilities originally financed by the bonds, but no assessment shall be made at large, and may issue special assessment bonds therefor in anticipation of the payment of the special assessments for the purpose of providing for the retirement of the outstanding bonds in whole or in part. The special assessment bonds may pledge the full faith and credit of the public corporation issuing them, as determined by the governing body of the public corporation. The special assessment bonds may be issued to include the amount of any premium to be paid upon the calling of the parking revenue bonds to be refunded or if such bonds are not callable, any premium necessary to be paid in order to secure the surrender of the bonds to be refunded; but the amount of the premium so included shall not exceed 5% of the principal amount of the bonds to be refunded. The procedures for levying the special assessments and for issuing the special assessment bonds shall be the same as that provided by charter or other applicable law. Nothing in this section shall be construed as providing for the refunding of noncallable unmatured bonds without the consent of the holders thereof.

HISTORY: Add. 1959, p. 88, Act. 78, Imd. Eff. Jun. 29.

141.121 Rates for service; delinquent charges a lien, enforcement.

Sec. 21. Rates for services furnished by any such public improvement shall be fixed precedent to the issuance of the bonds. Such rates shall be sufficient to provide for the payment of the expenses of administration and operation and such expenses for the maintenance of the public improvement as may be necessary to preserve the same in good repair and working order; to provide for the payment of the interest upon and the principal of all bonds payable therefrom, as and when the same become due and payable, and for the creation of any reserve therefor as required in the ordinance; and to provide for such other expenditures and funds for the public improvement as the ordinance may require. Such rates shall be fixed and revised from time to time by the governing body of the borrower so as to produce these amounts, and the borrower shall covenant and agree in the ordinance authorizing the issuance of such bonds and on the face of each bond to maintain at all times such rates for services furnished by such public improvement as shall be sufficient to provide for the foregoing. Charges for water service and sewage disposal services furnished to any premises shall be a lien thereon, and any such charges delinquent for 6 months or more shall be certified annually to the proper tax assessing officer or agency who shall enter the same upon the next tax roll against the premises to which such services shall have been rendered, and said charges shall be collected and said lien shall be enforced in the same manner as provided for the collection of taxes assessed upon such roll and the enforcement of the lien therefor. The time and manner of certification and other details in respect to the collection of such charges and the enforcement of such lien shall be prescribed by the ordinance adopted by the governing body of the public corporation: Provided, That in all cases when a tenant is responsible for the payment of any such charge and the governing body is so notified in writing, such notice to include a true copy of the lease of the affected premises, if there be one, then no such charge shall become a lien against the said premises from and after the date of such notice. In event of filing of such notice, the public corporation shall render no further service to such premises until a cash deposit in such sum as shall be fixed in the ordinance authorizing the issuance of bonds under this act shall have been made as security for the payment of such charges. In addition to any other lawful enforcement methods, the payment of charges for

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water service to any premises may be enforced by discontinuing the water service to such premises and the payment of charges for sewage disposal service to any premises may be enforced by discontinuing either the water service or the sewage disposal service to such premises, or both. The inclusion of the above methods of enforcing the payment of charges for water and sewage disposal, in any ordinance heretofore adopted, is hereby validated.

HISTORY: Am. 1941, p. 318, Act 210, Imd. Eff. June 16;—Am. 1946, 1st Ex. Ses., p. 53, Act 23, Eff. June 7;—Am. 1947, p. 288, Act 204, Imd. Eff. June 13;—CL 1948, 141.121.

141.122 Disposition of revenues; funds.

Sec. 22. In the authorizing ordinance the governing body of the borrower shall pledge the revenues of the public improvement for the purposes of the following funds and shall provide that such revenues as collected shall be set aside in a receiving fund and transferred periodically as provided in such ordinance into separate and special funds as follows:

(a) Out of the revenues in the receiving fund there shall be first set aside a sum sufficient to provide for the payment for the next succeeding period of all current expenses of administration, operation, and such current expenses for such period for maintenance as may be necessary to preserve the public improvement in good repair and working order. This fund shall be designated "operation and maintenance fund."

(b) Out of the remaining revenues in the receiving fund there shall be next set aside a sum sufficient to provide for the payment of the principal of and the interest upon all bonds payable therefrom, as and when the same become due and payable. This fund shall be designated "bond and interest redemption fund." In the event that the revenues of any operating year over and above those necessary for the operation and maintenance fund, shall be insufficient to pay the principal of and interest on the bonds maturing in any such operating year, then an additional amount sufficient to pay such principal and interest shall be set aside out of the revenues of the next succeeding operating year, after the setting aside of the operation and maintenance fund. In respect to the allocation and use of moneys in said bond and interest redemption fund, due recognition shall be given as to priority rights, if any, between different issues or series of outstanding bonds.

The public corporation may provide by ordinance that a reasonable excess amount shall be set aside in the bond and interest redemption fund from time to time so as thereby to produce and provide a reserve to meet any possible future deficiencies therein.

(c) Out of the remaining revenues in the receiving fund there shall be next set aside, in the manner and priority provided by the ordinance, the sum or sums necessary for such additional funds for the public improvement as the ordinance may establish. Revenues remaining in the receiving fund, after satisfaction of the above, at the end of any operating year shall be deemed to be surplus and shall be disposed of by the governing body as hereinafter provided.

HISTORY: Am. 1946, 1st Ex. Ses., p. 54, Act 23, Eff. June 7;—Am. 1947, p. 289, Act 204, Imd. Eff. June 13;—CL 1948, 141.122.

141.123 Payment of operating expenses from other sources.

Sec. 23. Nothing in this act shall be construed to prohibit the borrower from appropriating and using any part of its available income or revenues derived from any source other than from the operation of such public improvement in paying any immediate expenses of operation or maintenance of any such public improvement, but nothing in this act shall be construed to require the borrower to do so.

HISTORY: Am. 1946, 1st Ex. Ses., p. 54, Act 23, Eff. June 7;—CL 1948, 141.123.

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141.124 Moneys in public improvement funds; deposit, investment.

Sec. 24. All moneys in the several funds of the public improvement shall be deposited with 1 or more banks designated by the governing body of the borrower. All moneys from time to time in the bond and interest redemption fund (including reserve moneys), shall be kept on deposit with the bank or trust company or with 1 of the banks or trust companies, at which the principal and interest on the bonds are currently payable. The governing body of the borrower in the authorizing ordinance may provide that moneys in the several funds of the public improvement, except moneys in the bond and interest redemption fund and moneys derived from the proceeds of sale of the bonds may be kept in 1 bank account in which event the moneys in the bank account shall be allocated on the books and records of the borrower to the funds in the manner provided in the authorizing ordinance; or the governing body of the borrower may provide that the moneys in the several funds of the public improvement may be kept in separate depository accounts. The moneys in the bond and interest redemption fund shall be kept in a separate depository account. Moneys in the several funds of the public improvement may be invested in the United States government obligations, subject to such limitations and conditions as may be provided in the ordinance. Investment of money in the bond and interest redemption fund being accumulated for payment of the next maturing principal or interest on the bonds shall be limited to United States government obligations bearing maturity dates prior to the date of the next maturing principal or interest. In the event of any such investment, the security representing the same shall be kept on deposit with the bank or trust company having the deposit of the fund or funds from which such purchase was made.

HISTORY: Am. 1946, 1st Ex. Ses., p. 54, Act 23, Eff. Jun. 7;—Am. 1947, p. 290, Act 204, Imd. Eff. Jun. 13;—CL 1948, 141.124;—Am. 1960, p. 88, Act 91, Eff. Aug. 17;—Am. 1963, p. 280, Act 192, Eff. Sep. 6.

141.125 Operating year.

Sec. 25. The ordinance authorizing the issuance of such bonds shall fix the dates of the beginning and ending of the operating year for such public improvement, subject to the right of the municipal finance commission to require that it correspond with the fiscal year of the borrower.

HISTORY: Am. 1946, 1st Ex. Ses., p. 55, Act 23, Eff. June 7;—CL 1948, 141.125.

141.126 Receiving fund surplus; deposit.

Sec. 26. Any moneys remaining in the receiving fund at the end of any operating year, which under the provisions of section 22 shall be deemed to be surplus, may be transferred to other funds of the public improvement or may be used for such purpose or purposes as the governing body may determine to be for the best interests of the borrower, unless some other disposition shall have been made therefor in the ordinance authorizing the issuance of bonds hereunder. In the event that moneys in the receiving fund are insufficient to provide for the current requirements of the operation and maintenance fund or the bond and interest redemption fund, any moneys and/or securities in other funds of the public improvement shall be transferred first to the operation and maintenance fund and second to the bond and interest redemption fund to the extent of any deficits therein.

HISTORY: Am. 1946, 1st Ex. Ses., p. 55, Act 23, Eff. June 7;—Am. 1947, p. 290, Act 204, Imd. Eff. June 13;—CL 1948, 141.126.

141.127 Permission to issue bonds; approval.

Sec. 27. Before any public corporation shall issue any bonds under the provisions of this act, it shall make a sworn application to the municipal finance commission, on forms to be furnished by the commission, for permission so to do and shall attach thereto a certified copy of the ordinance or ordinances authorizing the issuance of the bonds and, except in case of refunding bonds, a certified copy of the estimate of the cost of the project for which the bonds are to be issued. The commission may request

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the applicant to furnish such information as it may deem desirable in order to pass upon the application. No bonds shall be issued hereunder until the borrower has first secured the approval of the municipal finance commission to such issuance. In determining whether a proposed issue of bonds shall be approved, the municipal finance commission shall take into consideration: (a) whether such bonds conform to the provisions of this act; (b) whether the probable revenues pledged to the payment of such bonds will be sufficient to pay the principal thereof and interest thereon when due; and (c) whether the amount of the proposed issue is sufficient or excessive for the purpose for which they are to be issued. The provisions of chapter II of Act No. 202 of the Public Acts of 1943 relating to the municipal finance commission, its powers and duties, and its orders, shall govern insofar as they may be applicable, in respect to the various matters covered by this section.

HISTORY: Am. 1946, 1st Ex. Ses., p. 55, Act 23, Eff. June 7;—CL 1948, 141.127.

NOTE: Ch. 2, Act 202, 1943, above referred to, is Compilers' § 132.1 et. seq.

141.128 Order not deemed approval of legality of bond issue.

Sec. 28. No order of the municipal finance commission permitting the issuance of bonds under this act, shall be deemed an approval of the legality thereof: Provided, however, That any determination or finding made by the commission involving any question of fact shall after the issuance of such bonds be deemed conclusive of such fact or facts. The issuance of the commission's order granting permission to issue any bonds shall imply that the commission has made such determination of facts or circumstances, has given such approvals, and has reached such opinions as are a necessary prerequisite to the issuance of such order.

HISTORY: Am. 1946, 1st Ex. Ses., p. 55, Act 23, Eff. June 7;—CL 1948, 141.128.

141.129 Service rates not subject to supervision by state agency.

Sec. 29. Rates charged for the services furnished by any public improvement purchased, acquired, constructed, improved, enlarged, extended and/or repaired under the provisions of this act shall not be subject to supervision or regulation by any state bureau, board, commission or other like instrumentality or agency thereof.

HISTORY: Am. 1937, p. 389, Act 246, Imd. Eff. July 21;—Am. 1939, p. 59, Act 34, Eff. Sept. 29;—Am. 1946, 1st Ex. Ses., p. 56, Act 23, Eff. June 7;—CL 1948, 141.129.

141.130 Bonds; records, accounts, examination, inspection, statement or audit.

Sec. 30. Any borrower issuing revenue bonds under the provisions of this act shall install, maintain and keep proper books of record and account, separate entirely from other records and accounts of such borrower, in which full and correct entries shall be made of all dealings or transactions of or in relation to the properties, business and affairs of the public improvement. The governing body of such borrower, not later than 6 months after the close of any operating year, shall cause to be prepared, on forms furnished by the municipal finance commission, a statement in reasonable detail, sworn to by its chief accounting officer, showing the cash income and disbursements of the public improvement during such operating year, and the assets and liabilities of the same at the close of such year. Such statement at all reasonable times during usual business hours shall be open to examination and inspection by any taxpayer, user of the services furnished by the public improvement, or any holder or owner of bonds issued under the provisions of this act or anyone acting for or on behalf of such taxpayer, user of the services of the public improvement, or bondholder, and a certified copy thereof shall be filed with the municipal finance commission not later than 6 months after the close of such operating year. The governing body, or any officer or member of the governing body, charged with the duty of compiling and furnishing the statement herein required who refuses or neglects to furnish the same to the commission within the time required, is guilty of a misdemeanor, and the commission may

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compel compliance with this section by proceedings in mandamus. If the books of record and account pertaining to the public improvement are audited annually by a certified public accountant, the audit report of the annual audit, for the purposes of this section and at the option of the governing body of the borrower may be used in place of the statement to be prepared on forms furnished by the municipal finance commission and all of the provisions of this section pertaining to the statement shall apply to the annual audit report.

HISTORY: Am. 1941, p. 318, Act 210, Imd. Eff. Jun. 16;—Am. 1946, 1st Ex. Ses., p. 56, Act 23, Eff. Jun. 7;—CL 1948, 141.130;—Am. 1963, p. 281, Act 192, Eff. Sep. 6.

141.131 Calling of bonds before maturity; premium.

Sec. 31. The governing body of the borrower authorizing bonds under the provisions of this act may make provisions in the authorizing ordinance for the redemption prior to maturity of such bonds or any part thereof: Provided, That except in case of refunding, no bonds of any issue less than all the outstanding bonds of such issue, shall be called for redemption unless the borrower shall have on hand in its bond and interest redemption fund sufficient moneys therefor not otherwise appropriated or pledged, in excess of the amount of interest and and principal maturing within the next 18 months from the redemption date: And provided further, That the premium to be paid upon the redemption of any bond shall not exceed 5 per centum of the principal amount thereof.

HISTORY: Am. 1941, p. 319, Act 210, Imd. Eff. June 16;—Am. 1946, 1st Ex. Ses., p. 56, Act 23, Eff. June 7;—CL 1948, 141.131.

141.132 Breach of contract not authorized; pledging of revenues; disconnection of lands not to affect liability under bond issue.

Sec. 32. Nothing in this act shall be construed as authorizing any borrower to impair or commit a breach of the obligation of any valid lien or contract created or entered into by it, the intention hereof being to authorize the pledging, setting aside and segregation of gross revenues only where consistent with outstanding obligations of such borrower. The severance of any lands from the jurisdiction of the borrower subsequent to the issuance of bonds under this act, shall be subject to the obligations created by the issuance of such bonds.

HISTORY: Am. 1941, p. 319, Act 210, Imd. Eff. June 16;—CL 1948, 141.132.

141.133 Governing bodies; powers, issuance of bonds; referendum.

Sec. 33. Unless otherwise provided in this act, the powers herein conferred upon public corporations shall be exercised by their respective governing bodies; and this act shall be construed as authorizing the issuance of bonds hereunder without submitting the proposition for the approval of the same to the voters of the borrowers. However, if, within 30 days from the publication of a notice of intent to issue the bonds which states the amount of the issue, a petition, signed by not less than 10% of the registered electors residing within the limits of such public corporation, shall have been filed with the clerk, or other recording officer, of the borrower, requesting a referendum upon the question of the issuance of such bonds, then the same shall not be issued until approved by the vote of a majority of the electors of such public corporation qualified to vote and voting thereon, at a general or special election. Any special election called for such purpose shall not be included in any statutory or charter limitation as to the number of special elections to be called within any period of time. Signatures on any such petition shall be verified by some person or persons under oath, as the actual signatures of the persons whose names are signed thereto, and the clerk, or other recording officer, of the public corporation shall have the same power to reject signatures and petitions as city clerks under the provisions of section 25 of Act No. 279 of the Public Acts of 1909, as amended, being section 117.25 of the Compiled Laws of 1948. The number of registered electors in any public corporation shall be determined

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by the township and/or city registration books, or if such public corporation be a village, then by the village registration books. The provisions of subdivision (g) of section 5 of Act No. 279 of the Public Acts of 1909, as amended, relative to notice of intention to issue bonds, shall not apply to the authorization of the issuance of any bonds under this act.

HISTORY: Am. 1941, p. 319, Act 210, Imd. Eff. Jun. 16;—Am. 1946, 1st Ex. Ses., p. 56, Act 23, Eff. Jun. 7;—Am. 1947, p. 290, Act 204, Imd. Eff. Jun. 13;—CL 1948, 141.133;—Am. 1969, p. 163, Act 79, Imd. Eff. Jul. 23.

141.134 Liberal construction of act.

Sec. 34. This act, being necessary for and to secure the public health, safety, convenience and welfare of the counties, cities, incorporated villages, townships, school districts, port districts, and metropolitan districts of the state of Michigan, shall be liberally construed to effect the purposes hereof.

HISTORY: CL 1948, 141.134.

Sec. 35. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 414, Act 267, Imd. Eff. May 25.

141.136 Immediate necessity.

Sec. 36. This act, being necessary for and to secure the public health, safety, convenience and welfare of the counties, cities, incorporated villages, townships, school districts, port districts, and metropolitan districts of the state of Michigan, shall be given immediate effect.

HISTORY: CL 1948, 141.136.

141.137 Condemnation of property.

Sec. 37. Public corporations shall have the right and power to condemn property for public improvements. In the condemnation of property, public corporations may proceed under any act applicable thereto, or they may invoke and proceed under the provisions of Act No. 149 of the Public Acts of 1911, as the same may from time to time exist, and in so doing shall have all the rights, powers and privileges granted to "public corporation" as defined in that act.

HISTORY: Add. 1946, 1st Ex. Ses., p. 57, Act 23, Eff. June 7;—CL 1948, 141.137.

NOTE: Act 149, 1911, above referred to, is Compilers' § 213.21 et seq.

141.138 Trustee; appointment.

Sec. 38. Any ordinance authorizing the issuance of bonds hereunder, may provide for the appointment of a trustee with such powers and duties as shall be prescribed therein in respect to such bonds and the payment and security thereof.

HISTORY: Add. 1946, 1st Ex. Ses., p. 57, Act 23, Eff. June 7;—CL 1948, 141.138.

141.139 Water pollution; prevention or abatement; public corporation may accept grants or aid from U.S. government.

Sec. 39. Any public corporation is hereby authorized to apply for and accept grants or any other aid which the United States government or any agency thereof has authorized or may hereafter authorize to be given or made to the several states of the United States or to any political subdivisions or agencies thereof within the states for the construction of public improvements, including all necessary action preliminary thereto, the purpose of which is to aid in the prevention or abatement of water pollution.

HISTORY: Add. 1949, p. 310, Act 244, Eff. Sep. 23.

Act 342, 1969, p. 770; Imd. Eff. Dec. 26.

AN ACT to authorize for a temporary period of time, public corporations to issue bonds and other evidences of indebtedness without limit as to interest rate; and to authorize public corporations to establish and fix during such period of time maximum

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rates of interest on assessments or contract obligations in anticipation of which bonds or other evidences of indebtedness are to be issued.

The People of the State of Michigan enact:

141.151 Interest rates; definition.

Sec. 1. As used in this act:

(a) "Public corporation" means any body corporate organized by or pursuant to the laws of this state to carry out a public governmental or proprietary function, including, without limitation on the foregoing, the state or any school district, city, village, township, county, district, commission, authority, university, college, or any combination thereof, which is a corporate entity.

(b) "Bonds or other evidences of indebtedness" means any instrument providing for the payment of money, executed by or on behalf of a public corporation or which a public corporation has assumed and agreed to pay, including, without limitation on the foregoing, bonds, notes, contracts, leases and certificates.

HISTORY: New 1969, p. 770, Act 342, Imd. Eff. Dec. 26.

141.152 Bonds or other evidences of indebtedness; agreements prior to January 1 and July 1, 1971.

Sec. 2. Notwithstanding the provisions of any other law, charter provision, ordinance, ballot or other proceedings to the contrary, any public corporation, at any time prior to July 1, 1971, may agree or contract to pay interest on bonds or other evidences of indebtedness issued by it pursuant to law, subject to the prior permission of the municipal finance commission, at an interest rate or rates not greater than 8% per annum on bonds or other evidences of indebtedness issued after the effective date of this act but before January 1, 1971 nor greater than 7 ½% per annum on bonds or other evidences of indebtedness issued on or after January 1, 1971 but before July 1, 1971.

HISTORY: New 1969, p. 770, Act 342, Imd. Eff. Dec. 26.

141.153 Assessments or contracts in anticipation of issuance of bonds prior to July 1, 1971.

Sec. 3. Notwithstanding the provisions of any other law, charter provision or ordinance to the contrary, any assessment made by a public corporation against any corporation, public or private, or any firm or person, or any contract obligation incurred by a public corporation in anticipation of which bonds are to be issued, made or incurred prior to July 1, 1971, may bear any rate of interest determined by the governing body of the assessing or contracting public corporation at the time of assessment or contract. If bonds or other evidences of indebtedness are subsequently issued in anticipation of the assessment, the rate of interest payable on the assessment shall be adjusted after the issuance to a rate which is not more than 1 percentage point in excess of the average net rate of interest borne by the bonds or other evidences of indebtedness upon issuance.

HISTORY: New 1969, p. 770, Act 342, Imd. Eff. Dec. 26.

141.161-141.163 Repealed. 1957, p. 77, Act 71, Eff. Sep. 27.

Sections authorized acquisition and financing of city parking facilities.

Act 219, 1952, p. 362; Eff. Sep. 18.

AN ACT to authorize townships to acquire and operate automobile parking facilities for the use of the public; to provide the manner of acquiring and financing the same; and to authorize the leasing of space therein for other uses.

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The People of the State of Michigan enact:

141.171 Automobile parking facilities; leasing space, limitation.

Sec. 1. Any township may acquire, improve, enlarge, extend and operate automobile parking facilities for the use of the public and may finance the same by the issuance of revenue bonds, all as provided in Act No. 94 of the Public Acts of 1933, as now or hereafter amended, being sections 141.101 to 141.139, inclusive, of the Compiled Laws of 1948. Such facilities at any 1 location may be operated independently or jointly with those at 1 or more other locations. For the purpose of such acquirement a township may purchase, construct and/or condemn property. Such facilities may be acquired and operated by a township after first securing the approval of the electors thereof, and shall be open to the use of the public in general on the same terms as may be prescribed by the township board. The township board shall submit such proposition to the electors of the township at any general or special election called for that purpose, and if a majority vote of the electors voting thereon shall vote in favor thereof, the township board shall be authorized to acquire and operate automobile parking facilities, as provided under the provisions of this act. Automobile parking facilities owned by a township and for the use of which a fee is charged shall not be exempt from taxation.

HISTORY: New 1952, p. 362, Act 219, Eff. Sep. 18.

141.172 Automobile parking facilities; leasing of ground and basement floor space by township for purposes other than parking of automobiles.

Sec. 2. The township board of the township may lease for purposes other than the parking of automobiles, upon such terms and for such periods as it shall deem advisable, any portion of the ground and basement floor space in any structure acquired hereunder, but not to exceed 25 per centum of the total floor area of the entire structure, if it shall deem such leasing to be beneficial in connection with the acquirement and/or operation of such facilities. If a structure is designed for the parking of automobiles on the roof, such roof area shall be considered as a part of the floor area of the structure. The income from any such lease shall be deemed a part of the revenues of the facilities: Provided, however, That no business involving the servicing, repairing or the furnishing of supplies for motor vehicles other than the parking of such vehicles and the delivery thereof shall be dispensed or furnished at or in connection with any township parking facility.

HISTORY: New 1952, p. 362, Act 219, Eff. Sep. 18.

141.173 Scope of act.

Sec. 3. This act shall not be deemed to repeal or limit the powers granted in any other act but shall be construed as cumulative authority for the exercise of the powers herein granted.

HISTORY: New 1952, p. 363, Act 219, Eff. Sep. 18.

Act 151, 1933, p. 221; Imd. Eff. Jun. 22.

AN ACT to authorize the state and the municipalities thereof to compromise, adjust, modify, compound, refund, or otherwise alter the amount contracted to be paid and the time within which the same is to be paid under the funded indebtedness of any municipality or special assessment district owned and held, in whole or in part, by the state and/or the municipalities thereof.

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The People of the State of Michigan enact:

141.191 Compromise of municipal indebtedness; definitions.

Sec. 1. The following definitions shall apply for the purposes of this act:

(a) "Municipality": Any county, township, city, village or school district.

(b) "Governing body": The board of supervisors of a county; the township board of a township; the council, common council or commission of a city; the council, commission or board of trustees of a village; the board of education or district board of a school district.

(c) "Funded indebtedness": All indebtedness evidenced by bonds and/or notes lawfully issued by any municipality, or special assessment district, as a general obligation of the municipality or special assessment district and/or payable out of a specific fund, tax or assessment, including but not by way of limitation of refunding bonds. The term "funded indebtedness" shall not include notes issued in anticipation of the issuance of bonds pursuant to the provisions of section 10 of Act No. 273 of the Public Acts of 1925, as amended.

HISTORY: CL 1948, 141.191.

NOTE: Act 273, 1925, above referred to, has been repealed and superseded by Act 202, 1943, being Compilers' § 131.1 et seq., and supersedes the public debt commission mentioned in Sec. 2.

141.192 Compromise of municipal defaulted funded indebtedness owned by state or other municipality.

Sec. 2. If the funded indebtedness of any municipality or any special assessment district, in default as to principal and/or interest, shall be owned and held, in whole or in part, by the state of Michigan, or any municipality thereof, it shall be lawful for the state treasurer, by and with the consent of the public debt commission and the governor, if such funded indebtedness is owned and held by the state, and the treasurer of any municipality thereof, by and with the consent of the governing body of such municipality, if such funded indebtedness is owned and held by such municipality, to join with the other holders, if any, of such funded indebtedness in a plan for the compromising, adjusting, modifying, compounding, refunding, or otherwise altering in the amount contracted to be paid under such funded indebtedness, or the time within which the same is to be paid, and for such purpose said respective treasurers may bind said state or municipality thereof, as the case may be, after being duly authorized so to do as above provided, in accordance with such proposed plan.

HISTORY: CL 1948, 141.192.

Act 72, 1939, p. 131; Imd. Eff. May 3.

AN ACT to authorize taxing agencies and instrumentalities in the state of Michigan to proceed under the provisions of the acts of the congress of the United States of America to secure a composition of their respective debts.

The People of the State of Michigan enact:

141.201 Taxing agency or instrumentality; procedure under federal municipal debt adjustment act; plan, conditions; retroactive effect.

Sec. 1. Any taxing agency or instrumentality in this state as defined in an act of the congress of the United States of America entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved July 1, 1898, and acts amendatory thereof and supplementary thereto, may proceed under the terms and conditions of such acts to secure a composition of its debts, but no securities for the refunding of such debts shall be issued until first approved by the public debt commission of this state. The governing authority of any such taxing agency or instrumental-

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ity, or the officer, board or body having authority to levy taxes to meet the obligations to be affected by the plan of composition may file the petition and agree upon any plan of composition authorized by said act of congress, and may include in such plan of composition any terms and conditions relating to readjustment, alteration, extension and reassessment of taxes and assessments which they may deem advisable. Such plan of composition, when approved by the court as provided in said act of congress, shall be binding upon such taxing agency or instrumentality. The permission herein granted shall apply retroactively to any proceedings heretofore taken under said acts to secure such a composition.

HISTORY: CL 1948, 141.201.

NOTE: For the act above referred to, see 11 U.S.C.A. § 1 et. seq. For successor to public debt commission see Compilers § 131.1. et seq.

Act 204, 1933, p. 318; Imd. Eff. Jun. 28.

AN ACT to authorize municipalities to call for and accept tenders of defaulted bonds.

The People of the State of Michigan enact:

141.211 Defaulted municipal bonds.

Sec. 1. Any county, city, township, village, or school district in this state is hereby authorized to call for tenders of, and accept defaulted bonds of such municipality by complying with the following terms and conditions.

HISTORY: CL 1948, 141.211.

141.212 Defaulted municipal bonds; call for tenders.

Sec. 2. Whenever any bonds of any special assessment district or improvement district of any county, city, township, village, or school district of the state of Michigan shall have been or have remained in default as to principal or interest for a period of longer than 6 months and there shall not be, or have been within said period of default, sufficient sums of money on hand belonging to said special assessment district or improvement district to pay the principal and interest of said bonds so in default, the governing body of such municipality may by resolution call for tenders of such defaulted bonds and advertise such call for tenders of bonds at least once, in a newspaper having general circulation in such municipality. Such advertisement shall be published at least 10 days prior to the time for presentation of such tenders of bonds.

HISTORY: CL 1948, 141.212.

141.213 Defaulted municipal bonds; tenders, acceptance or rejection.

Sec. 3. Upon the giving of such call for tenders of such bonds, the holder or holders thereof may submit his tender to the governing body of such municipality, sealed and in writing, stipulating the lowest price at which the owner of such bond or bonds will sell such bonds to said municipality. At the time set for the opening and examining of such tenders the governing body of such municipality shall examine and list such tenders as shall have been made and may accept the lowest tender thereof, but not to exceed the amount of funds available of such special assessment district or improvement project: Provided, That such municipality shall first accept the tender or tenders which are the lowest in price and next accept such additional tenders at the next lowest price, the total of said tenders so accepted not to be in excess of the available balance of funds of said special assessment district or project: Provided further, That in

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all such advertisements of calls for tenders, the municipality shall reserve the right to reject all tenders, and such municipality may upon the opening of such tenders, reject all of the same.

HISTORY: CL 1948, 141.213.

141.214 Defaulted municipal bonds; payment of accepted tenders.

Sec. 4. Upon the acceptance of any of such tenders, said bonds shall be paid at the price requested by such tenders, out of the funds available therefor of such special assessment district or improvement project, and such bonds as shall have been accepted in pursuance to such tenders shall be immediately cancelled.

HISTORY: CL 1948, 141.214.

Act 79, 1937, p. 106; Imd. Eff. Jun. 14.

AN ACT to authorize any municipality, as herein defined, to borrow money and issue notes in anticipation of the collection of revenues other than taxes and special assessments.

The People of the State of Michigan enact:

141.221 Definitions.

Sec. 1. The following definitions shall apply for the purposes of this act:

(a) Municipality. Any municipality of the state of Michigan which may now or may hereafter operate any public utility pursuant to law for the purpose of supplying bus or street railway transportation (including all plants, works, instrumentalities and properties used or useful in connection with the operation of any public utility for the purpose of supplying street railway or bus transporation, except any gas or electric utility), or water supply systems (including all plants, works, instrumentalities and properties used or useful in connection with obtaining a water supply system, the treatment of water and/or the distribution of water, except any gas or electric utility).

(b) Governing body. The council, common council or commission of any such municipality.

(c) Fiscal year. Such 12 months period as may be determined by statute, charter or ordinance.

(d) Commission. The public debt commission provided for in this act.

HISTORY: Am. 1947, p. 642, Act 342, Eff. Oct. 11;—CL 1948, 141.221.

141.222 Municipal borrowing; bus and street railroad transportation or water supply utility purposes.

Sec. 2. Any municipality of the state of Michigan which may now or may hereafter operate any public utility pursuant to law for the purpose of supplying bus or street railway transportation or water supply, may by resolution of its governing body, borrow money and issue notes therefor, bearing a rate of interest not to exceed 6 per cent per annum for the purpose of acquiring, constructing, purchasing, owning, maintaining or operating any such public utility as defined in section 1(a) hereof as the board in charge of such utility and the governing body of any such municipality may deem necessary or desirable for the purpose of supplying bus or street railway transportation or water supply to the inhabitants of any such municipality and within a distance of 10 miles from any portion of its corporate limits, and as the public convenience may require, together with all the necessary equipment therefor.

HISTORY: Am. 1947, p. 642, Act 342, Eff. Oct. 11;—CL 1948, 141.222.

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141.223 Municipal borrowing for utility purposes; public debt commission, application, authority.

Sec. 3. Before any notes shall be issued under the provisions hereof, the municipality shall make application to the public debt commission created under the provisions of Act No. 13 of the Public Acts of the first extra session of 1932. Said commission shall have power:

(a) To permit the issuance of said notes in whole or in part as requested in such application;

(b) To prescribe reasonable terms and conditions upon which such notes shall be issued;

(c) To deny permission to issue such notes in whole or in part, if, in the opinion of the commission, the issuance thereof to the extent of such denial would not be in the public interest or would not be sound municipal financing.

HISTORY: CL 1948, 141.223.

NOTE: Act 13, 1932, 1st Ex. Ses., above referred to, has been repealed and superseded by Act 202, 1943, being Compilers' § 131.1 et seq.

141.224 Municipal borrowing for utility purposes; limitations.

Sec. 4. Any such governmental unit may borrow money and issue notes in anticipation of the collection of revenues of any such utility to an amount not exceeding 10 per cent of the total revenues of such public utility for the preceding fiscal year. Such notes may be issued at any time against current revenues of any such utility or the same may be issued against the revenues of any ensuing fiscal year and shall be made payable not later than the fiscal year against which revenues are pledged.

HISTORY: CL 1948, 141.224.

141.225 Municipal borrowing for utility purposes; special sinking fund.

Sec. 5. Whenever any such municipality shall authorize the issuance of said notes, it shall in the resolution providing for the issuance and sale of same, provide for a special sinking fund into which shall be paid a sufficient sum from the revenues of said utility to retire both the principal and interest of said notes at maturity. Said revenue so deposited shall be placed by the municipality in a separate bank account in a special sinking fund and shall be used for no other purpose than the payment of the principal and interest herein provided for at maturity.

HISTORY: CL 1948, 141.225.

141.226 Municipal borrowing for utility purposes; liability of municipality; construction of act.

Sec. 6. The faith and credit of the municipality shall remain pledged for the payment of said notes: Provided, however, That this act shall not repeal any existing statutory or charter provisions authorizing the borrowing of money or the issuance of bonds or notes, but shall be construed as an additional grant of power to that now prescribed by other statutory or charter provisions. The notes and revenues herein provided for shall not be deemed to be within any statutory or charter limitation of tax rate, bonded indebtedness, or other indebtedness, but shall be deemed to be authorized in addition thereto.

HISTORY: CL 1948, 141.226.

Sec. 7. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 415, Act 287, Imd. Eff. May 25.

Act 224, 1939, p. 419; Imd. Eff. Jun. 14.

AN ACT relative to impounded moneys in sinking funds created and held for the payment of county highway bonds, when said highway bonds have been paid.

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The People of the State of Michigan enact:

141.231 Impounded moneys in sinking fund for county highway bonds; credit to county road fund if bonds have been paid.

Sec. 1. When any moneys in any sinking fund created and held for the payment of county highway bonds have been impounded in closed banks, and said highway bonds have been paid by the board of county road commissioners either from moneys raised by tax in the county or through the distribution of gas and weight tax moneys, any such impounded sinking fund moneys shall be paid over to the county treasurer when released from said banks, and shall be credited to the county road fund for maintenance and improvement of county roads and city and village streets, in accordance with the provisions of section 19 of Act No. 150 of the Public Acts of 1927 as amended.

HISTORY: CL 1948, 141.231.

NOTE: Sec. 19, Act 150, 1927, above referred to, is Compilers' repealed. See § 247.660 et seq. § 207.119.

Act 328, 1941, p. 569; Eff. Jan. 10, 1942.

AN ACT validating proceedings adopted subsequent to the 1939 legislative session by any city or village owning and operating its electric system for the authorization of electric revenue certificates for the purpose of acquiring additional equipment for its electric system; authorizing the issuance of such revenue certificates; validating such certificates and making them negotiable instruments, repealing all acts and parts thereof in conflict herewith to the extent of such conflict, and providing a referendum thereon.

The People of the State of Michigan enact:

141.241 Validation of city or village revenue certificates; proceedings for issuance; negotiability.

Sec. 1. In any case where the governing body of any city or village in the state of Michigan which owns and operates its electric system has since the adjournment of the 1939 legislative session and prior to the date on which this act becomes effective, adopted proceedings for the authorization of its electric revenue certificates payable solely from the revenues of its electric system for the purpose of acquiring additional equipment for its electric system, such proceedings are hereby validated, ratified and confirmed, and the provisions thereof are hereby declared to be binding and effective in accordance with their terms, all with like force and effect as though such proceedings had been fully authorized by statutes existing at the time of their adoption. Any such city or village, through such of its officers as may have been or shall be designated by the legislative body thereof, is hereby authorized to issue such revenue certificates and to do and perform such acts and things as may be necessary to the issuance of such certificates, and such certificates, when issued pursuant to such proceedings, shall be the valid and binding obligations of such city or village in accordance with their terms and shall be fully negotiable under the provisions of the negotiable instruments law as it is in force in the state of Michigan.

HISTORY: CL 1948, 141.241.

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141.242 Act applicable only to existing proceedings.

Sec. 2. This act shall be construed to be a validating act applicable only to proceedings adopted prior to its passage and shall not be construed to be an authorization for the adoption of future proceedings for the authorization of electric revenue certificates.

HISTORY: CL 1948, 141.242.

Sec. 3. (This was a repeal section.)

HISTORY: Rep. 1945, p. 409, Act 267, Imd. Eff. May 25.

141.244 Referendum; ballot; submission.

Sec. 4. The provisions of this act shall not become operative in any city or village of this state to which it may apply unless and until it is submitted to a vote of the qualified electors thereof and ratified by a majority of said electors voting thereon. The question of the adoption of the provisions of this act may be submitted to the voters of the city or village at any general or city or village election, after the passage of the act, by resolution of the legislative body; and like notice of the submission of the same shall be given as is required by law in the case of elections to elect city or village officers, and shall be submitted in substantially the following form:

"Shall the provisions of Act No. (here insert number of this act) of the Public Acts of 1941, be adopted by this city or village?

Yes ( )

No ( )."

If a majority of the electors voting on such proposition in any city, or village, as determined by the canvass of votes cast, shall vote in favor thereof, from and after such determination, the provisions of this act shall be in force.

The legislative body shall submit such proposition to the electors at the next general or city or village election whenever petitions for such submission, signed by 10 per cent of the qualified electors of said city or village as shown by the last preceding general or city or village election, shall be filed with the city or village clerk of said city or village.

HISTORY: CL 1948, 141.244.

Act 143, 1943, p. 184; Eff. Jul. 30.

AN ACT to empower boards of county road commissioners to borrow money in anticipation and upon the faith and credit of future receipts of revenues, derived from certain state collected taxes, for the purpose of purchasing road machinery or equipment or for improvement of county highways or for general county road purposes. Am. 1951, p. 336, Act 227, Eff. Sep. 28.

The People of the State of Michigan enact:

141.251 County road commissioners; authorization to borrow in anticipation of revenues returned to county.

Sec. 1. Boards of county road commissioners are authorized and empowered, upon the adoption of a resolution, but subject to the prior permission of the municipal finance commission to borrow money, the sum of which shall not exceed the amount previously authorized by their respective county board of supervisors, in anticipation of and to pledge for the payment thereof, future revenues derived from state collected

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taxes returned to such county for county road purposes pursuant to law, and to issue notes therefor for the purpose of purchasing road machinery or equipment or for improvement of county highways, or for other general county road purposes.

HISTORY: CL 1948, 141.251;—Am. 1951, p. 336, Act 227, Eff. Sep. 28.

CITED IN OTHER SECTIONS: Sections 141.251 to 141.254 are cited in § 247.662.

141.252 Notes; payment, rate of interest; resolution.

Sec. 2. All notes issued hereunder shall be subject to the following provisions:

(a) Shall be payable in equal annual installments the aggregate of which shall not exceed 10, the first of which shall be due not later than August 1st of the next succeeding calendar year and subsequent maturities, if any, shall likewise be payable August 1st; shall bear interest at a rate or rates not exceeding 5 per centum per annum, payable semiannually; and may be made subject to redemption on any interest payment date prior to maturity at par and accrued interest on such terms and conditions as shall be provided in the authorizing resolution.

(b) For the purpose of computing the amount or amounts which may be borrowed, a loan made hereunder shall not, when payable as hereinafter set forth, exceed that percentage of the total aggregate revenues derived from state collected taxes returned to such county for county road purposes pursuant to law for the 5 years next preceding:

(1)	in	10	installments,	40% thereof
(2)	in	9	installments,	36% thereof
(3)	in	8	installments,	32% thereof
(4)	in	7	installments,	28% thereof
(5)	in	6	installments,	24% thereof
(6)	in	5	installments,	20% thereof
(7)	in	4	installments,	16% thereof
(8)	in	3	installments,	12% thereof
(9)	in	2	installments,	8% thereof
(10)	in	1	installment,	4% thereof

Provided, That no loan payable in more than 2 installments shall be authorized for any purpose other than for the construction, improvement, maintenance or repair of highways: Provided further, That at no time shall the total loans outstanding under this act exceed 40 per centum of the sum of such revenues derived from state collected taxes returned to such county for county road purposes for the last preceding 5 calendar years and not specifically allocated for other purposes.

(c) The resolution authorizing such borrowing shall contain an irrevocable appropriation providing for the payment of the principal and interest thereof from the moneys to be derived from state collected taxes returned to such county for county road purposes pursuant to law which have not been theretofore specifically allocated for other purposes; and thereafter the county treasurer shall set aside in a separate fund from such revenues received in each year in amount sufficient for the payment of the principal and interest of such loan maturing on August 1st next.

HISTORY: CL 1948, 141.252.—Am. 1951, p. 336, Act 227, Eff. Sep. 28.

141.253 Notes; approval, sale.

Sec. 3. The municipal finance commission may in its discretion approve or deny, in whole or in part, such borrowing and the issuing of notes therefor. Notes authorized hereunder shall be advertised and sold as provided by section 2 of chapter 3 of Act No. 202 of the Public Acts of 1943, as amended.

HISTORY: CL 1948, 141.253;—Am. 1951, p. 337, Act 227, Eff. Sep. 28.

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141.254 Saving clause; pledging allocated revenues prohibited.

Sec. 4. Should any provision or section of this act be held to be invalid for any reason, such holding shall not be construed as affecting the validity of any remaining portion of such section or of this act, it being the legislative intent that this act shall stand, notwithstanding the invalidity of any such provisions or section. Nothing in this act contained shall be construed as permitting any board of county road commissioners to pledge future revenues derived from state collected taxes returned to such county for county road purposes which are by law required to be allocated to (1) any city or village, (2) the relief of assessment districts established under provisions of Act No. 59 of the Public Acts of 1915, as amended, or (3) the reduction of taxes for the payment of bonds.

HISTORY: CL 1948, 141.254;—Am. 1951, p. 337, Act 227, Eff. Sep. 28.

Act 177, 1943, p. 250; Imd. Eff. Apr. 17.

AN ACT to provide for the creation of a fund or funds in political subdivisions for acquiring, constructing, extending, altering, repairing or equipping public improvements or public buildings; to provide for appropriations, credits and transfers to said fund or funds; and to provide for the disbursement thereof. Am. 1944, 1st Ex. Ses., p. 11, Act 4, Imd. Eff. Feb. 16;—Am. 1956, p. 248, Act 136, Eff. Aug. 11.

The People of the State of Michigan enact:

141.261 Funds for public improvements or buildings.

Sec. 1. The legislative or governing body of any political subdivision is hereby authorized and empowered to create and establish a fund or funds for the purpose of appropriating, providing for, setting aside and accumulating moneys to be used for acquiring, constructing, extending, altering, repairing or equipping public improvements or public buildings, which said political subdivision may by the provisions of its charter or the general law be authorized to acquire, construct, extend, alter, enlarge, equip or repair.

HISTORY: Am. 1944, 1st Ex. Ses., p. 11, Act 4, Imd. Eff. Feb. 16;—CL 1948, 141.261;—Am. 1956, p. 248, Act 136, Eff. Aug. 11.

141.262 Funds for public improvements or buildings; transfer or encumbrance.

Sec. 2. Notwithstanding the provisions of any law or the charter of any city or village, moneys accumulated in said fund shall not be transferred, encumbered or otherwise disposed of, except for the purpose of acquiring, constructing, extending, altering, repairing or equipping public improvements or public buildings, which a political subdivision may by the provisions of its charter or the general law be authorized to acquire, construct, extend, alter, repair or equip. Funds established and moneys on hand which had been allocated to or appropriated for the making of capital improvements on January 1, 1956, may be transferred to or credited to such reserve fund created under authority of this act and when so transferred or credited shall be governed by the provisions of this act.

HISTORY: Am. 1944, 1st Ex. Ses., p. 11, Act 4, Imd. Eff. Feb. 16;—CL 1948, 141.262;—Am. 1956, p. 248, Act 136, Eff. Aug. 11.

141.263 Funds for public improvements or buildings; allocation of miscellaneous revenues; sale of lands.

Sec. 3. The legislative or governing body of any political subdivision may allocate to said fund miscellaneous revenues received and credited to the general fund, including revenues received by said political subdivision under the provisions of Act No. 155 of the Public Acts of 1937, as amended, being sections 211.351 to 211.364, inclusive, of

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the Compiled Laws of 1948, and also revenues received from the sale of lands owned by the political subdivision and which are no longer needed for public purposes, if said revenues are not otherwise pledged or encumbered for other purposes.

HISTORY: Am. 1944, 1st Ex. Ses., p. 11, Act 4, Imd. Eff. Feb. 16;—CL 1948, 141.263;—Am. 1956, p. 248, Act 136, Eff. Aug. 11.

141.264 Tax limitation.

Sec. 4. Nothing in this act shall be construed so as to authorize any city or village to exceed any tax limitation imposed by law or charter of said city or village.

HISTORY: CL 1948, 141.264.

141.265 Additional powers; political subdivision construction.

Sec. 5. This act shall be in addition to all powers heretofore granted to political subdivisions by state law, or by any charter thereof.

The term "political subdivision" as used in this act shall be construed to mean any county, city, village, township, school district or other local unit of this state.

HISTORY: Am. 1944, 1st Ex. Ses., p. 11, Act 4, Imd. Eff. Feb. 16;—CL 1948, 141.265.

Sec. 6. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 416, Act 267, Imd. Eff. May 25.

Act 297, 1945, p. 510; Eff. Sep. 6.

AN ACT to validate certain bonds of any municipality incorporated pursuant to Act No. 279 of the Public Acts of 1909, as amended.

The People of the State of Michigan enact:

141.271 Validating certain municipal bonds.

Sec. 1. Any public utility water bond or bonds issued prior to July 30, 1943, by any municipality incorporated pursuant to Act No. 279 of the Public Acts of 1909, as amended, and purchased by the same municipality and held as an investment in any sinking fund of such municipality, whether in coupon or registered form, are hereby validated notwithstanding failure to first offer said bond or bonds at public sale as provided by Act No. 273 of the Public Acts of 1925, as amended, at the time said bond or bonds were so purchased, and any such bond or bonds and/or investments therein by any such municipality for the benefit of its sinking funds are hereby declared and shall be deemed to be the legal bond or bonds and valid investments of any such municipality notwithstanding failure to advertise for public bids as provided by the act last mentioned.

HISTORY: CL 1948, 141.271.

NOTE: Act 279, 1909, above referred to, is Compilers' § 117.1 et. seq. Act 273, 1925, above referred to, has been repealed and superseded by Act 202, 1943, being Compilers' § 131.1 et. seq.

141.272 Sale or reinvestment; notice by publication before sale.

Sec. 2. Any such bond or bonds held in any sinking fund as specified in section 1 hereof, may be sold as directed by resolution of the board of sinking fund commissioners of any such municipality as constituted under the charter of any such municipality, subject to the approval of the municipal finance commission as created by Act No. 202 of the Public Acts of 1943: Provided, That the proceeds thereof shall be applied to the purpose for which said bond or bonds are held in any such sinking fund, or the same shall be reinvested for the benefit of such sinking fund: Provided further, That no such obligations shall be sold except at public sale after notice by publication at least 7 days

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before the sale in a publication printed in the English language and circulated in the state of Michigan which carries as part of its regular service notices of the sale of municipal bonds, and/or in a newspaper of general circulation in the municipality designated by the legislative body of the municipality.

HISTORY: CL 1948, 141.272.

NOTE: Act 202, 1943, above referred to, is Compilers' § 131.1 et. seq.

141.281 Repealed. 1958, p. 83, Act 77, Eff. Sep. 13.

Section authorized boards of supervisors to use excess funds of county road fund for payment of interest on road bonds in certain cases.

141.291, 141.292 Repealed. 1958, p. 83, Act 77, Eff. Sep. 13.

Sections provided for legalization of good road bonds.

Act 178, 1931, p. 288; Imd. Eff. May 28.

AN ACT to provide for the keeping of records of highway and drainage district bonds.

The People of the State of Michigan enact:

141.301 Repealed. 1958, p. 84, Act 77, Eff. Sep. 13.

Section required county road commissioners to file statement of highway improvement bonds.

141.302 Drainage district bonds; report by county drain commissioner.

Sec. 2. The county drain commissioner of any county in which is located any part of a drainage district on behalf of which bonds have been issued under Act No. 316 of the Public Acts of 1923, as amended, being sections 4838 to 4979, inclusive, of the Compiled Laws of 1929, shall on or before July 1, 1931, and annually in the month of June of each year thereafter, file with the county treasurer of the county, a statement of all drainage district bonds theretofore issued under said act on behalf of any drainage district lying wholly or in part within the county. Said drain commissioner shall, within the same time, file with the township, village or city treasurer of each township, city or village assessed at large for any part of the cost of any such drain, a statement of the bonds issued on behalf of such drainage district. The statement so filed shall include the amount of such bonds, the date of issue, the amount due in each year, the rate of interest, the date and place of payment of principal and interest, the name or number of the drainage district, the boundaries or description of the drainage district, and the percentage of apportionment of the cost of such drain against the lands in the district and the state, or any county or counties, township or townships, city or cities and village or villages at large.

HISTORY: CL 1948, 141.302.

141.303 Record of bonds by county and municipal clerks.

Sec. 3. It shall be the duty of each county, township, city and village treasurer with whom any such statements are filed to keep a proper record thereof suitably indexed and open for public inspection.

HISTORY: CL 1948, 141.303.

Act 11, 1956 (Ex. Ses.), p. 14; Imd. Eff. Oct. 2.

AN ACT validating proceedings by any city or village, whether under home rule or general charter, owning and operating its electric plant and system by which additional equipment for its electric plant and system was acquired by means of conditional sales or title retention or other purchase contract; validating any certificates, warrants or other documents authorized and issued by any such city or village as evidence of the obligation to pay or the right to receive the purchase price or any part or

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installment thereof pursuant to such contract, and payable from the revenues of such electric plant or system; and making such certificates, warrants or other separate evidences of the obligation to pay such purchase price negotiable instruments.

The People of the State of Michigan enact:

141.311 Municipal electric plant; purchase of equipment on conditional sales contract, validation; negotiability of revenue obligations.

Sec. 1. In any case where the governing body of any city or village in the state of Michigan which owns and operates its electric plant or system has adopted proceedings for the purchase of additional equipment for its electric plant or system, providing for the purchase of such additional equipment on a conditional sales contract, or other contract of purchase, pursuant to which contract the incurrence of obligations for the purchase price or the issuance of electric revenue certificates payable solely from the revenues of the electric system of such city or village has been authorized, such proceedings are hereby validated, ratified and confirmed and the provisions thereof are hereby declared to be binding and effective, in accordance with their terms, all with like force and effect as though such proceedings had been fully authorized by statutes existing at the time of their adoption. Any such city or village, through such of its officers as may have or shall be designated by the legislative body thereof, is hereby authorized to carry out the duties imposed under any such conditional sales or other purchase contract, to make payment of any revenue obligations or certificates incurred or issued under such contract, and to do and perform such acts and things as may be necessary to the issuance and payment of such obligations or certificates, and such obligations or certificates now outstanding, or when incurred or issued pursuant to such proceedings, shall be valid and binding obligations of such city or village, in accordance with their terms, and such certificates shall be fully negotiable under the provisions of the negotiable instruments law as it is in force in the state of Michigan.

HISTORY: New 1956, 1st Ex. Ses., p. 14, Act 11, Imd. Eff. Oct. 2.

141.312 Municipal electrical plants; definitions.

Sec. 2. As used in this act:

(a) The terms "city" and "village" mean any city and any village in the state of Michigan existing or operating under a special or home rule charter as well as any under a general charter; and

(b) The term "electric revenue certificates" means evidences of obligations, incurred by any city or village for or to provide funds for the extension or improvement of its electric plant or system, which are payable solely from the revenues derived from the operation of said plant or system, in whatever form.

HISTORY: New 1956, 1st Ex. Ses., p. 15, Act 11, Imd. Eff. Oct. 2.

Act 7, 1949, p. 7; Imd. Eff. Mar. 3.

AN ACT to authorize townships, cities and incorporated villages by vote of the electors thereof to appropriate and transfer unexpended balances to the county in which situated to be expended for county purposes.

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The People of the State of Michigan enact:

141.351 Transfer of unexpended balances by townships or municipalities to county.

Sec. 1. The several townships, cities and incorporated villages of this state, by a majority vote of the electors thereof voting at any general or special election called for that purpose, are hereby authorized to appropriate and transfer any unexpended balances or portions thereof in its general or contingent fund to the county in which it is situated, such revenues to be credited to the general fund of the county, to be disbursed for such purpose or purposes as may be designated by the electors in voting on the proposition, and, in case of no designation, as shall be determined by the board of supervisors of the county.

HISTORY: New 1949, p. 7, Act 7, Imd. Eff. Mar. 3.

141.352 Transfer of unexpended balances; submission to electors; conduct of election.

Sec. 2. The question of transferring unexpended balances or portions thereof by any township, city or incorporated village to the county in which situated may be submitted to the electors of such township, city or incorporated village by the legislative body thereof at any general election to be held therein or at a special election to be called by the legislative body for that purpose. The provisions of the general election law shall govern the conducting of any such election and the counting, canvassing and returning of votes cast. In case a majority of the electors voting on the proposition shall vote in favor thereof, the treasurer of the township, city or incorporated village, as the case may be, shall be authorized to make the transfer, in accordance with the requirements of the proposition voted on.

HISTORY: New 1949, p. 7, Act 7, Imd. Eff. Mar. 3.

Act 57, 1957, p. 60; Eff. Sep. 27.

AN ACT to authorize cities and villages in Michigan to raise money by taxes or bond issue within certain limits for the purpose of establishing a local improvement revolving fund; providing for the use of moneys in the fund and the reimbursement of moneys used therefrom; and other matters relating to the creation of the fund and its use.

The People of the State of Michigan enact:

141.371 Local improvement revolving fund; definitions.

Sec. 1. For the purpose of this act unless the context otherwise indicates:

(a) "Local improvement" means any public improvement, the expense of which, in whole or in part, the governing body of any city or village pursuant to law or charter has determined shall be defrayed by special assessments upon the property specially benefited.

(b) "Governing body" means the council, common council or commission of a city, or the council, commission or board of trustees of a village.

(c) "Local improvement revolving fund" means the fund authorized to be established pursuant to this act for the purposes herein specified.

(d) "Tax elector" means a person having the qualifications of an elector who has property assessed for taxes in the city or village or the lawful husband or wife of such person.

HISTORY: New 1957, p. 60, Act 57, Eff. Sep. 27.

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141.372 Local improvement revolving fund; establishment.

Sec. 2. Any city or village may advance the cost either in whole or in part of any local improvement, and in order to provide working capital funds for such purpose, by resolution of its governing body, may establish a fund to be designated "local improvement revolving fund."

HISTORY: New 1957, p. 61, Act 57, Eff. Sep. 27.

141.373 Local improvement revolving fund; sources of funds.

Sec. 3. Any city or village may provide funds for the local improvement revolving fund by any or all of the following means:

(a) The allocation to the fund of miscellaneous revenues, if the revenues are not otherwise pledged or encumbered;

(b) The appropriation of such funds raised by general taxation in accordance with authorization therefor otherwise granted by law or charter, as the governing body may determine to be necessary for the fund; but no city or village shall exceed, for this purpose, any tax limitation imposed by such other law or charter; or

(c) The borrowing of such sums pursuant to resolution of its governing body and subject to a vote of its tax electors, as the governing body may determine to be necessary for the purpose of establishing or augmenting such a fund, and the issuing of its general obligation serial bonds pledging the full faith and credit of the city or village therefor. No bonds shall be issued under this authorization which at the time of their issuance would cause the indebtedness of the city or village represented by outstanding special assessment bonds which pledge the full faith and credit of the city or village for their payment, plus outstanding bonds issued pursuant to the provisions of this act, to exceed 12% of the assessed valuation of the taxable property in the city or village. The assessed valuation shall be that fixed by the last assessment roll of the city or village which has been reviewed by the board of review. All bonds issued pursuant to the provisions of this act shall mature in not to exceed 30 years from their date, and the provisions of Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2 of the Compiled Laws of 1948, shall be applicable to the bonds.

HISTORY: New 1957, p. 61, Act 57, Eff. Sep. 27.

141.374 Local improvement revolving fund; repayment of advances.

Sec. 4. A local improvement revolving fund established pursuant to the provisions of this act shall be a separate depository account of the city or village. Any local improvement revolving fund shall be used only for the purpose of advancing the costs, either in whole or in part, of any local improvement. Moneys advanced from the fund shall be repaid from the sale of special assessment bonds as authorized by law or charter or collections of special assessments on property specially benefited by any local improvement, the cost of which was advanced in whole or in part from the fund.

HISTORY: New 1957, p. 61, Act 57, Eff. Sep. 27.

141.375 Authority given by act.

Sec. 5. The authority hereby given shall be in addition to and not in derogation of any power existing in any city or village under any statutory or charter provision.

HISTORY: New 1957, p. 61, Act 57, Eff. Sep. 27.

Act 121, 1969, p. 215; Imd. Eff. Jul. 29.

AN ACT to authorize counties, cities, townships and villages to issue bonds or notes, and pledge deferred income from sale of capital assets, due and payable but which has not been received, for the payment of principal and interest thereon; and to authorize the county, city, township or village to pledge its full faith and credit for the payment of the bonds or notes.

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The People of the State of Michigan enact:

141.381 Issuance of bonds and notes; resolution; purpose; pledges; use of proceeds; debt limitation; general obligations.

Sec. 1. Any county, city, township or village, by resolution adopted by a majority vote of the members elect of its legislative body may authorize the issuance of bonds or notes of the county, city, township or village for the purpose of raising funds to be used for capital improvements and pledge as security for the payment of the principal and interest on the bonds or notes part or all of the deferred income from the sale of its capital assets. Moneys realized from issuance of bonds or notes secured by pledge of the deferred income from sale of capital assets shall be used solely for capital improvements. The county, city, township or village may also pledge its full faith and credit for the prompt payment of principal and interest on any bonds or notes issued pursuant to this act. In no case may the county, city, township or village involved borrow in excess of 80% of the face value of the assets pledged. The bonds or notes shall be valid and binding general obligations of the county, city, township or village notwithstanding any invalidity or illegality in the contract of sale of capital assets pledged for payment thereof.

HISTORY: New 1969, p. 215, Act 121, Imd. Eff. Jul. 29.

141.382 Form and execution of bonds or notes; principal and interest; maximum due in one year, due dates; redemption; payment; tax exemptions.

Sec. 2. The bonds or notes authorized to be issued under the provisions of this act shall be issued in the name of the county, city, township or village and shall be executed in the manner provided by resolution of its legislative body. Bonds or notes issued hereunder shall be negotiable instruments and shall be serial bonds or notes with the last maturity due not later than the year in which the final payment is due according to the contract of sale of capital assets. The maximum principal and interest falling due in any year shall not exceed income to be received during that year from the contract of sale of capital assets pledged for the payment of the bonds or notes plus any income therefrom due in prior years which will not be required for payment of principal or interest, or both, in prior years. The due date of principal and the first interest payment in each year shall be not less than 30 days subsequent to the estimated time of receipt of the payments on the contract for sale of capital assets pledged. The bonds or notes shall bear interest at not more than 6% per annum payable annually or semiannually. The bonds or notes may be made subject to prior redemption on the terms and conditions determined by the legislative body of the county, city, township or village. The bonds and coupons and notes shall be made payable in lawful money of the United States and shall be exempt from taxation by the state or by any taxing authority within the state.

HISTORY: New 1969, p. 216, Act 121, Imd. Eff. Jul. 29.

141.383 Public sale of bonds and notes; approval of issuance.

Sec. 3. The bonds or notes shall be sold at public sale for not less than par and notice of sale of the bonds or notes shall be published in a financial newspaper circulating in this state which carries as part of its regular service notices of sale of municipal bonds at least 7 full days before the date of sale. The issuance of the bonds or notes and the notice of sale therefor shall be subject to approval of the municipal finance commission but the bonds or notes shall not otherwise be subject to Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2 of the Compiled Laws of 1948.

HISTORY: New 1969, p. 216, Act 121, Imd. Eff. Jul. 29.

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Act 60, 1959, p. 60; Imd. Eff. Jun. 5.

AN ACT ratifying, validating and confirming all bonds issued by metropolitan districts and heretofore assumed by cities and ratifying, validating and confirming the assumption thereof by cities and authorizing cities to issue general obligation bonds to refund such bonds.

The People of the State of Michigan enact:

141.401 Metropolitan district bonds; assumption by cities; refunding bonds.

Sec. 1. All bonds heretofore issued by metropolitan districts of the state of Michigan and heretofore assumed by cities in the state of Michigan are hereby ratified, validated and confirmed notwithstanding any defects in the organization of any such metropolitan districts or in the proceedings authorizing the issuance and sale of such bonds, and the assumption of such bonds by cities is hereby ratified, validated and confirmed and such bonds are hereby declared to be the valid and legally binding obligations of such cities notwithstanding any defects in the proceedings pertaining to the assumption of such bonds by such cities, and notwithstanding the failure by such cities to comply with any prescribed statutory conditions to the assumption of such bonds; and all such cities are hereby authorized to issue general obligation bonds to refund such bonds at their stated maturity or at any redemption date.

HISTORY: New 1959, p. 61, Act 60, Imd. Eff. Jun. 5.

Act 43, 1963 (2nd Ex. Ses.), p. 56; Imd. Eff. Dec. 27.

AN ACT to provide for public hearings on budgets of local units of government.

The People of the State of Michigan enact:

141.411 Local unit of government; definition.

Sec. 1. As used in this act "local unit" means a county, township, city, village, authority or school district empowered by the constitution or by law to prepare budgets of estimated expenditures and revenues.

HISTORY: New 1963, 2nd Ex. Ses., p. 56, Act 43, Imd. Eff. Dec. 27.

141.412 Local unit of government; public hearing on proposed budget, notice.

Sec. 2. Every local unit shall provide for a public hearing to be held on its proposed budget, notice of such hearing to be given by publication in a newspaper of general circulation within such unit at least six days prior to such hearing. Such notice shall include the time and place of such hearing and shall state the place where a copy of such budget is available for public inspection.

HISTORY: New 1963, 2nd Ex. Ses., p. 56, Act 43, Imd. Eff. Dec. 27.

141.413 Local unit of government; final adoption of budget, hearing.

Sec. 3. Each local unit shall hold such public hearing prior to final adoption of its budget. Units which submit budgets to a county tax allocation board shall hold such hearing after its tax rate allocation has been fixed by such board.

HISTORY: New 1963, 2nd Ex. Ses., p. 57, Act 43, Imd. Eff. Dec. 27.

141.414 Local unit of government; changes in budget.

Sec. 4. Changes made in its budget by the governing body of a local unit subsequent to such public hearing shall not affect the validity of such budget.

HISTORY: New 1963, 2nd Ex. Ses., p. 57, Act 43, Imd. Eff. Dec. 27.

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141.415 Local unit of government; public hearing on budget, charter, statute.

Sec. 5. Local units which provide for a public hearing before adoption of their budgets either in pursuance of charter provision or law shall hold a public hearing in accordance with such provision of charter or law which shall be deemed to be in a manner prescribed by law.

HISTORY: New 1963, 2nd Ex. Ses., p. 57, Act 43, Imd. Eff. Dec. 27.

Act 2, 1968, p. 8; Imd. Eff. Feb. 20.

AN ACT to provide for the formulation and establishment of uniform charts of accounts and reports in local units of government; to define local units of government; to provide for the examination of the books and accounts of local units of government; to provide for annual financial reports from local units of government; to provide for the administration of this act; to prescribe the powers and duties of the state treasurer and the attorney general; to provide penalties for violation of this act; and to provide for meeting the expenses authorized by this act.

The People of the State of Michigan enact:

141.421 Uniform charts of accounts; standard procedures and forms.

Sec. 1. The state treasurer shall prescribe uniform charts of accounts for all local units of similar size, function or service designed to fulfill the requirements of good accounting practices relating to general government. Such chart of accounts shall conform as nearly as practicable to the uniform standards as set forth in the publication of the municipal finance officers' association of the United States and Canada entitled "a standard classification of municipal accounts, 1953" or as revised or changed. The official who by law or charter is charged with the responsibility for the financial affairs of the local unit shall insure that the local unit accounts are maintained and kept in accordance with the chart of accounts. The state treasurer may also publish standard operating procedures and forms for the guidance of local units in establishing and maintaining uniform accounting.

HISTORY: New 1968, p. 8, Act 2, Imd. Eff. Feb. 20.

141.422 Local unit; definition.

Sec. 2. As used in this act "local unit" means a city, village, township or any authority, board or commission thereof established by a city, village or township ordinance or charter.

HISTORY: New 1968, p. 8, Act 2, Imd. Eff. Feb. 20.

141.423 Publication; hearings.

Sec. 3. The state treasurer, before the adoption of a uniform chart of accounts, shall provide for advance publication and for hearings thereon with an advisory committee selected by the state treasurer from the local units and from other interested or concerned groups. The uniform chart of accounts, when finally adopted, shall be published and made readily available to all interested persons.

HISTORY: New 1968, p. 8, Act 2, Imd. Eff. Feb. 20.

141.424 Annual financial report.

Sec. 4. Each local unit of government shall make an annual financial report which shall be uniform for all accounts of the same class, 3 copies of which shall be filed in the office of the state treasurer and shall contain an accurate statement in summarized form showing, for each fiscal year, the amount of all collections and receipts from all sources and their disposition, the amount of expenditures for each purpose, the

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amount of indebtedness, balance of funds on hand at the close of each fiscal period, together with such other information as may be required by law. The annual report filed under this section shall be in lieu of the reporting requirements imposed by section 5 of Act No. 202 of the Public Acts of 1943, as amended, being section 133.5 of the Compiled Laws of 1948.

HISTORY: New 1968, p. 8, Act 2, Imd. Eff. Feb. 20.

141.425 Annual audit; exception.

Sec. 5. (1) All local units of government of less than 1,000,000 population shall have an annual audit of its financial records, accounts and procedures except that in the units of local government having populations of less than 2,000 such audit shall be required not less frequently than biennially.

(2) Local units of government with 1,000,000 or more population shall be required to obtain an annual audit as provided in this section, except that if internal auditing procedures for all public moneys are established, and a copy of the annual internal audit of all public moneys is filed with the state department of treasury, then an independent audit shall be required not less frequently than each 5 years.

HISTORY: New 1968, p. 9, Act 2, Imd. Eff. Feb. 20.

141.426 Certified public accountants; cost.

Sec. 6. Local units may retain certified public accountants to perform such audits. If any unit fails to provide for an audit, the state treasurer shall either conduct the audit or appoint a certified public accountant to perform it. The entire cost of any such audits will be borne by the local unit.

HISTORY: New 1968, p. 9, Act 2, Imd. Eff. Feb. 20.

141.427 Procedures and standards of auditing.

Sec. 7. (1) The state treasurer shall prescribe minimum auditing procedures and standards and these shall conform as nearly as practicable to generally accepted auditing standards established by the American institute of certified public accountants.

(2) A report of the auditing procedures applied in each audit shall be prepared on a form provided for this purpose by the state treasurer.

(3) One copy of every audit report and 1 copy of the report of auditing procedures applied shall be filed with the state treasurer.

HISTORY: New 1968, p. 9, Act 2, Imd. Eff. Feb. 20.

141.428 Contents of audit report.

Sec. 8. Every audit report shall:

(a) State that the audit has been conducted in accordance with generally accepted auditing standards and with the standards prescribed by the state treasurer.

(b) State that financial statements in such reports have been prepared in accordance with generally accepted accounting principles applied on a consistent basis and with applicable rules and regulations of any state department or agency. Any deviations from such principles, rules or regulations shall be described.

(c) Disclose any material deviations by the local unit from generally accepted accounting practices or from applicable rules and regulations of any state department or agency.

(d) Disclose any fiscal irregularities, defalcations, misfeasance, nonfeasance or malfeasance which came to the auditors' attention.

HISTORY: New 1968, p. 9, Act 2, Imd. Eff. Feb. 19.

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141.429 Public inspection of audit reports.

Sec. 9. All audit reports submitted under this act shall be made available for public inspection.

HISTORY: New 1968, p. 9, Act 2, Imd. Eff. Feb. 20.

141.430 Orders and subpoenas.

Sec. 10. In connection with any audit and examination conducted under the provisions of this act, the state treasurer, or a deputy state treasurer, may issue subpoenas, direct the service thereof by any police officer, and compel the attendance and testimony of witnesses, may administer oaths and examine such persons as may be necessary, and may compel the production of books and papers. The orders and subpoenas issued by the state treasurer or by a deputy state treasurer, in pursuance of the authority in them vested by provisions of this section, may be enforced upon their application to any circuit court by proceedings in contempt therein, as provided by law.

HISTORY: New 1968, p. 9, Act 2, Imd. Eff. Feb. 20.

141.431 Violations of act.

Sec. 11. If any audit or investigation conducted under this act discloses statutory violations on the part of any officer, employee or board of any local unit, a copy of such report shall be filed with the attorney general who shall review the report and cause to be instituted such proceeding against such officer, employee or board as he deems necessary. The attorney general, within 60 days after receipt of the report, may institute criminal proceedings as he deems necessary against such officer or employee, or direct that the criminal proceedings be instituted by the prosecuting attorney of the county in which the offense was committed. The attorney general or the prosecuting attorney shall institute civil action in any court of competent jurisdiction for the recovery of any public moneys, disclosed by any examination to have been illegally expended or collected and not accounted for; also for the recovery of any public property disclosed to have been converted and misappropriated.

HISTORY: New 1968, p. 10, Act 2, Imd. Eff. Feb. 20.

141.432 Verification of transactions.

Sec. 12. (1) For purposes of verifying any transactions disclosed by an audit or investigation, any person or firm authorized to conduct an audit under this act may ascertain the deposits, payments, withdrawals and balances on deposit in any bank account or with any contractor or with any other person having dealings with the local unit.

(2) A bank, contractor or person shall not be held liable for making available any of the information required under this act.

HISTORY: New 1968, p. 10, Act 2, Imd. Eff. Feb. 20.

141.433 Scope of examiner's authority.

Sec. 13. (1) Any authorized employee of the state treasurer, certified public accountant or firm of certified public accountants conducting an audit under this act shall have access to and authority to examine all books, accounts, reports, vouchers, correspondence files and other records, bank accounts and moneys or other property of any local unit.

(2) An officer of a local unit upon demand of persons authorized under this act, shall produce all books, accounts, reports, vouchers, correspondence files and other records, bank accounts and moneys or other property of the local unit under audit or investigation and shall truthfully answer all questions related thereto.

HISTORY: New 1968, p. 10, Act 2, Imd. Eff. Feb. 20.

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Act 205, 1964, p. 274; Eff. Aug. 28.

AN ACT authorizing the purchase by municipalities of fire trucks, fire fighting apparatus and equipment on executory title retaining contracts and under chattel mortgage financing.

The People of the State of Michigan enact:

141.451 Fire trucks, fire fighting apparatus and equipment; purchase by municipalities; title retaining contract, chattel mortgage.

Sec. 1. The legislative body of any county, city, village, township or other local unit of government may purchase on executory title retaining contracts, or finance purchases by chattel mortgages as security for the purchase price, any fire trucks, fire fighting apparatus and equipment and pay for the same out of the general fund of such municipality, but such contracts or chattel mortgages shall not provide for payments for longer than the estimated period of usefulness of the property being purchased, and in no event for longer than 6 years. Such contracts or chattel mortgages, and the purchase of such property thereunder, shall not be subject to the provisions of Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2 of the Compiled Laws of 1948.

HISTORY: New 1964, p. 275, Act 205, Eff. Aug. 28.

Act 284, 1964, p. 537; Imd. Eff. Jun. 12.

AN ACT to permit the imposition and collection by cities of an excise tax levied on or measured by income; to provide the procedure including referendums for, and to require the adoption of a prescribed uniform city income tax ordinance by cities desiring to impose and collect such a tax; to limit the imposition and collection by cities and villages of excise taxes levied on or measured by income; to prescribe the powers and duties of the state commissioner of revenue; and to provide for appeals of income tax matters.

The People of the State of Michigan enact:

CHAPTER 1.

GENERAL PROVISIONS

141.501 City income tax act; short title.

Sec. 1. This act shall be known and may be cited as the "city income tax act".

HISTORY: New 1964, p. 538, Act 284, Imd. Eff. Jun. 12.

CITED IN OTHER SECTIONS: Sections 141.501 to 141.699; 141.501 to 141.787 are cited in §§ 205.582 and 206.257.

141.502 Income tax; prohibited to villages; uniform city income tax ordinance; prior ordinance.

Sec. 2. No village shall impose and collect any excise tax levied on or measured by income after January 1, 1964. Except as otherwise provided in this section, no city shall impose an excise tax levied on or measured by income until the lawful adoption by the city of the entire uniform city income tax ordinance as hereinafter set forth. No city shall impose and collect such an excise tax prior to January 1, 1965, except that a city which on January 1, 1964 had in effect a valid ordinance levying and imposing such an excise tax may continue to levy and impose the tax under such ordinance until the uniform city income tax ordinance becomes effective in such city, but in no case shall such ordinance or any other income tax ordinance, in effect in such city prior to the effective date of the uniform city income tax ordinance, continue in effect later

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than December 31, 1964. The enforcement, collection and refund provisions with respect to liabilities incurred under such prior income tax ordinance shall continue in effect for the period provided for in such prior ordinance.

HISTORY: New 1964, p. 538, Act 284, Imd. Eff. Jun 12.

141.503 Uniform city income tax ordinance; rate; adoption, amendment or rescission; referendum; effective date.

Sec. 3. The governing body of a city, by a lawfully adopted ordinance which incorporates by reference the uniform city income tax ordinance set forth in chapter 2, may levy, assess and collect an excise tax on income as provided therein except that in cities of more than 1,000,000 population, the governing body may levy and collect a tax at a rate to be determined from time to time, such rate to be not more than 2% on corporations and resident individuals and not more than ½ of 1% on nonresident individuals. The governing body of a city, may adopt the uniform city income tax ordinance with the alternative sections as set forth in chapter 3, in lieu of the similarly numbered sections as set forth in chapter 2. The uniform city income tax ordinance may be lawfully adopted or rescinded by the governing body at any time and its adoption shall become effective on and after January 1 or July 1, following adoption of the ordinance, as specified in the ordinance, but no such ordinance shall become effective earlier than 45 days after adoption or until approved by the electors if a referendum petition is filed as authorized in this act, and its rescission shall become effective on the following December 31. The ordinance may thereafter be rescinded at any time by the governing body in the same manner in which it was adopted and with appropriate enforcement, collection and refund provisions with respect to liabilities incurred prior to the effective date of its rescission. The ordinance shall not be amended except as provided by the legislature. Petitions for a referendum election on the question of adopting an ordinance adopted by the governing body may be filed with the city clerk not later than the sixth Monday following the adoption of the ordinance. The petitions shall be signed by a number of registered electors of the city equal to at least 10%, but not more than 20%, of the registered electors of the city voting in the last general municipal election prior to the adoption of the ordinance by the governing body. If proper petitions are filed, the question of adopting the ordinance shall be submitted by the governing body to the city electors at the next primary or general election or at a special election called for the purpose, in any case held not less than 45 days nor more than 90 days after the clerk has reported the filing of the referendum petition to the city's governing body. The checking of names on the petitions, the counting, canvassing and return of the votes on the question and other procedures for such an election shall be as provided by law or charter. Upon a favorable vote of the city electors, the ordinance shall be effective as specified in the ordinance which may be amended by the governing body of the city following the referendum to specify July 1 or January 1 as the effective date thereof, if the effective date originally specified in the ordinance is deemed impractical or inconvenient for any reason. The provisions herein for a referendum election, and for delaying the effective date of the ordinance if petitions for a referendum are filed, are not applicable to any city which on January 1, 1964 had in effect a valid ordinance levying and imposing an excise tax levied on or measured by income. Notwithstanding any other provision of this act, when an ordinance becomes effective on any date other than January 1, each tax year shall end on December 31 and the provisions of the ordinance based on a full tax year are modified accordingly to be applicable to any partial tax year.

HISTORY: New 1964, p. 538, Act 284, Imd. Eff. Jun. 12;—Am. 1967, p. 497, Act 280, Eff. Nov. 2;—Am. 1968, p. 517, Act 307, Imd. Eff. Jul. 1.—Am. 1969, p. 66, Act 42, Imd. Eff. Jul. 17;—Am. 1970, p. 488, Act 149, Imd. Eff. Aug. 1.

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141.504 State commissioner of revenue; rules and regulations, appeal procedure, notice of final assessment, refund, order.

Sec. 4. The state commissioner of revenue shall publish uniform rules and regulations in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, governing the form and manner of appeal from a final determination by a city affecting a taxpayer, employee or other person and purporting to be made under or in administration of the uniform city income tax ordinance. The rules and regulations shall provide at least 30 days after notice of a final assessment, denial of claim for refund, special ruling, or rule or regulation of the city, in which the appeal may be filed. They shall provide to the taxpayer, employer or other person or his duly authorized representative and to the city an opportunity to present evidence and to examine witnesses relating to the matter under appeal. Promptly after completion of the hearing, the commissioner shall affirm, reverse or modify by written order the action of the city which is the subject matter of the appeal, and shall furnish a copy of his order and opinion thereon to the appellant and to the duly authorized official of the city.

HISTORY: New 1964, p. 539, Act 284, Imd. Eff. Jun. 12.

141.505 State commissioner of revenue; compliance, de novo review by circuit court, refund.

Sec. 5. The appellant and the city, within 30 days after receipt of the order of the state commissioner of revenue, shall fully comply with all directions and requirements of the order unless theretofore excused therefrom during or as a result of a final determination pursuant to an appeal from the order of the commissioner as hereinafter provided. If the appellant or the city is aggrieved by any such order of the commissioner, he may commence an action, within 90 days after receipt of notice of the order, in the circuit court for the county in which the taxing jurisdiction is located to obtain a judicial determination of the matter. The issues in the action shall be determined de novo by the circuit court.

If a taxpayer, as the result of an appeal, is found entitled to recover any sums paid they shall be paid from the general fund of the city. The city shall promptly and uniformly comply with a final order upon appeal hereunder affecting the interpretation, administration or application of the ordinance.

HISTORY: New 1964, p. 539, Act 284, Imd. Eff. Jun. 12.

141.506 Uniform city income tax ordinance; application.

Sec. 6. The uniform city income tax ordinance does not apply to a person or corporation as to whom or which it is beyond the power of the city to impose the tax therein provided for.

HISTORY: New 1964, p. 539, Act 284, Imd. Eff. Jun. 12.

141.507 Uniform city income tax ordinance; form.

Sec. 7. The uniform city income tax ordinance is as set forth in chapter 2.

HISTORY: New 1964, p. 539, Act 284, Imd. Eff. Jun. 12.

141.508 Repealed. 1970, p. 489, Act 149, Imd. Eff. Aug. 1.

Section related to administration and collection of city income tax.

CHAPTER 2.

UNIFORM CITY INCOME TAX ORDINANCE

141.601 Uniform city income tax ordinance; short title.

Sec. 1. This ordinance shall be known and may be cited as the "uniform city income tax ordinance".

HISTORY: New 1964, p. 539, Act 284, Imd. Eff. Jun. 12.

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141.602 Uniform city income tax ordinance; rules of construction, definitions.

Sec. 2. For the purposes of this ordinance, the words, terms and phrases set forth in sections 3 to 9 and their derivations have the meaning given therein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and in the singular number include the plural. "Shall" is always mandatory and not merely directory. "May" is always directory.

HISTORY: New 1964, p. 539, Act 284, Imd. Eff. Jun. 12.

141.603 Administrator; definition.

Sec. 3. (1) "Administrator" means the official designated by the city to administer the provisions of this ordinance.

Business.

(2) "Business" means an enterprise, activity, profession or undertaking of any nature conducted or ordinarily conducted for profit or gain by any person, including the operation of an unrelated business by a charitable, religious or educational organization.

Capital gains; capital losses.

(3) "Capital gains" and "capital losses" mean the same as defined for federal income tax purposes.

HISTORY: New 1964, p. 540, Act 284, Imd. Eff. Jun. 12.

141.604 City; definitions.

Sec. 4. (1) "City" means the city adopting the ordinance.

Compensation.

(2) "Compensation" means salary, pay or emolument given as compensation or wages for work done or services rendered, in cash or in kind, and includes but is not limited to the following: salaries, wages, bonuses, commissions, fees, tips, incentive payments, severance pay, vacation pay and sick pay.

Corporation.

(3) "Corporation" means a corporation or a joint stock association organized under the laws of the United States, this state, or any other state, territory, or foreign country or dependency.

HISTORY: New 1964, p. 540, Act 284, Imd. Eff. Jun. 12.

141.605 Doing business; definition; solicitation of orders and storage excepted.

Sec. 5. "Doing business" means the conduct of any activity with the object of gain or benefit, except that it does not include:

(a) The solicitation of orders by a person or his representative in the city for sales of tangible personal property, which orders are sent outside the city for approval or rejection and, if approved, are filled by shipment or delivery from a point outside the city.

(b) The solicitation of orders by a person or his representative in the city in the name of or for the benefit of a prospective customer of a person, if orders by the customer to such person to enable the customer to fill orders resulting from the solicitation are orders described in paragraph (a).

(c) The mere storage of personal property in the city in a warehouse neither owned nor leased by the taxpayer.

HISTORY: New 1964, p. 540, Act 284, Imd. Eff. Jun. 12.

141.606 Employee; definitions.

Sec. 6. (1) "Employee" means a person from whom an employer is required to withhold for either federal income or federal social security taxes.

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Employer.

(2) "Employer" means an individual, partnership, association, corporation, nonprofit organization, governmental body or unit or agency, or any other entity whether or not taxable under this ordinance, that employs 1 or more persons on a salary, bonus, wage, commission or other basis, whether or not the employer is in a business.

Federal internal revenue code.

(3) "Federal internal revenue code" means the internal revenue code of the United States in effect on the last day of the taxpayer's tax year.

Financial institution.

(4) "Financial institution" means a bank, industrial bank, trust company, building and loan or savings and loan association, credit union, safety and collateral deposit company, regulated investment company as defined in section 851 and the following sections of the federal internal revenue code, under whatever authority organized, and any other association, joint stock company or corporation at least 90% of whose assets consist of intangible personal property and at least 90% of whose gross income consists of dividends or interest or other charges resulting from the use of money or credit.

HISTORY: New 1964, p. 540, Act 284, Imd. Eff. Jun. 12.

141.607 Fiscal year; definition.

Sec. 7. (1) "Fiscal year" means an accounting period of 12 months ending on any day other than December 31. Only fiscal years accepted by the internal revenue service for federal income tax purposes may be used for city tax purposes.

Net profits.

(2) "Net profits" means the net gain from the operation of a business, profession or enterprise, after provision for all costs and expenses incurred in the conduct thereof, determined on either a cash or accrual method, on the same basis as provided for in the federal internal revenue code for federal income tax purposes, excluding items exempted under this ordinance, but without deduction of federal and city taxes based on income and without deduction of net operating loss carry-over or capital loss carry-over sustained prior to the effective date of this tax.

HISTORY: New 1964, p. 541, Act 284, Imd. Eff. Jun. 12.

141.608 Nonresident; definition.

Sec. 8. (1) "Nonresident" means an individual domiciled outside the city.

Person.

(2) "Person" means a natural person, partnership, fiduciary, association, corporation or other entity. When used in any provision imposing a criminal penalty, "person" as applied to an association means the parties or members thereof, and as applied to a corporation, the officers thereof.

Predominant place of employment.

(3) "Predominant place of employment" means that city imposing a tax under a uniform city income tax ordinance other than the city of residence, in which the employee estimates he will earn the greatest percentage of his compensation from the employer, which percentage is 25% or more.

HISTORY: New 1964, p. 541, Act 284, Imd. Eff. Jun. 12.

141.609 Resident, domicile; definitions.

Sec. 9. (1) "Resident" means an individual domiciled in the city. "Domicile" means a place where a person has his true, fixed and permanent home and principal establishment, to which, whenever absent therefrom, he intends to return, and domicile continues until another permanent establishment is established. If an individual, during the taxable year, being a resident becomes a nonresident or vice versa, taxable income shall be determined separately for income in each status.

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Taxable year.

(2) "Taxable year" means the calendar year, or the fiscal year, used as the basis on which net profits and other income subject to tax under this ordinance are to be computed, and in case of a return for a fractional part of a year, the period for which the return is required to be made.

Taxpayer.

(3) "Taxpayer" means a person required under this ordinance to file a return or to pay a tax.

HISTORY: New 1964, p. 541, Act 284, Imd. Eff. Jun. 12.

141.611 Excise tax on incomes; rates.

Sec. 11. Subject to the exclusions, adjustments, exemptions and deductions herein provided, an annual tax of 1% on corporations and resident individuals and of 1/2% on nonresident individuals for general revenue purposes is hereby imposed as an excise on income earned and received on and after the effective date of this ordinance.

HISTORY: New 1964, p. 541, Act 284, Imd. Eff. Jun. 12.

141.612 Excise tax on incomes; application to resident individuals.

Sec. 12. The tax shall apply on the following types of income of a resident individual to the same extent and on the same basis that the income is subject to taxation under the federal internal revenue code:

(a) On a salary, bonus, wage, commission and other compensation.

(b) On a distributive share of the net profits of a resident owner of an unincorporated business, profession, enterprise, undertaking or other activity, as a result of work done, services rendered and other business activities wherever conducted.

(c) On dividends, interest, capital gains less capital losses, income from estates and trusts and net profits from rentals of real and tangible personal property.

(d) On other income of a resident individual.

HISTORY: New 1964, p. 542, Act 284, Imd. Eff. Jun. 12.

141.613 Excise tax on incomes; application to nonresidents.

Sec. 13. The tax shall apply on the following types of income of a nonresident individual to the same extent and on the same basis that the income is subject to taxation under the federal internal revenue code:

(a) On a salary, bonus, wage, commission and other compensation for services rendered as an employee for work done or services performed in the city. Vacation pay, holiday pay, sick pay and a bonus paid by the employer are deemed to have the same tax situs as the work assignment or work location and are taxable on the same ratio as the normal earnings of the employee for work actually done or services actually performed.

(b) On a distributive share of the net profits of a nonresident owner of an unincorporated business, profession, enterprise, undertaking or other activity, as a result of work done, services rendered and other business activities conducted in the city.

(c) On capital gains less capital losses from sales of, and on the net profits from rentals of, real and tangible personal property, if such arise from property located in the city.

HISTORY: New 1964, p. 542, Act 284, Imd. Eff. Jun. 12.

141.614 Excise tax on incomes; taxable net profits of a corporation, definition.

Sec. 14. The tax shall apply on the taxable net profits of a corporation doing business in the city, being levied on such part of the taxable net profits as is earned by the corporation as a result of work done, services rendered and other business activities conducted in the city, as determined in accordance with this ordinance. "Taxable net

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profits of a corporation" means federal taxable income as defined in section 63 of the federal internal revenue code but taking into consideration all exclusions and adjustments provided in this ordinance. No deduction shall be allowed for:

(a) Net operating losses and net capital losses sustained prior to the effective date of the tax.

(b) The city income tax imposed by this ordinance.

A corporation may deduct income, war profits and excess profits taxes, imposed by a foreign country or possession of the United States, allocable to income included in taxable net income, any part of which would be allowable as a deduction in determining federal taxable income under the applicable provisions of the federal internal revenue code.

HISTORY: New 1964, p. 542, Act 284, Imd. Eff. Jun. 12.

141.615 Excise tax on incomes; unincorporated business, profession; sole proprietorship, partnership.

Sec. 15. An unincorporated business, profession or other activity conducted by 1 or more persons subject to the tax as either a sole proprietorship or partnership shall not be taxable as such. The persons carrying on the unincorporated business, profession or other activity are liable for income tax only in their separate and individual capacities and on the following bases:

(a) A resident proprietor or partner is taxable upon his entire distributive share of the net profits of the activity regardless of where the activity is conducted.

(b) A nonresident proprietor or partner is taxable only upon his distributive share of the portion of the net profits of the activity which is attributable to the city under the allocation methods provided in this ordinance.

(c) In the hands of a proprietor or partner of an unincorporated activity, the character of any item of income taxable under this ordinance is determined as if such item were realized by the individual proprietor or partner directly from the source from which it is realized by the unincorporated activity. In computing his taxable income for a taxable year, a person who is required to file a return shall include therein his taxable distributive share of the net profits for any partnership year ending within or with his taxable year.

HISTORY: New 1964, p. 542, Act 284, Imd. Eff. Jun. 12.

141.616 Unincorporated business, profession, or activity; return.

Sec. 16. An unincorporated business, profession or other activity owned by 2 or more persons shall file an annual information return setting forth:

(a) The entire net profit for the period covered by the return and the taxable portion of the net profit attributable to the city.

(b) The names and addresses of the owners of the unincorporated activity and each owner's taxable distributive share of the total net profit and each nonresident owner's share of the taxable net profit attributable to the city.

HISTORY: New 1964, p. 543, Act 284, Imd. Eff. Jun. 12.

141.617 Unincorporated business, profession, or activity; election to pay tax.

Sec. 17. At the election of an unincorporated business, profession or other activity, the entity, on behalf of the owners, may compute and pay the tax due with respect to each owner's share of the net profit of the activity after giving effect to exemptions to which each owner is entitled. This election is available to all unincorporated business entities having 2 or more owners regardless of the residence of the owners. The tax thus paid by the entity shall constitute all tax due with respect to each owner's distrib-

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utive share of the net profits of the unincorporated business, profession or other activity.

If the unincorporated business, profession or other activity elects under this section to file a return and pay the tax on behalf of its owners, the election and filing are deemed to meet the requirements of this ordinance for the filing of a return for each owner who has no other income subject to the tax. However, a return is required from any such owner having taxable income other than his distributive share of the net profits of the entity. In such case the entire income subject to the tax shall be included in the return and credit taken thereon for the tax paid in his behalf by the unincorporated activity.

If the unincorporated business, profession or other activity elects to pay the tax on behalf of the owners, then the unincorporated business, profession or other activity assumes the status of a taxpayer and is liable to interest and penalty if payment is not made by the due date, in accordance with the calendar or fiscal year used by the unincorporated business, profession or other activity.

HISTORY: New 1964, p. 543, Act 284, Imd. Eff. Jun. 12.

141.618 Partial business activity in city; apportionment of net profit.

Sec. 18. When the entire net profit of a business subject to the tax is not derived from business activities exclusively within the city, the portion of the entire net profit, earned as a result of work done, services rendered or other business activity conducted in the city, shall be determined under either section 19, sections 20 to 24, or section 25.

HISTORY: New 1964, p. 543, Act 284, Imd. Eff. Jun. 12;—Am. 1969, p. 87, Act 42, Imd. Eff. Jul. 17.

141.619 Partial business activity in city; separate accounting method.

Sec. 19. The taxpayer may petition for and the administrator may grant approval of, or the administrator may require, the separate accounting method. If such method is petitioned for the administrator may require a statement, explaining the manner in which the apportionment will be made, in sufficient detail to determine whether the net profits attributable to the city will be apportioned with reasonable accuracy.

HISTORY: New 1964, p. 543, Act 284, Imd. Eff. Jun. 12;—Am. 1969, p. 87, Act 42, Imd. Eff. Jul. 17.

141.620 Partial business activity in city; business allocation percentage method.

Sec. 20. The business allocation percentage method shall be used if such taxpayer is not granted approval to use the separate accounting method of allocation. The entire net profits of such taxpayer earned as a result of work done, services rendered or other business activity conducted in the city shall be ascertained by determining the total "in-city" percentages of property, payroll and sales. "In-city" percentages of property, payrolls and sales, separately computed, shall be determined in accordance with sections 21 to 24.

HISTORY: New 1964, p. 543, Act 284, Imd. Eff. Jun. 12;—Am. 1969, p. 87, Act 42, Imd. Eff. Jul. 17.

141.621 Partial business activity in city; percentage of average net book value; gross rental value of real property.

Sec. 21. First, the taxpayer shall ascertain the percentage which the average net book value, of the tangible personal property owned and the real property, including leasehold improvements, owned or used by it in the business and situated within the city during the taxable period, is of the average net book value of all of such property, including leasehold improvements, owned or used by the taxpayer in the business during the same period wherever situated. Real property shall include real property rented or leased by the taxpayer and the value of such property shall be deemed to be 5 times the annual gross rental thereon. "Gross rental of real property" means the ac-

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tual sum of money or other consideration payable, directly or indirectly, by the taxpayer for the use or possession of real property and includes but is not limited to:

(a) An amount payable for the use or possession of real property or any part thereof, whether designated as a fixed sum of money or as a percentage of sales, profits or otherwise.

(b) An amount payable as additional rent or in lieu of rent such as interest, taxes, insurance, repairs or other amount required to be paid by the terms of a lease or other arrangement.

HISTORY: New 1964, p. 544, Act 284, Imd. Eff. Jun. 12.

141.622 Partial business activity in city; percentage of compensation paid employees.

Sec. 22. Second, the taxpayer shall ascertain the percentage which the total compensation paid to employees for work done or for services performed within the city is of the total compensation paid to all the taxpayer's employees within and without the city during the period covered by the return. For allocation purposes, compensation shall be computed on the cash or accrual basis in accordance with the method used in computing the entire net income of the taxpayer.

If an employee performs services within and without the city, the following examples are not all inclusive but may serve as a guide for determining the amount to be treated as compensation for services performed within the city:

(a) In the case of an employee compensated on a time basis, the proportion of the total amount received by him which his working time within the city is of his total working time.

(b) In the case of an employee compensated directly on the volume of business secured by him, such as a salesman on a commission basis, the amount received by him for business attributable to his efforts in the city.

(c) In the case of an employee compensated on other results achieved, the proportion of the total compensation received which the value of his services within the city bears to the value of all his services.

HISTORY: New 1964, p. 544, Act 284, Imd. Eff. Jun. 12.

141.623 Partial business activity in city; percentage of gross revenue.

Sec. 23. Third, the taxpayer shall ascertain the percentage which the gross revenue of the taxpayer derived from sales made and services rendered in the city is of the total gross revenue from sales and services wherever made or rendered during the period covered by the return.

(1) For the purposes of this section, "sales made in the city" means all sales where the goods, merchandise or property is received in the city by the purchaser, or a person or firm designated by him. In the case of delivery of goods in the city to a common or private carrier or by other means of transportation, the place at which the delivery has been completed is considered as the place at which the goods are received by the purchaser.

The following examples are not all inclusive but may serve as a guide for determining sales made in the city:

(a) Sales to a customer in the city with shipments to a destination within the city from a location in the city or an out-of-city location are considered sales made in the city.

(b) Sales to a customer in the city with shipments to a destination within the city directly from the taxpayer's in-city supplier or out-of-city supplier are considered sales made in the city.

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(c) Sales to a customer in the city with shipments directly to the customer at his regularly maintained and established out-of-city location are considered out-of-city sales.

(d) Sales to an out-of-city customer with shipments or deliveries to the customer's location within the city are considered sales made in the city.

(e) Sales to an out-of-city customer with shipments to an out-of-city destination are considered out-of-city sales.

(2) In the case of public utilities, or businesses furnishing transportation services, "gross revenue" for the purposes of this section may be measured by such means as operating revenues, vehicle miles, revenue miles, passenger miles, ton miles, tonnage, or such other method as shall reasonably measure the proportion of gross revenue obtained in the city by such business.

(3) In case the business of the taxpayer involves substantial business activities other than sales of goods and services such other method or methods of allocation shall be employed as shall reasonably measure the proportion of gross revenue obtained in the city by such business.

HISTORY: New 1964, p. 544, Act 284, Imd. Eff. Jun. 12.

141.624 Partial business activity in city; business allocation percentage.

Sec. 24. Fourth, the taxpayer shall add the percentages determined in accordance with sections 21, 22 and 23 and divide the total by 3 and the result so obtained is the business allocation percentage. In determining this percentage, a factor shall be excluded from the computation only when the factor does not exist anywhere insofar as the taxpayer's business operation is concerned and, in such case, the total of the percentages shall be divided by the number of factors actually used. The business allocation percentage shall be applied to the entire net profits, wherever derived, of the taxpayer subject to the tax to determine the net profits allocable to the city.

HISTORY: New 1964, p. 545, Act 284, Imd. Eff. Jun. 12;—Am. 1969, p. 87, Act 42, Imd. Eff. Jul. 17.

141.625 Partial business activity in city; substitute methods.

Sec. 25. An alternative method of accounting shall be used if the taxpayer or the administrator demonstrates that the net profits of the taxpayer allocable to the city cannot be justly and equitably determined under the separate accounting method or the business allocation percentage method, or if undue expense to the taxpayer would result from complying therewith because of the taxpayer's manner of operations and methods of accounting. In such case the administrator, upon application of the taxpayer or upon his own initiative, may approve or specify factors or methods of determination as will effect a just, nondiscriminatory and reasonable result. Application to the administrator to substitute other factors in the formula or to use a different method to allocate net profits shall be made in writing and state the specific grounds on which the substitution of factors or use of a different method is requested and the relief sought. No specific form need be followed in making the application. Once a taxpayer has filed under a substitute method, he shall continue so to file until given permission by the administrator to change.

HISTORY: New 1964, p. 545, Act 284, Imd. Eff. Jun. 12.

141.626 Capital gains and losses; determination.

Sec. 26. (1) Capital gains and capital losses, other than gains and losses on securities issued by the government of the United States, shall be included in income only to the extent of that portion of the gains or losses which occur after the effective date of this ordinance. In determining the amount of gain or loss, the taxpayer may use net proceeds from the sale or exchange less fair market value as of the effective date of this ordinance. The fair market value of property shall be determined by an appraisal or similar reliable evidence. The fair market value of a security shall be the last quoted price on the last business day prior to the effective date. For a security traded over the

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counter the last quoted price shall be the last bid price on the last business day prior to the effective date. The taxpayer may determine the gain or loss on a transaction in the same manner as for federal income tax purposes taking into account only that portion thereof which occurs after the effective date. The portion of that gain or loss includible in computing taxable income will be the same proportion of the total gain or loss as the period of time the property was held after the effective date of the ordinance bears to the total time the property was held. In any city adopting this ordinance which had a valid local income tax ordinance in effect on January 1, 1964, capital gains and losses shall be included to the extent of that portion of such gains or losses which occur after the effective date of the original city income tax ordinance.

(2) If capital losses exceed capital gains in a taxable year, the unused portion may be utilized to the same extent and on the same basis as under the federal internal revenue code.

HISTORY: New 1964, p. 545, Act 284, Imd. Eff. Jun. 12.

141.627 Estates or trusts, deemed nonresidents; definitions.

Sec. 27. An estate or trust is not subject to tax under this ordinance, except that it shall be treated as a nonresident individual for purposes of section 11 of this ordinance to the extent income of the estate or trust described in section 13 is not includible in the return of a resident individual as "income from estates and trusts". A resident individual shall include "income from estates and trusts" in his income subject to tax under this ordinance without regard to the situs of the estate or trust. For this purpose, an "estate" means the estate of a deceased person during the period of administration or settlement and a "trust" means an inter vivos or testamentary trust created by an individual for the benefit of 1 or more persons.

HISTORY: New 1964, p. 546, Act 284, Imd. Eff. Jun. 12;—Am. 1965, p. 12, Act 10, Imd. Eff. Apr. 18.

141.628 Income from estates and trusts.

Sec. 28. (1) "Income from estates" means "income" as defined in section 643 (b) of the federal internal revenue code, properly paid, credited or distributed but not in excess of the resident individual's share of the distributable net income of the estate decreased by the amount of depreciation or depletion allowed the resident individual as a deduction under section 642 of the federal internal revenue code. The exceptions hereinafter set forth with respect to trusts are also applicable to income from estates. "Income from trusts" means the amount of "income" as defined in section 643 (b) of the federal internal revenue code, distributed or required to be distributed under sections 652 (a) or 662 (a) (1) of the federal internal revenue code, decreased by the amount of depreciation or depletion allowed the resident individual as a deduction by section 642 of the federal internal revenue code, with the following exceptions:

(a) Dividends on stock of state and national banks and trust companies.

(b) Interest from obligations of the United States, the states or subordinate units of government of the states.

(2) Income received by a resident individual from a fiduciary shall retain the character it held in the hands of the fiduciary. With respect to trusts where the income is taxed to the grantor or some other person under subpart E of subchapter J of the federal internal revenue code, the grantor or other person shall include in his return all items of income and deductions allowed by this ordinance.

(3) An individual shall include "income from estates and trusts" in his return in the same year as provided in the federal internal revenue code with respect to distributions of income from estates and trusts. The amount of income included in the return for the first tax year of a resident individual, with respect to estates and trusts, shall be computed as though the tax year of the estate or trust for federal income tax purposes began on the effective date of this ordinance and ended with the end of the tax year of

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the estate or trust for federal income tax purposes which ends next following the effective date.

HISTORY: New 1964, p. 546, Act 284, Imd. Eff. Jun. 12.

141.631 Personal exemptions; limitations.

Sec. 31. An individual taxpayer in computing his taxable income, is allowed deductions for the full personal and dependency exemptions authorized by the federal internal revenue code or on the passage of a further ordinance a deduction of a minimum of $600.00 for each personal and dependency exemption under the rules for determining exemptions and dependents as provided in the federal internal revenue code. The taxpayer may claim his or her spouse and dependents as exemptions, but if the taxpayer and the spouse are both subject to the tax imposed by this ordinance, the number of exemptions claimed by each of them when added together shall not exceed the total number of exemptions allowed under this ordinance.

HISTORY: New 1964, p. 546, Act 284, Imd. Eff. Jun. 12;—Am. 1970, p. 489, Act 149, Imd. Eff. Aug. 1.

141.632 Payments and benefits not subject to tax.

Sec. 32. The following payments and benefits received by any person are not subject to the tax:

(a) Gifts and bequests.

(b) Proceeds of insurance, annuities, pensions and retirement benefits. Amounts received for personal injuries, sickness or disability are excluded from taxable income only to the extent provided by the federal internal revenue code.

(c) Welfare relief, unemployment benefits including supplemental unemployment benefits, and workmen's compensation or similar payments from whatever source derived.

(d) Amounts received by charitable, religious, educational and other similar nonprofit organizations which are exempt from taxation under the federal internal revenue code.

(e) Amounts received by supplemental unemployment benefit trusts or pension, profit sharing and stock bonus trusts qualified and exempt under the federal internal revenue code.

(f) Interest from obligations of the United States, the states or subordinate units of government of the states and gains or losses on the sales of obligations of the United States.

(g) Net profits of financial institutions and insurance companies.

(h) Dividends received from national and state bank stock.

(i) Amounts paid to an employee as reimbursement for expenses necessarily and actually incurred by him in the actual performance of his services and deductible as such by the employer.

(j) Compensation received for service in the armed forces of the United States.

HISTORY: New 1964, p. 547, Act 284, Imd. Eff. Jun. 12.

141.633 Deductions, expenses.

Sec. 33. Ordinary, necessary, reasonable and unreimbursed expenses paid or incurred by an individual in connection with the performance by him of services as an employee may be deducted from gross income in determining income subject to the tax. The expenses are limited to the following:

(a) Expenses of travel, meals and lodging while away from home.

(b) Expenses as an outside salesman, away from his employer's place of business.

(c) Expenses of transportation.

(d) Expenses under a reimbursement or other expense allowance arrangement with

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his employer, where the reimbursement or allowance has been included in total compensation reported.

HISTORY: New 1964, p. 547, Act 284, Imd. Eff. Jun. 12.

141.641 Returns; annual and joint filing.

Sec. 41. A person having a tax liability under this ordinance in any year shall make and file with the city an annual return for that year, on a form furnished or approved by the city, on or before the last day of the fourth month for the same calendar year, fiscal year or other accounting period, as has been accepted by the internal revenue service for federal income tax purposes for the taxpayer. An individual taxpayer is not required to file an annual return if the amount of tax due under this ordinance does not exceed the amount withheld by more than $2.00. A husband and wife may file a joint return and, in such case, the tax liability is joint and several.

HISTORY: New 1964, p. 547, Act 284, Imd. Eff. Jun. 12.

141.642 Returns; contents.

Sec. 42. The annual return shall set forth:

(a) The number of exemptions, place of residence, place of employment and other pertinent information as shall reasonably be required.

(b) The aggregate amount of compensation, dividends, interest, net profit from rentals, capital gains less capital losses, net profits from business and other income, subject to the tax.

(c) The total amount of the tax imposed by this ordinance.

(d) The amount of the tax previously withheld or paid.

(e) Credits provided in this ordinance.

(f) The balance of the tax due or to be refunded.

HISTORY: New 1964, p. 547, Act 284, Imd. Eff. Jun. 12.

141.643 Tax; payment, refund.

Sec. 43. Any balance of the tax which is due the city at the time of filing the annual return shall be paid therewith. If the annual return reflects an overpayment of the tax, the declaration thereof on the return constitutes a claim for refund and the overpayment shall be applied against any subsequent liability thereunder or, at the election of the taxpayer and when so indicated on the return, the overpayment or any part shall be refunded.

HISTORY: New 1964, p. 548, Act 284, Imd. Eff. Jun. 12.

141.644 Federal income tax return; eliminations.

Sec. 44. Where total income, total deductions, net profits, or other figures are derived from the taxpayer's federal income tax return, any item of income not subject to the city income tax and unallowable deductions shall be eliminated in determining net income subject to the city tax. The fact that a taxpayer is not required to file a federal income tax return does not relieve him from filing a city tax return.

HISTORY: New 1964, p. 548, Act 284, Imd. Eff. Jun. 12.

141.645 Net profits; consolidated returns.

Sec. 45. For the purpose of determining net profit allocable to the city under this ordinance, a corporate taxpayer may elect to file a consolidated return including subsidiaries whose voting stock is more than 50% owned by the taxpayer, if such return will more properly reflect the net profits and activities of the taxpayer in the city. The city may require a consolidated return if necessary to properly determine net profits of the taxpayer allocable to the city.

HISTORY: New 1964, p. 548, Act 284, Imd. Eff. Jun. 12.

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141.646 Amended return; change of method of accounting.

Sec. 46. An amended return shall be filed, on a form obtainable from the city, where necessary to report additional income and pay an additional tax due, or to claim a refund of tax overpaid, subject to the requirements or limitations contained in this ordinance. Within 90 days from final determination of a federal tax liability which also affects the computation of a taxpayer's city income tax liability, the taxpayer shall prepare and file an amended city income tax return showing income subject to the city tax based upon the final determination of federal income tax liability, and pay an additional tax shown due thereon or make claim for refund of an overpayment. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return, or any extensions thereof.

HISTORY: New 1984, p. 548, Act 284, Imd. Eff. Jun. 12.

141.651 Tax withheld; rates for residents and nonresidents; employer as trustee; liability for taxes, penalties, interest.

Sec. 51. (1) An employer doing business or maintaining an establishment within the city shall withhold from each payment to his employees on and after the effective date of this ordinance the tax on their compensation subject to the tax, after giving effect to exemptions, as follows:

(a) Residents.

(i) At a rate equal to 1% of all compensation paid to the employee who is a resident of the city, if he is not subject to withholding in any other city levying the tax.

(ii) At a rate equal to 1/2 of 1% of all compensation paid to the employee who is a resident of the city, from whom the employer is required to withhold on such compensation earned in another city.

(b) Nonresidents. At a rate equal to 1/2 of 1% of the compensation paid to the employee for work done or services performed in the city designated by the employee as his predominant place of employment. The withholding rate shall be applied to the percentage of the employee's total compensation equal to the employee's estimated percentage of work to be done or services to be performed in the city for such employer, but no withholding shall be required if the estimated percentage of work is less than 25%.

(2) An employer withholding the tax is deemed to hold such tax as a trustee for the city.

(3) An employer who is required to withhold and who fails or refuses to deduct and withhold is liable for the payment of the amount required to be withheld. The liability shall be discharged upon payment of the tax by the employee but the employer is not relieved of penalties and interest provided in this ordinance for such failure or refusal.

HISTORY: New 1984, p. 548, Act 284, Imd. Eff. Jun. 12.

141.652 Tax withheld; payments excepted.

Sec. 52. Employers shall not withhold any tax from the following payments:

(a) Compensation paid to domestic help.

(b) Compensation paid to a person who is not an employee, including an independent contractor.

(c) An amount allowed and paid to an employee as reimbursement for expenses necessarily and actually incurred by him in the actual performance of his services, and deductible by the employer.

HISTORY: New 1984, p. 549, Act 284, Imd. Eff. Jun. 12.

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141.653 Tax withheld; payment by employee or employer.

Sec. 53. If the tax is not withheld, an employee is not excused from filing a return and paying the tax on his compensation. If the tax is withheld but an employer fails to pay the tax to the city, the employee is not liable for the tax so withheld.

HISTORY: New 1964, p. 549, Act 284, Imd. Eff. Jun. 12.

141.654 Tax withheld; exemptions claimed; percentage of work done at predominant place of employment.

Sec. 54. (1) An employee with compensation subject to tax shall file with his employer a form on which the employee shall state the number of exemptions claimed, the city of residence, the predominant place of employment, and the percentage of work done or services performed in the predominant place of employment. The percentage shall be expressed as "less than 25%", "40%", "60%", "80%" or "100%". The employer shall retain the form and rely on the information therein for withholding purposes unless directed by the city to withhold on another basis. If information submitted by the employee is not believed to be true, correct and complete, the city shall be so advised.

HISTORY: New 1964, p. 549, Act 284, Imd. Eff. Jun. 12.

141.655 Tax withheld; revised form, time for filing.

Sec. 55. An employee shall file with his employer a revised form within 10 days after his number of exemptions decreases or he changes his residence from or to a taxing city. The employee may file a revised form when his number of exemptions increases. An employee shall file a revised form by December 1 of each year, if his predominant place of employment or his estimate of the percentage of work done or services to be rendered in the city will change for the ensuing year. Revised withholding certificates shall not be given retroactive effect.

HISTORY: New 1964, p. 549, Act 284, Imd. Eff. Jun. 12.

141.656 Tax withheld; refusal to furnish withholding certificate, rate of tax.

Sec. 56. If an employee refuses to furnish a withholding certificate upon the request of his employer, the employer shall withhold 1% of the employee's total compensation, and report and pay the withholding on the basis of the best information in the possession of the employer.

HISTORY: New 1964, p. 549, Act 284, Imd. Eff. Jun. 12.

141.657 Tax withheld; withholding tables; first compensation taxable.

Sec. 57. (1) The city shall provide withholding tables establishing the amounts to be withheld for various tax rates, wage brackets, numbers of exemptions and pay periods. An employer who uses the tables fully discharges his duty to withhold. An employer may elect not to use the tables, in which case to discharge fully his duty to withhold he shall withhold the applicable per cent of taxable compensation after provision for exemptions.

(2) The first compensation paid an employee on or after the effective date of the tax levy is subject to withholding on either of the following bases at the option of the employer:

(a) On the full amount of compensation paid.

(b) On the proportion of compensation paid for work done or services performed on or after the effective date of the levy.

HISTORY: New 1964, p. 549, Act 284, Imd. Eff. Jun. 12.

141.658 Tax withheld; overwithheld tax, refund.

Sec. 58. If an employer withholds more than the apparent tax liability of an employee due to an increase in the number of exemptions claimed during the year, or due

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to the actual percentage of work performed in the city by a nonresident being less than the estimated percentage, or due to a change of residence during the year to or from a taxing city, or due to any reason other than the employer's error, the employer shall neither refund the excess to the employee nor offset the excess by under-withholding in a subsequent period. The employee shall claim his refund from the city on his annual return.

HISTORY: New 1964, p. 550, Act 284, Imd. Eff. Jun. 12.

141.659 Tax withheld; correction of error, refund.

Sec. 59. Correction of an over or an under-withholding as a result of an employer's error shall be made as follows:

(a) If the error is discovered in the same quarter in which it is made, the employer shall make the necessary adjustment on a subsequent pay and include only the corrected amount on the quarterly return.

(b) If the error is discovered in a subsequent quarter of the same calendar year, the employer shall make the necessary adjustment on a subsequent pay and report it as an adjustment on the quarterly return.

(c) If the error is discovered in the following calendar year, or if the employer-employee relationship has terminated, the procedure shall be as follows:

(i) The employee or former employee shall apply to the city for a refund in case of an over-withholding. Upon proper verification the city shall refund to him the amount of the over-withholding.

(ii) If a deficiency is discovered, the employer shall notify the city and the employee or former employee, who shall pay the city the additional tax due in his annual return.

HISTORY: New 1964, p. 550, Act 284, Imd. Eff. Jun. 12.

141.660 Tax withheld; payment by employer, return.

Sec. 60. An employer shall file a return, furnished by or obtainable on request from the city, and pay to the city the full amount of the tax withheld on or before the last day of the month following the close of each calendar quarter.

HISTORY: New 1964, p. 550, Act 284, Imd. Eff. Jun. 12.

141.661 Tax withheld; employer's reconciliation of quarterly returns; deficiency, refund; information return; cessation of business.

Sec. 61. (1) An employer shall file a reconciliation of his quarterly returns on or before the last day of February following each calendar year in which he has withheld from an employee's compensation. A deficiency is due when the reconciliation is filed. If the employer made quarterly payments in excess of the amount withheld from an employee's compensation, the city upon proper verification shall refund the excess to the employer.

Information return.

(2) In addition to the reconciliation the employer shall file an information return for each employee from whom the city income tax has been withheld and each employee subject to withholding under this ordinance, setting forth his name, address and social security number, the total amount of compensation paid him during the year, and the amount of city income tax withheld from him. The information return shall be on a copy of the federal W-2 form or on a form furnished or approved by the city. A copy of the information return shall be furnished to the employee.

Cessation of business.

(3) If an employer goes out of business or otherwise ceases to be an employer, reconciliation forms and the information return forms shall be filed by the date the final withholding return and payment are due.

HISTORY: New 1964, p. 550, Act 284, Imd. Eff. Jun. 12.

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141.662 Declaration of estimated tax not withheld; filing.

Sec. 62. (1) A person, who anticipates taxable income from which the city income tax will not be withheld, shall file a declaration of estimated tax on a form furnished by or obtainable on request from the city. A calendar year taxpayer shall file a declaration on or before each April 30. A taxpayer on a fiscal year basis or other accounting period shall file a declaration within 4 months after the beginning of each fiscal year or other accounting period.

(2) If a taxpayer has not previously been required to file, the declaration shall be filed on or before the first date for making a quarterly payment which occurs after he becomes subject to the requirement to file a declaration. A taxpayer shall file a declaration for the same calendar year, fiscal year or other accounting period that has been accepted by the federal internal revenue service for federal income tax purposes. A declaration by an individual or unincorporated entity is not required if the total estimated tax, less any credits applicable thereto, does not exceed $40.00. A declaration by a corporation is not required if the total estimated tax, less any credits applicable thereto, does not exceed $250.00. A declaration by or on behalf of an estate or trust is not required.

HISTORY: New 1964, p. 551, Act 284, Imd. Eff. Jun. 12.

141.663 Declaration of estimated tax not withheld; computation, payment of tax.

Sec. 63. (1) A taxpayer's annual return for the preceding year may be used as the basis for computing his declaration of estimated tax for the current year, or he may use the same figures used for estimating his federal income tax adjusted to exclude any income or deductions not taxable or permissible under this ordinance.

(2) The estimated tax may be paid in full with the declaration or in 4 equal installments on or before the last day of the fourth, sixth, ninth and thirteenth months after the beginning of the taxable year.

(3) An amended declaration may be filed when making a quarterly payment, and the unpaid balance shown due thereon shall be paid in equal installments over the remaining payment dates.

HISTORY: New 1964, p. 551, Act 284, Imd. Eff. Jun. 12.

141.664 Annual return; filing, extension of time; failure to file, penalty.

Sec. 64. (1) The filing of a declaration of estimated tax does not excuse the taxpayer from filing an annual return even though there is no change in the declared tax liability. An annual return shall be filed by the end of the fourth month of the year following that for which the declaration was filed. Upon written request of a taxpayer the administrator may extend the time for filing the annual return for not to exceed 6 months. The administrator may require a tentative return and payment of the estimated tax.

(2) A penalty or interest shall not be assessed if the return is filed and the final tax paid within the extended time and all other filing and payment requirements of this ordinance are satisfied, and the estimated tax paid equals 70% or more of the tax shown due on the final return or 70% or more of the tax shown due on the taxpayer's return for the preceding taxable year.

HISTORY: New 1964, p. 551, Act 284, Imd. Eff. Jun. 12.

141.665 Credit for city income tax paid another city.

Sec. 65. An individual who is a resident of the city and received net profits from a business, profession or rental of real or tangible personal property, gains from the sale or exchange of real or tangible personal property, or salaries, wages, commissions or other compensation for work done or services performed or rendered, in each case

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outside the city, and is subject to and has paid an income tax on this income to another municipality, shall be allowed a credit against the city income tax for the amount paid to the other municipality. The credit shall not exceed the amount of taxes which would be assessed under this ordinance on the same amount of income of a nonresident.

HISTORY: New 1964, p. 551, Act 284, Imd. Eff. Jun. 12.

141.666 Fractional part of a cent.

Sec. 66. In withholding or in paying the tax due under this ordinance, a fractional part of a cent shall be disregarded unless it amounts to 1/2 cent or more, in which case it shall be increased to 1 cent.

HISTORY: New 1964, p. 552, Act 284, Imd. Eff. Jun. 12.

141.671 Rules and regulations; adoption, enforcement; forms; collection of tax.

Sec. 71. (1) The administrator may adopt, amend and repeal rules and regulations relating to the administration and enforcement of this ordinance, but not in conflict with the ordinance, subject to the approval of the city governing body. The rules and regulations, amendments and repeals, after approval by the city governing body, shall become effective upon being published in the official newspaper of the city.

(2) The administrator shall enforce this ordinance and the rules and regulations. The administrator shall prepare, adopt and make available to taxpayers, employers and other persons all forms necessary for compliance with this ordinance.

(3) The city treasurer shall collect all taxes and payments due under this ordinance and deposit them in a designated city depository.

HISTORY: New 1964, p. 552, Act 284, Imd. Eff. Jun. 12.

141.672 Special ruling; appeal to income tax board of review.

Sec. 72. A taxpayer or employer desiring a special ruling on a matter pertaining to this ordinance or rules and regulations shall submit in writing to the administrator all the facts involved and the ruling sought. A taxpayer or employer aggrieved by a special ruling may appeal the special ruling in writing to the income tax board of review within 30 days.

HISTORY: New 1964, p. 552, Act 284, Imd. Eff. Jun. 12.

141.673 Examination of books and records, witnesses.

Sec. 73. (1) The administrator personally, or his duly authorized agent or a duly authorized city employee, may examine the books, papers and records of any person, employer, taxpayer or his agent or representative, for the purpose of verifying the accuracy and completeness of a return filed, or, if no return was filed, to ascertain the tax, withholding, penalties or interest due under this ordinance.

(2) The administrator or his duly authorized agent may examine any person, under oath, concerning income which was or should have been reported for taxation under this ordinance, and for this purpose may compel the production of books, papers and records and the attendance of all parties before him, whether as parties or witnesses, if he believes such persons have knowledge of such income.

HISTORY: New 1964, p. 552, Act 284, Imd. Eff. Jun. 12.

141.674 Information confidential; divulgence, penalty, discharge from employment.

Sec. 74. (1) Information gained by the administrator, city treasurer or any other city official, agent or employee as a result of a return, investigation, hearing or verification required or authorized by this ordinance is confidential, except for official purposes in connection with the administration of the ordinance and except in accordance with a proper judicial order.

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(2) Any person who divulges this confidential information, except for official purposes, is guilty of a misdemeanor and subject to a fine not exceeding $500.00 or imprisonment for a period not exceeding 90 days, or both, for each offense. In addition, an employee of the city who divulges this confidential information is subject to discharge for misconduct.

HISTORY: New 1964, p. 552, Act 284, Imd. Eff. Jun. 12.

141.681 Submission to examination.

Sec. 81. (1) A person shall furnish, within 10 days following a request of the administrator or his duly authorized agent, the means, facilities and opportunity for making such reasonable examinations and investigations as are authorized by this ordinance, and shall present himself for examination under oath when so ordered by the administrator. The request or order of the administrator or his duly authorized agent may be made verbally. However, a person may require that the request or order be addressed in writing to him, and if the request relates to interest, dividends or other payments made to a taxpayer or presumed taxpayer, that it adequately identify him.

(2) Refusal by any person to submit to such examination or investigation, when requested or ordered by the administrator, is a violation of this ordinance, punishable by such penalties as are provided in the ordinance.

HISTORY: New 1964, p. 552, Act 284, Imd. Eff. Jun. 12.

141.682 Payment of tax, interest; penalty for delay.

Sec. 82. (1) All taxes imposed upon taxpayers and moneys withheld by employers under this ordinance and remaining unpaid after they are due bear interest from such due date at the rate of 1/2 of 1% per month until paid.

(2) A person failing to file a return, or to pay the tax, or to remit withholding when due, is liable, in addition to the interest, to a penalty of 1% of the amount of the unpaid tax for each month or fraction thereof, not to exceed a total penalty of 25% of the unpaid tax. The administrator may abate the penalty or a part thereof for just cause. If the total interest or interest and penalty to be assessed is less than $2.00, the administrator, in lieu thereof, shall assess a penalty in the amount of $2.00.

HISTORY: New 1964, p. 553, Act 284, Imd. Eff. Jun. 12.

141.683 Additional tax assessment; when interest and penalty not imposed.

Sec. 83. (1) Interest or a penalty shall not be imposed on an additional tax assessment if, within 90 days from final determination of a federal tax liability which also affects the computation of the taxpayer's city income tax liability, the taxpayer prepares and files an amended city income tax return showing income subject to the city tax based upon the final determination of federal income tax liability, and pays the additional tax shown due thereon or makes claim for refund of an overpayment. Interest shall not be allowed on a refund of the city income tax resulting from a final determination of federal tax liability.

(2) Interest and a penalty shall not be imposed for underestimating the tax if the total amount of tax withheld and paid by declaration, equals at least 70% or more of the tax shown due on the final return or 70% or more of the tax shown on the taxpayer's return for the preceding taxable year.

(3) An employee shall not be penalized because of the failure of his employer to report or pay tax withheld from the employee when the employer has in fact withheld the proper amount of tax.

HISTORY: New 1964, p. 553, Act 284, Imd. Eff. Jun. 12.

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141.684 Due and unpaid assessment; determination, procedure.

Sec. 84. (1) If the administrator determines that a taxpayer or an employer subject to the provisions of this ordinance has failed to pay the full amount of the tax due or tax withheld, he shall issue a proposed assessment showing the amount due and unpaid, together with interest and penalties that may have accrued thereon. The proposed assessment shall be served upon the taxpayer or employer in person, or by mailing by registered or certified mail to the last known address of the taxpayer or employer. Proof of mailing the proposed assessment is prima facie evidence of a receipt thereof by the addressee.

(2) A taxpayer or employer has 30 days after receipt of a proposed assessment within which to file a written protest with the administrator, who shall then give the taxpayer or employer or his duly authorized representative an opportunity to be heard and present evidence and arguments in his behalf.

HISTORY: New 1984, p. 553, Act 284, Imd. Eff. Jun. 12.

141.685 Final assessment; protest.

Sec. 85. (1) After the hearing the administrator shall issue a final assessment setting forth the total amount found due in the proposed assessment and any adjustment he may have made as a result of the protest. The final assessment shall be served in the same manner as a proposed assessment. Proof of mailing of the final assessment is prima facie evidence of a receipt thereof by the addressee.

(2) If a protest is not filed in respect to a proposed assessment, a taxpayer or employer is deemed to have received a final assessment 30 days after receipt of the proposed assessment.

HISTORY: New 1984, p. 553, Act 284, Imd. Eff. Jun. 12.

141.686 Return without payment of tax; demand by administrator.

Sec. 86. If an employer or taxpayer files a return showing the amount of tax or withholding due the city, but fails to pay the amount to the city treasurer, the administrator is not required to issue a proposed assessment or a final assessment. The administrator shall issue a 10-day demand for payment and if no payment or satisfactory evidence of payment is made in the 10 days he may thereafter recover the tax with interest and penalties thereon in the name of the city in any court of record as other debts are recoverable, or prosecute for violation of this ordinance under section 99, or both.

HISTORY: New 1984, p. 554, Act 284, Imd. Eff. Jun. 12.

141.687 Jeopardy assessment; procedure.

Sec. 87. If the city believes that collection of the tax withheld from an employee's compensation as imposed under this ordinance will be jeopardized by delay, the city, whether or not the time otherwise prescribed by the ordinance for making the return and paying the tax has expired, shall immediately assess the tax and interest and additions provided by the ordinance. The tax, interest and additions shall thereupon become immediately due and payable, and the city shall make an immediate notice and demand for payment, notwithstanding the fact that the withheld tax is not due under the ordinance until the last day of the month following the end of the calendar quarter.

HISTORY: New 1984, p. 554, Act 284, Imd. Eff. Jun. 12.

141.688 Statute of limitations; waiver; payment of tax.

Sec. 88. (1) Except in case of fraud, failure to file a return, failure to comply with the withholding provisions of this ordinance, or omission of substantial portions of income subject to the tax, an additional assessment shall not be made after 3 years from the date the return was due, including extensions thereof, or the tax was paid, which-

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ever is later. An omission of more than 25% of gross income is considered a substantial omission of income. Under this section a declaration of estimated tax is not considered a return.

(2) If the federal internal revenue service and a taxpayer execute a waiver of the federal statute of limitations, as to a taxable year, the expiration of the period within which an additional assessment may be made by the administrator or a claim for refund filed by the taxpayer for such taxable year for city income tax purposes shall be 6 months from the date of expiration of the waiver.

HISTORY: New 1964, p. 554, Act 284, Imd. Eff. Jun. 12.

141.689 Statute of limitations; refund.

Sec. 89. (1) Except as otherwise provided in this ordinance, a tax erroneously paid shall not be refunded unless a claim for refund is made within 3 years from the date the payment was made or the final return was due, including extensions thereof, whichever is later, unless the administrator and the taxpayer mutually agree to extend the time for assessment or refund. Under this section a declaration of estimated tax is not considered a return. Upon denial of a refund a taxpayer may follow the same procedure for appeal as provided in the case of a deficiency assessment.

(2) A tax deficiency as finally determined and interest or penalties thereon shall be paid within 30 days after receipt of a final assessment where no appeal is made.

HISTORY: New 1964, p. 554, Act 284, Imd. Eff. Jun. 12.

141.691 Income tax board of review; appointment, officers, hearing procedure, quorum, qualifications, record.

Sec. 91. The governing body of the city shall appoint an income tax board of review consisting of 3 residents of the city who are not city officials or employees.

The board shall select its chairman, secretary and such other officers as it deems necessary and shall adopt rules governing the procedure for hearings before it and its other procedures. The rules shall be filed in the office of the city clerk and shall be available for inspection by any interested person. A copy of the rules shall be furnished on request to any interested person.

A majority of the board members shall constitute a quorum for any action by or hearing before the board, or for any other purpose. A member of the board shall not act on a matter in which he has a financial interest other than the common public interest. A record shall be kept of all the board's transactions and proceedings.

History: New 1964, p. 554, Act. 284, Imd. Eff. Jun. 12.

141.692 Income tax board of review; notice of appeal, transcript, hearing, confidential tax data, payment of deficiency or refund.

Sec. 92. (1) A taxpayer or employer may file a written notice of appeal with the secretary of the income tax board of review within 30 days after receipt of a final assessment, denial in whole or part of a claim for refund, or special ruling of the administrator. Upon receipt of the notice of appeal, the board of review shall notify the administrator, who shall forward within 15 days to the board a certified transcript of all actions and findings taken by him relating to the matter under appeal. The appellant or his duly authorized representative may inspect the transcript.

(2) The board of review shall grant the appellant a hearing at which the appellant or his duly authorized representative and the administrator and his authorized agent have an opportunity to present evidence relating to the matter under appeal. After conclusion of the hearing the board acting by a majority vote of its 3 members shall affirm, reverse or modify the matter under appeal and furnish a copy of its decision to the appellant and to the administrator.

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(3) The provisions of this ordinance as to the confidential character of tax data are applicable to proceedings pending before or submitted to the board.

(4) A tax deficiency or refund and any interest or penalties thereon shall be paid within 30 days after receipt of notice of determination by the board if no further appeal is made.

HISTORY: New 1964, p. 555, Act 284, Imd. Eff. Jun. 12.

141.693 Income tax board of review; appeal to state tax commissioner, procedure.

Sec. 93. A taxpayer, employer or other person aggrieved by a rule adopted by the administrator or a taxpayer, employer, person or city aggrieved by a determination of the board of review on a final assessment, denial in whole or in part of a claim for refund, or a special ruling, may file a timely appeal therefrom to the state commissioner of revenue in such form and manner as the commissioner shall prescribe. Within 30 days after a final order of the commissioner upon the appeal, the taxpayer shall pay the city the taxes, interest and penalty found due from the taxpayer to the city, and the city shall refund to the taxpayer any amount found to have been overpaid by the taxpayer.

HISTORY: New 1964, p. 555, Act 284, Imd. Eff. Jun 12;—Am. 1989, p. 88, Act 42, Imd. Eff. Jul. 17.

141.694 Action in circuit court for judicial review.

Sec. 94. If a taxpayer, employer, person or city is aggrieved by a decision of the state commissioner of revenue, the aggrieved party may bring an action within 90 days in the circuit court for the county in which the taxing jurisdiction is located to obtain a judicial determination of the matter.

HISTORY: New 1964, p. 555, Act 284, Imd. Eff. Jun. 12.

141.695 Payment to taxpayer from general fund.

Sec. 95. If a taxpayer is found entitled by a decision on an appeal to recover any sum paid, and no further appeal has been taken within the time limited, the sum shall be paid from the general fund of the city.

HISTORY: New 1964, p. 555, Act 284, Imd. Eff. Jun. 12.

141.699 Violation of act; penalties.

Sec. 99. Each of the following violations of this ordinance is a misdemeanor and is punishable, in addition to the interest and penalties provided under the ordinance, by a fine not exceeding $500.00, or imprisonment for a period not exceeding 90 days or both:

(a) Wilful failure, neglect or refusal to file a return required by the ordinance.

(b) Wilful failure, neglect or refusal to pay the tax, penalty or interest imposed by the ordinance.

(c) Wilful failure of an employer to withhold or pay to the city a tax as required by the ordinance.

(d) Refusal to permit the city or an agent or employee appointed by the administrator in writing to examine the books, records and papers of a person subject to the ordinance.

(e) Knowingly filing an incomplete, false or fraudulent return.

(f) Attempting to do or doing anything whatever in order to avoid full disclosure of the amount of income or to avoid the payment of any or all of the tax.

HISTORY: New 1964, p. 555, Act 284, Imd. Eff. Jun. 12.

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CHAPTER 3

ALTERNATIVE PROVISIONS

141.701 Alternative provisions; adoption.

Sec. 1. The governing body of a city may adopt sections 60, 61 and 87 of this chapter in lieu of sections 60, 61 and 87 of chapter 2.

HISTORY: Add. 1969, p. 88, Act 42, Imd. Eff. Jul. 17.

141.760 Tax withheld; return, payment.

Sec. 60. An employer shall file a return, furnished by or obtainable on request from the city, and pay to the city the full amount of the tax withheld on or before the last day of the month following the close of each calendar quarter, except that if during any calendar month other than the last month of a calendar quarter the amount withheld exceeds $100.00, the employer shall deposit the amount withheld with the city treasurer before the end of the next calendar month.

HISTORY: Add. 1969, p. 88, Act 42, Imd. Eff. Jul. 17.

141.761 Tax withheld; reconciliation of quarterly returns; deficiencies, refunds; information returns; cessation of business.

Sec. 61. (1) An employer shall file a reconciliation of his quarterly returns on or before the last day of February following each calendar year in which he has withheld from an employee's compensation. A deficiency is due when the reconciliation is filed. If the employer made monthly or quarterly or both, payments in excess of the amount withheld from an employee's compensation, the city upon proper verification shall refund the excess to the employer.

Information return.

(2) In addition to the reconciliation the employer shall file an information return for each employee from whom the city income tax has been withheld and each employee subject to withholding under this ordinance, setting forth his name, address and social security number, the total amount of compensation paid him during the year, and the amount of city income tax withheld from him. The information return shall be on a copy of the federal W-2 form or on a form furnished or approved by the city. A copy of the information return shall be furnished to the employee.

Cessation of business.

(3) If an employer goes out of business or otherwise ceases to be an employer, reconciliation forms and the information return forms shall be filed by the date the final withholding return and payment are due.

HISTORY: Add. 1969, p. 88, Act 42, Imd. Eff. Jul. 17.

141.787 Jeopardy assessment; procedure.

Sec. 87. If the city believes that collection of the tax withheld from an employee's compensation as imposed under this ordinance will be jeopardized by delay, the city, whether or not the time otherwise prescribed by the ordinance for making the return and paying or depositing the tax has expired, shall immediately assess the tax and interest and additions provided by the ordinance. The tax, interest and additions thereupon shall become immediately due and payable and the city shall make an immediate notice and demand for payment, notwithstanding the fact that the withheld tax is not due under the ordinance until the last day of the month following the end of the calendar month or quarter.

HISTORY: Add. 1969, p. 88, Act 42, Imd. Eff. Jul. 17.

Act 198, 1970, p. 563; Imd. Eff. Aug. 15.

AN ACT to permit the imposition and collection by cities of a population of 1,000,000 or more, of a utility users tax; to provide the procedure for, and to require the

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adoption of a prescribed uniform city utility users tax ordinance by cities desiring to impose and collect such a tax; to limit the rate of such tax; to prescribe the powers and duties of the state commissioner of revenue; and to provide for appeals.

The People of the State of Michigan enact:

CHAPTER 1

CITY UTILITY USERS TAX

141.801 City utility users tax; short title.

Sec. 1. This act shall be known and may be cited as the "city utility users tax act".

HISTORY: New 1970, p. 563, Act 198, Imd. Eff. Aug. 15.

141.802 City utility users tax; city ordinance, rate; uniform city utility users tax ordinance, adoption, rescission; effective date.

Sec. 2. The governing body of a city of 1,000,000 or more, by a lawfully adopted ordinance which incorporates by reference the uniform city utility users tax ordinance set forth in chapter 2, may levy, assess and collect from those users in that city a utility users tax as provided therein. The governing body shall set the rate of tax in increments of 1% which shall not exceed 5% and shall be used exclusively for public safety. The uniform city utility users tax ordinance may be lawfully adopted or rescinded by the governing body at any time and its adoption shall become effective on and after the first day of any month, following adoption of the ordinance, as specified in the ordinance, but no such ordinance or increase in rate under such ordinance shall become effective earlier than 45 days after adoption. The ordinance may thereafter be rescinded at any time by the governing body in the same manner in which it was adopted and with appropriate enforcement, collection and refund provisions with respect to liabilities incurred prior to the effective date of its rescission. The ordinance shall not be amended except as provided by the legislature. Notwithstanding any other provision of this act, when an ordinance becomes effective on any date other than January 1, each tax year shall end on December 31 and the provisions of the ordinance based on a full tax year are modified accordingly to be applicable to any partial tax year. No village and no city under 1,000,000 population shall impose and collect any utility users tax. Any city which adopts, rescinds or changes the rate of tax shall within 7 days notify by certified mail all public utilities or resale customers affected by the action of the governing body. Except as otherwise provided in this section, no city now having or which may hereafter attain a population of 1,000,000 or more may impose a utility users tax except by adopting the entire uniform city utility users tax ordinance as hereinafter set forth.

HISTORY: New 1970, p. 563, Act 198, Imd. Eff. Aug. 15.

141.803 Uniform rules for appeals; publication by commissioner, provisions.

Sec. 3. The state commissioner of revenue shall publish uniform rules in accordance with and subject to Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.313 of the Compiled Laws of 1948, governing the form and manner of appeal from a final determination by a city affecting a utility, resale customer, utility user or other person and purporting to be made under or in administration of the uniform city utility users tax ordinance. The rules shall provide at least 30 days after notice of a final assessment, denial of claim for refund or special ruling in which the appeal may be filed. They shall provide to the utility, resale customer, utility user or other person or his duly authorized representative and to the city an opportunity to present evidence and argument and to examine witnesses relating to the matter under appeal. Promptly

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after completion of the hearing, the commissioner shall affirm, reverse or modify by written order the action of the city which is the subject matter of the appeal, and shall furnish a copy of his order and opinion thereon to the utility, resale customer, utility user or other person and to the duly authorized official of the city.

HISTORY: New 1970, p. 563, Act 198, Imd. Eff. Aug. 15.

141.804 Orders of commissioner; compliance; appeal; recovery.

Sec. 4. The parties, within 30 days after receipt of the order of the state commissioner of revenue, shall fully comply with all directions and requirements of the order unless theretofore excused therefrom during or as a result of a final determination pursuant to an appeal from the order of the commissioner as hereinafter provided. If the utility, resale customer, utility user or other person or the city is aggrieved by any such order of the commissioner, he may appeal within 90 days after receipt of notice of the order to the circuit court for the county in which the taxing jurisdiction is located.

If a utility, resale customer, utility user or other person, as the result of an appeal, is found entitled to recover any sums paid they shall be paid from the general fund of the city. The city shall promptly and uniformly comply with a final order upon appeal hereunder affecting the interpretation, administration or application of the ordinance.

HISTORY: New 1970, p. 564, Act 198, Imd. Eff. Aug. 15.

141.805 Uniform city utility users tax ordinance; application.

Sec. 5. The uniform city utility users tax ordinance does not apply to a person or corporation as to whom or which it is beyond the power of the city to impose the tax therein provided for.

HISTORY: New 1970, p. 564, Act 198, Imd. Eff. Aug. 15.

141.806 Uniform ordinance; form.

Sec. 6. The uniform city utility users tax ordinance is as set forth in chapter 2.

HISTORY: New 1970, p. 564, Act 198, Imd. Eff. Aug. 15.

141.807 Effective date of act; expiration.

Sec. 7. This act shall be effective August 15, 1970 and shall expire December 31, 1972.

HISTORY: New 1970, p. 564, Act 198, Imd. Eff. Aug. 15.

CHAPTER 2

UNIFORM CITY UTILITY USERS TAX ORDINANCE

141.821 Uniform city utility users tax ordinance; short title.

Sec. 1. This ordinance shall be known and may be cited as the "uniform city utility users tax ordinance".

HISTORY: New 1970, p. 564, Act 198, Imd. Eff. Aug. 15.

141.822 Uniform city utility users tax ordinance; definitions.

Sec. 2. For the purposes of this ordinance:

(1) The words, terms and phrases set forth below and their derivations have the meanings given therein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and in the singular number include the plural. "Shall" is always mandatory and not merely directory. "May" is always directory.

(2) "Administrator" means the official designated by the city to administer the provisions of this ordinance.

(3) "Billed or ordinarily billable to locations within the taxing city" means the location of the premises of the user for the usage of the public utility services.

(4) "Month" means a calendar month.

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(5) "Person" means a natural person, partnership, fiduciary, association, corporation or other entity. When used in any provision imposing a criminal penalty, "person" as applied to an association means the parties or members thereof, and as applied to a corporation, the officers thereof.

(6) "Public utility services" means the providing, performing or rendering of public service of a telephone, electric, steam or gas nature, the rates or other charges for which are subjected to regulation by state public utility regulatory bodies, federal public utility or regulatory bodies or both, or the rendering of public service of an electric or gas nature by a government owned facility.

(7) "Public utility" means a person who provides public utility services.

(8) "Resale customer" means a person that purchases utility services or property from a public utility for resale to a utility user.

(9) "Utility user" or "user" means a person required to pay a tax imposed under the provisions of this ordinance.

HISTORY: New 1970, p. 564, Act 198, Imd. Eff. Aug. 15.

141.823 City utility users tax; imposition, rate.

Sec. 3. Subject to the exclusions, adjustments and exemptions herein provided, a city utility users tax at the rate of .....% for general revenue purposes is hereby imposed on and shall be paid by the utility user. This tax shall be measured by the amounts paid, not including any existing or hereafter enacted taxes (including, but not limited to federal, state, city and other local taxes, directly added to or directly passed on in the users' billing) paid by users for the public utility services as hereinafter provided, billed or ordinarily billable to locations within the taxing city:

(a) The tax shall be imposed on all intrastate telephone communication services, furnished by a public utility. The term "intrastate telephone communication services" shall not include any telephone service originating or terminating outside Michigan, telephone services by coin-operated installations, directory advertising proceeds, telephone services not taxable under section 4251 of Title 26 of the United States Code as of December 31, 1969, as amended, centrex and multi-line key switching systems, mobile telephone service and any types of services or equipment, furnished by telephone companies subject to public utility regulation, during any period in which such services or equipment are in competition with services or equipment furnished by or available from persons other than telephone companies subject to public utility regulation.

(b) The tax shall be on all electrical energy and steam provided by a public utility or a resale customer. The term "electrical energy and steam provided" shall include amounts paid for metered energy and steam, and minimum charges for service, including user charges, service charges, demand charges, standby charges and annual and monthly charges. The term shall not include electrical energy or steam sold to or exchanged with for resale by, another public utility, or used or consumed in the conduct of the business of an electric or steam public utility or a combination gas and electric utility.

(c) The tax shall be on all gas, natural or artificial provided by a public utility or a resale customer. The term "gas, natural or artificial provided" shall not include any gas sold for use in the generation of electrical energy by a public utility, any gas sold to or exchanged with for resale by, another gas public utility, or any gas used or consumed in the conduct of the business of a gas public utility or a combination gas and electric utility.

HISTORY: New 1970, p. 565, Act 198, Imd. Eff. Aug. 15.

141.824 City utility users tax; billing; delinquency; payment; annual return.

Sec. 4. (1) The taxes imposed under this ordinance shall be billed by the public utility or resale customer as provided in section 3 herein, and they may imprint upon the

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face of the bill the amount of the tax and the name of the taxing city, commencing with the first regular billing period applicable to that person which starts on or after the date this ordinance is made operative for the taxing city, and shall be paid by the user along with the amounts billed for public utility services furnished.

(2) Any tax required to be paid by a user under this ordinance shall be deemed a debt owed by the user to the taxing city, and deemed delinquent from the time due until paid.

(3) Subject to extensions which may be granted for good cause shown, and to a utility collection fee of 1% of the tax amounts involved, all tax amounts under this ordinance billed by the public utility or resale customer in a given month shall be remitted to the taxing city on or before the last day of the following month, along with a return in such form as may be prescribed by the taxing city, showing such information as may be necessary for the proper administration of this ordinance provided that tax amounts based on billings shall be subject to adjustment for tax moneys not actually collected by the public utility or resale customer. Any such tax amounts not so remitted shall be deemed delinquent. An annual return for each year shall be filed by the public utility and resale customer on or before the end of the fourth month following the end of the tax year.

HISTORY: New 1970, p. 565, Act 198, Imd. Eff. Aug. 15.

141.825 Rules; publication; enforcement; taxes and payments, disposition; special rulings; examination of records.

Sec. 5. (1) The administrator may adopt, amend and repeal rules relating to the administration and enforcement of this ordinance, but not in conflict with the ordinance, subject to the approval of the city governing body. The rules, amendments and repeals, after approval by the city governing body, shall become effective upon being published in the official newspaper of the city.

(2) The administrator shall enforce this ordinance and the rules. The administrator shall prepare, adopt and make available to taxpayers and other persons all forms necessary for compliance with this ordinance.

(3) The city treasurer shall collect all taxes and payments due under this ordinance and deposit them in a designated city depository.

(4) A taxpayer, public utility or resale customer desiring a special ruling on a matter pertaining to this ordinance or rules shall submit in writing to the administrator all the facts involved and the ruling sought. A taxpayer, public utility or resale customer, aggrieved by a special ruling may appeal as provided in section 14.

(5) The administrator or his duly authorized agent may examine the books, papers and records of any person, public utility, resale customer, taxpayer or his agent or representative, for the purpose of verifying the accuracy and completeness of a return filed, or, if no return was filed, to ascertain the tax, penalties or interest due under this ordinance.

HISTORY: New 1970, p. 566, Act 198, Imd. Eff. Aug. 15.

141.826 Information; confidentiality; divulgence, penalty.

Sec. 6. (1) Information gained by the administrator, or any other city official, agent or employee as a result of a return, investigation, hearing or verification required or authorized by this ordinance is confidential, except for official purposes in connection with the administration of the ordinance and except in accordance with a proper judicial order.

(2) Any person who divulges this confidential information, except for official purposes, is guilty of a violation of this ordinance and subject to a fine not exceeding $500.00 or imprisonment for a period not exceeding 90 days, or both, for each offense.

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In addition, an employee of the city who divulges this confidential information is subject to discharge for misconduct.

HISTORY: New 1970, p. 566, Act 198, Imd. Eff. Aug. 15.

141.827 Examinations and investigations; submission.

Sec. 7. (1) A person shall furnish, within 10 days following a request of the administrator or his duly authorized agent, the means, facilities and opportunity for making such reasonable examinations and investigations as are authorized by this ordinance, and shall present himself for examination under oath when so ordered by the administrator. The request or order of the administrator or his duly authorized agent may be made verbally unless the person requests that the request or order be addressed to him in writing.

(2) Refusal by any person to submit to such examination or investigation, when requested or ordered by the administrator, is a violation of this ordinance, punishable by such penalties as are provided in the ordinance.

HISTORY: New 1970, p. 566, Act 198, Imd. Eff. Aug. 15.

141.828 Delinquent tax amounts; interest; penalties.

Sec. 8. (1) All delinquent tax amounts shall be subject to interest from the due date at the rate of ½ of 1% per month or fraction thereof until paid.

(2) A user failing to pay the tax, or any public utility or resale customer failing to remit moneys billed and due the city, when due, or file a return when due, is liable, in addition to the interest, to a penalty of 1% of the amount of the unpaid tax, or moneys unremitted, for each month or fraction thereof, not to exceed a total penalty of 25% of the unpaid tax. The administrator may abate the penalty or a part thereof for just cause. If the total interest or interest and penalty to be assessed is less than $2.00, the administrator, in lieu thereof, may assess a penalty in the amount of $2.00. Interest, interest and penalty, or the minimum charge shall be computed separately for each month or billing period.

(3) Interest and penalties applicable to users shall not be subject to public utility or resale customer billing procedures but shall be recovered only by the taxing city directly from users.

HISTORY: New 1970, p. 566, Act 198, Imd. Eff. Aug. 15.

141.829 Failure to pay tax; determination; proposed assessment, issuance; hearing.

Sec. 9. (1) If the administrator determines that a user has failed to pay the full amount of the tax due under this ordinance, he may, or if he determines that a public utility or resale customer has failed to remit the amount of tax moneys received from users, and due the city, he shall issue a proposed assessment showing the amount due and unpaid, together with interest and penalties that may have accrued thereon. The proposed assessment shall be served upon the user, public utility or resale customer in person, or by mailing by registered or certified mail to his last known address. Proof of mailing the proposed assessment is prima facie evidence of a receipt thereof by the addressee.

(2) A user, public utility or resale customer has 30 days after receipt of a proposed assessment within which to file a written protest with the administrator, who shall then give the user, public utility or resale customer or his duly authorized representative an opportunity to be heard and present evidence and arguments in his behalf.

HISTORY: New 1970, p. 567, Act 198, Imd. Eff. Aug. 15.

141.830 Final assessment; issuance; protest.

Sec. 10. (1) After the hearing the administrator shall issue a final assessment setting forth the total amount found due in the proposed assessment and any adjustment he

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may have made as a result of the protest. The final assessment shall be served in the same manner as a proposed assessment. Proof of mailing of the final assessment is prima facie evidence of a receipt thereof by the addressee.

(2) If a protest is not filed in respect to a proposed assessment, a user, public utility or resale customer is deemed to have received a final assessment 30 days after receipt of the proposed assessment.

HISTORY: New 1970, p. 567, Act 198, Imd. Eff. Aug. 15.

141.831 Refusal to pay tax; demand for payment, action.

Sec. 11. If the public utility or resale customer determines and reports to the administrator that a utility user has refused to pay the tax due, the public utility or resale customer is relieved of the obligation to rebill the tax amount involved. In this event the administrator may, but is not required to, issue a proposed assessment or a final assessment against the user. The administrator may issue a 10-day demand for payment and if no payment or satisfactory evidence of payment is made in the 10 days he may thereafter recover the tax with interest and penalties thereon in the name of the city in any court of record as other debts are recoverable, or prosecute for violation of this ordinance under section 17, or both.

HISTORY: New 1970, p. 567, Act 198, Imd. Eff. Aug. 15.

141.832 Statute of limitations as to additional assessments.

Sec. 12. Except in case of fraud, failure to file a return, or omission of substantial portions of tax due on a return, an additional assessment shall not be made after 3 years from the date the return was due, including extensions thereof, or the tax was paid, whichever is later.

HISTORY: New 1970, p. 567, Act 198, Imd. Eff. Aug. 15.

141.833 Statute of limitations as to refunds; tax deficiency, payment.

Sec. 13. (1) Except as otherwise provided in this ordinance, a tax erroneously paid shall not be refunded unless a claim for refund is made within 3 years from the date the payment was made to the city or the annual return was due, including extensions thereof, whichever is later. Upon denial of a refund a taxpayer may follow the procedure for appeal as provided in section 14.

(2) A tax deficiency as finally determined and interest or penalties thereon shall be paid within 30 days after receipt of a final assessment where no appeal is made.

HISTORY: New 1970, p. 567, Act 198, Imd. Eff. Aug. 15.

141.834 Appeal; final order of commissioner.

Sec. 14. Any person aggrieved by a rule adopted by the administrator, denial in whole or in part of a claim for refund, or a special ruling, may file a timely appeal therefrom to the state commissioner of revenue in such form and manner as the commissioner shall prescribe. Within 30 days after a final order of the commissioner upon the appeal, such person shall pay the city the taxes, interest and penalty found due to the city, and the city shall refund any amount found to have been overpaid.

HISTORY: New 1970, p. 568, Act 198, Imd. Eff. Aug. 15.

141.835 Judicial review.

Sec. 15. If a taxpayer, public utility, resale customer, person or city is aggrieved by a decision of the state commissioner of revenue, the aggrieved party may bring an action within 90 days in the circuit court for the county in which the taxing jurisdiction is located to obtain a judicial determination of the matter.

HISTORY: New 1970, p. 568, Act 198, Imd. Eff. Aug. 15.

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141.836 Recovery; payment.

Sec. 16. If a person is found entitled by a decision on an appeal to recover any sum paid and no further appeal has been taken within the time limited, the sum shall be paid from the general fund of the city.

HISTORY: New 1970, p. 568, Act 198, Imd. Eff. Aug. 15.

141.837 Violations of ordinance; penalty.

Sec. 17. Each of the following violations of this ordinance is punishable, in addition to the interest and penalties provided under the ordinance, by a fine not exceeding $500.00, or imprisonment for a period not exceeding 90 days or both:

(a) Refusal or wilful failure or neglect to file a return required by the ordinance.

(b) Refusal or wilful failure or neglect to pay the tax, penalty or interest imposed by the ordinance.

(c) Wilful failure of a public utility or resale customer to remit to the city tax moneys received as required by the ordinance.

(d) Refusal to permit the city or an agent or employee appointed by the administrator in writing to examine the books, records and papers of a person subject to the ordinance.

(e) Knowingly filing an incomplete, false or fraudulent return or other tax document.

HISTORY: New 1970, p. 568, Act 198, Imd. Eff. Aug. 15.

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CHAPTERS 145-199. MICHIGAN ELECTION LAW

Michigan Election Law
Act 351 of 1925

145.1-167.6 Repealed.

145.1-167.6 Repealed. 1954, p. 295, Act 116, Eff. Jun. 1, 1955.

Sections related to Michigan Election Law of 1925.

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CHAPTER 168. MICHIGAN ELECTION LAW OF 1954

Act 116 of 1954

CHAPTER I.

DEFINITIONS

168.1 Short title; Michigan election law.
168.2 Election; definition.
168.3 General November election; definition.
168.4 Biennial spring election; definition.
168.5 General election; definition.
168.6 Special election; definition.
168.7 Primary or primary election; definition.
168.8 Special primary; definition.
168.9 Village; definition.
168.10 Qualified elector; definition.
168.11 Residence; definition.
168.12 Immediate family; definition.
168.13 Time limits; extension due to holiday, exception.
168.14 Locked and sealed; definition.
168.15 Nominating petition signatures; determination of number.

CHAPTER II.

BOARDS OF ELECTION COMMISSIONERS AND BOARDS OF CANVASSERS

168.21 Secretary of state; chief election officer, powers and duties.
168.22 Repealed.
168.23 Board of county election commissioners; membership, quorum, officers; absences, acting members.
168.24 Repealed.
168.24a Board of county canvassers; powers and duties; appointment, terms; other boards abolished.
Other boards abolished.
Appointment, term, notice.
Elections applicable to.
168.24b Board of county canvassers; members, eligibility, oath of office, holding other office prohibited.
168.24c Board of county canvassers; members, selection, procedure.
168.24d Board of county canvassers; vacancies.
168.24e Board of county canvassers; meetings; election of officers; quorum, action; clerk; assistants, compensation.
168.24f Board of county canvassers in counties under 1,000,000; compensation and expenses.
168.24g Board of state canvassers; compensation at meetings, expenses.
168.24h Board of county canvassers in counties over 1,000,000; compensation and expenses.
168.24j Board of county canvassers; examination of ballot boxes, approval; procurement of proper boxes; use of disapproved box, offense.
168.25 Board of city election commissioners; membership, quorum, chairman; absences, appointment of acting member.
168.26 Board of township election commissioners; membership, quorum, chairman; absences, appointment of acting member.
168.27 Board of village election commissioners; membership, quorum, chairman; absences, appointment of acting member.
168.28 Boards of election commissioners and boards of canvassers; compensation.
168.29 Election assistants; appointment, powers and duties, oath of office, instruction, compensation.
168.30a Board of city or township canvassers; powers and duties; members, appointment, terms, notice; contract with county for services of board of county canvassers, cost.
168.30b Board of city or township canvassers; members, eligibility, affidavit; holding other office prohibited.
168.30c Board of city or township canvassers; members, selection, procedure; applications, appointments, vacancies.
168.30d Board of city or township canvassers; meetings, election of officers; quorum; clerk.
168.30e Board of city or township canvassers; compensation and expenses; incomplete canvass, completion by board of county canvassers, cost.
168.30f Repealed.
168.30g Board of canvassers; absences, appointment of temporary members, qualifications, tenure.

CHAPTER III.

DUTIES OF SECRETARY OF STATE

168.31 Secretary of state; powers and duties as to elections.
Rules, regulations and instructions.
Advice to local election officials.
Manual of instructions.
Pamphlet copies of registration, primary and election laws; distribution.
Forms, notices and supplies.
Form of ballot; amendment to constitution, initiative, referendum.
Reports from local election officials.
Investigation and report of election law violations.
Legislative manual, publication of votes, further information.
168.32 Bureau of elections; director of elections, appointment, powers and duties.
Statement of purpose of proposed constitutional amendment or question.
168.33 Training schools on conducting elections in accordance with election laws; conduct, cost.
168.34 Director of elections; restrictions.
168.35 Assistants to director; employment, expenses.

CHAPTER IV.

ELECTORS OF PRESIDENT AND VICE- PRESIDENT

168.41 Presidential electors; eligibility.
168.42 Presidential electors; selection at state political party conventions, certification.
168.43 Presidential electors; election.

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168.44 Repealed.
168.45 Official presidential ballot; deemed vote for electors.
168.46 Presidential electors; determination by board of state canvassers; certificate of election.
168.47 Presidential electors; convening at state capitol, time; vacancies.

CHAPTER V.

GOVERNOR AND LIEUTENANT GOVERNOR

168.51 Governor or lieutenant governor; eligibility.
168.52 Gubernatorial candidates; nomination at primary.
168.53 Candidates for nomination; nominating petitions, signatures required, filing.
168.54 Candidates for nomination; withdrawal, notice.
168.55 Candidates for nomination; no candidate, write-in.
168.56 Governor; death; selection of new candidate; ballots.
168.57 Gubernatorial candidates; nominees, certification.
168.58 Gubernatorial candidates; withdrawal after nomination.
168.59 Gubernatorial candidates; death, withdrawal or disqualification; new candidate, selection, certification; ballots.
168.60 Governor and lieutenant governor; election.
168.61 Governor and lieutenant governor; certificate of determination by board of state canvassers.
168.62 Governor and lieutenant governor; certificate of election.
168.63 Governor and lieutenant governor; terms of office.
168.64 Governor and lieutenant governor; oath of office, deposit.
168.65 Governor or lieutenant governor; resignation, notice.
168.66 Governor or lieutenant governor; vacancy, creation; impeachment.
168.67 Governor or lieutenant governor; vacancy, line of succession; officers-elect.
168.68 Governor or lieutenant governor; recount of vote.
168.69 Governor or lieutenant governor; recall.

CHAPTER VI.

LIEUTENANT GOVERNOR; SECRETARY OF STATE; ATTORNEY GENERAL

168.71 Secretary of state and attorney general; eligibility.
168.72 Candidates for lieutenant governor, secretary of state, attorney general; nomination at fall state convention.
168.73 Candidates; nominees, certification.
168.74 Candidates; withdrawal, notice.
168.75 Candidates; death, withdrawal or disqualification; new candidate, selection, certification; ballots.
168.76 Secretary of state and attorney general; election.
168.77 Secretary of state and attorney general; certificate of determination by board of state canvassers.
168.78 Secretary of state and attorney general; certificate of election.
168.79 Secretary of state and attorney general; terms of office.
168.80 Secretary of state and attorney general; oath of office, bond, deposit.
168.81 Secretary of state or attorney general; resignation, notice.
168.82 Secretary of state or attorney general; vacancy, creation, notice to governor.
168.83 Secretary of state or attorney general; impeachment; removal from office; service of charges, hearing.
168.84 Secretary of state or attorney general; vacancy; successor, appointment by governor, oath of office, bond.
168.85 Secretary of state or attorney general; election, recount of votes.
168.86 Secretary of state or attorney general; recall.

CHAPTER VII.

UNITED STATES SENATOR

168.91 United States senator; eligibility.
168.92 Candidates for United States senator; nomination at primary.
168.93 Candidates for nomination; nominating petitions, signatures required, filing.
168.94 Candidates; withdrawal, notice.
168.95 Candidates; death; new candidate, selection, certification; ballots.
168.96 Candidates for nomination; no candidate, write-in.
168.97 Candidates; nomination, certification.
168.98 Candidates; withdrawal after nomination.
168.99 Candidates; death, withdrawal or disqualification; new candidate, selection, certification; ballots.
168.100 United States senator; election.
168.101 United States senator; certificate of determination by board of state canvassers.
168.102 United States senator; certificate of election by governor.
168.103 United States senator; term of office.
168.104 United States senator; resignation, notice.
168.105 United States senator; vacancy; successor, appointment by governor, tenure.
168.106 United States senator; primary, recount of votes.
168.107 United States senator; vacancy, creation.
168.108 United States senator; removal from office.
168.109 United States senator; contested election; restraining order of supreme court.
168.110 Contested election; preservation of ballots, application for restraining order by petition; notice, hearing; temporary restraining order pending hearing.
168.111 Contested election; service of restraining order, method.
168.112 Contested election; permanent restraining order, delivery of ballot boxes to custody of county clerk.
168.113 Contested election; commissioners, appointment, packaging of ballots.

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168.114 Contested election; commissioners, redeposit of ballots with county clerk, statement.
168.115 Contested election; removal of ballots by commissioners, notice.
168.116 Contested election; removal of ballots, representation of candidate.
168.117 Contested election; commissioners, compensation.
168.118 Contested election; violation of restraining order, penalty.
168.119 Contested election; application for restraining order to circuit court, authority of court.
168.120 Contested elections; purpose of act.
168.121 United States senator; recall.

CHAPTER VIII.

REPRESENTATIVE IN CONGRESS

168.131 Representative in congress; eligibility.
168.132 Candidates for representative in congress; nomination at primary.
168.133 Candidates for nomination; nominating petitions, signatures required, filing.
168.134 Candidates for nomination; withdrawal, notice.
168.135 Candidates for nomination; death; selection of new candidate; ballots.
168.136 Candidates for nomination; no candidate, write-in.
168.137 Candidates for representative in congress; nomination, certification.
168.138 Candidates; withdrawal after nomination.
168.139 Candidates for representative in congress; death, withdrawal or disqualification; selection of new candidate, certification; ballots.
168.140 Representative in congress; election.
168.141 Representative in congress; certificate of determination by board of state canvassers.
168.142 Representative in congress; certificate of election.
168.143 Representative in congress; term of office.
168.144 Representative in congress; resignation, notice.
168.145 Representative in congress; vacancy, special election.
168.146 Representative in congress; vacancy, creation.
168.147 Representative in congress; removal from office.
168.148 Representative in congress; primary, recount of votes.
168.149 Representative in congress; recall.
168.150 Representative in congress; contested election; preservation of ballots; restraining order of circuit court.
168.151 Contested election; application for restraining order by petition; notice, hearing.
168.152 Contested election; service of restraining order, notice.
168.153 Contested election; violation of restraining order, penalty.
168.154 Contested election; intent of act.
168.155 Contested election; proceeding in equity, fees.

CHAPTER IX.

STATE SENATE AND HOUSE OF REPRESENTATIVES

168.161 State senators and representatives; eligibility.
168.162 Candidates for state senator or representative; nomination at primary.
168.163 Candidates for nomination; nominating petitions, signatures required, filing; filing fees.
168.163a Repealed.
168.164 Candidates for nomination; withdrawal, notice.
168.165 Candidates for nomination; death; selection of new candidate; ballots.
168.166 Candidates for nomination; no candidate, write-in.
168.167 Candidates for state senator or representative; nomination, certification.
168.168 Candidates for state senator or representative; withdrawal after nomination, procedure.
168.169 Candidates for state senator or representative; death, withdrawal or disqualification; new candidate, selection, certification; ballots.
168.170 State senators and representatives; election, date.
168.171 State senators and representatives; certificate of determination by board of state canvassers.
168.172 State senators and representatives; certificate of election.
168.173 State senators and representatives; terms of office.
168.174 State senators and representatives; oath of office.
168.175 State senators and representatives; resignation, notice.
168.176 State senators and representatives; vacancy, creation.
168.177 State senators and representatives; removal from office.
168.178 State senators and representatives; vacancy, special election.
168.179 State senators and representatives; primary or election, recount of votes.
168.180 State senators and representatives; recall.

CHAPTER IXA.

DELEGATES TO CONVENTION FOR GENERAL REVISION OF THE STATE CONSTITUTION

168.181-168.190 Repealed.

CHAPTER X.

PROSECUTING ATTORNEY; SHERIFF; COUNTY CLERK; COUNTY TREASURER; REGISTER OF DEEDS; DRAIN COMMISSIONER; CORONERS; SURVEYOR

168.191 County officers; eligibility.
168.192 Candidates for county offices; nomination at primary.
168.193 Candidates for nomination; nominating petitions, signatures required, filing; fees, refund.

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168.194 Candidates for nomination; withdrawal, notice.
168.195 Candidates for nomination; death; selection of new candidate; ballots.
168.196 Candidates for nomination; write-in when no candidate.
168.197 Candidates for county offices; nomination, certification.
168.198 Candidates for county offices; withdrawal after nomination.
168.199 Candidates for county offices; death, withdrawal or disqualification; new candidate, selection, certification; ballots.
168.200 County officers; election.
168.201 County officers; certificate of determination by board of county canvassers.
168.202 County officers; certificate of election.
168.203 County officers; terms of office.
168.204 County officers; oath of office, bond, deposit.
168.205 County officers; resignation, notice.
168.206 County offices; vacancy, creation.
168.206a County officers; death before commencement of term.
168.207 County officers; removal from office; service of charges, hearing.
168.208 County clerk; removal from office; service of charges, notice, hearing.
168.209 County offices; vacancies, filling.
168.210 County officers; primary or election, recount of votes.
168.211 County officers; recall.

CHAPTER XI.

COUNTY AUDITORS

168.221 Scope of chapter.
168.222 County auditor; eligibility.
168.223 Candidates for county auditor; nomination at primary.
168.223a County auditor; term of office in counties over 1,000,000; abolition of office.
168.224 Candidates for county auditor; nominating petitions, signatures required, filing; filing fees, refund.
168.225 Candidates for county auditor; withdrawal, notice.
168.226 Candidates for county auditor; death; selection of new candidate; ballots.
168.227 Candidates for county auditor; no candidate, write-in.
168.228 Candidates for county auditor; nomination, certification.
168.229 Candidates for county auditor; withdrawal after nomination.
168.230 Candidates for county auditor; death, withdrawal or disqualification; selection of new candidate, certification; ballots.
168.231 County auditor; election.
168.232 County auditor; certificate of determination by board of county canvassers.
168.233 County auditor; certificate of election.
168.234 County auditor; term of office.
168.235 County auditor; oath of office, bond, deposit.
168.236 County auditor; resignation, notice.
168.237 County auditor; vacancy, creation.
168.238 County auditor; removal from office; service of charges, hearing.
168.239 County auditor; appointment to fill vacancy, oath of office, bond, tenure.
168.240 County auditor; primary or election, recount of votes.
168.241 County auditor; recall.

CHAPTER XII.

COUNTY ROAD COMMISSIONERS

168.251 Scope of chapter.
168.252 County road commissioner; eligibility.
168.253 Candidates for county road commissioner; nomination at primary.
168.254 Candidates for nomination; nominating petitions, signatures required, filing; filing fees, refund, forfeiture.
168.255 Candidates for nomination; death; selection of new candidate; ballots.
168.256 Candidates for nomination; withdrawal, notice.
168.257 Candidates for nomination; no candidate, write-in.
168.258 Candidates for county road commissioner; nomination, certification.
168.259 Candidates; withdrawal after nomination.
168.260 Candidates; death, withdrawal or disqualification; selection of new candidate, certification; ballots.
168.261 County road commissioner; election.
168.262 County road commissioner; certificate of determination by board of county canvassers.
168.263 County road commissioner; certificate of election.
168.264 County road commissioner; term of office.
168.265 County road commissioner; oath of office, bond, deposit.
168.266 County road commissioner; resignation, notice.
168.267 County road commissioner; vacancy, creation.
168.268 County road commissioner; removal from office; service of charges, hearing; ineligibility for office.
168.269 County road commissioner; appointment to fill vacancy, oath of office, bond.
168.270 County road commissioner; primary or election, recount of votes.
168.271 County road commissioner; recall.

CHAPTER XIII.

STATE BOARD OF EDUCATION; BOARD OF REGENTS OF UNIVERSITY OF MICHIGAN; BOARD OF TRUSTEES OF MICHIGAN STATE UNIVERSITY; BOARD OF GOVERNORS OF WAYNE STATE UNIVERSITY

168.281 State board of education and boards of state universities; eligibility.
168.282 Candidates for boards of state universities; nomination at fall state conventions.
168.282a Candidates for state board of education; nomination at fall state convention.
168.283 Candidates for state board of education and boards of state universities; certification; vignette.

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168.284 Candidates for state board of education and boards of state universities; withdrawal, notice.
168.285 Candidates for state board of education and boards of state universities; death, withdrawal or disqualification; election of new candidate, certification; ballots.
168.286 Boards of state universities; election.
168.286a State board of education; election.
168.287 State board of education and boards of state universities; certificate of determination by board of state canvassers.
168.288 State board of education and boards of state universities; certificate of election.
168.289 State board of education and boards of state universities; terms of office.
168.290 State board of education and boards of state universities; oath of office, deposit.
168.291 State board of education and boards of state universities; resignation, notice.
168.292 State board of education and boards of state universities; vacancy, creation, notice to governor.
168.293 State board of education and boards of state universities; impeachment; removal from office, service of charges, hearing.
168.294 State board of education and boards of state universities; appointment, vacancy, oath of office.
168.295 State board of education and boards of state universities; election, recount of votes.
168.296 State board of education and boards of state universities; recall.

CHAPTER XIV.

SUPERINTENDENT OF PUBLIC INSTRUCTION AND STATE HIGHWAY COMMISSIONER

168.301-168.316 Repealed.

CHAPTER XV.

CITY OFFICES

168.321 City officers; charter provisions governing.
168.322 Candidates for nomination; nominating petitions, signatures required, filing.
168.322a Candidates for nomination; withdrawal, notice.
168.323 City offices; preparation of ballots, canvass of returns, conduct of primaries and elections; provisions governing.
168.324 Additional justices of the peace; resolution of board of supervisors, appointment or election, jurisdiction and powers.
168.325 Municipal court of record judge; vacancy, appointment, election.
168.326 Candidate for city office; death, selection of new candidate; ballots.
168.327 City officers; removal from office, service of charges, hearing.

CHAPTER XVI.

TOWNSHIP OFFICES

168.341 Elective township offices.
168.342 Township offices; eligibility.
168.343 Repealed.
168.343a Township political party committee; membership.
168.344 Repealed.
168.345 Candidates for township offices; nomination at primary.
168.346 Primaries; inspector of elections, appointment.
168.347 Primaries; provisions governing; recounts; duties of township clerk.
168.348 Primaries; call; notice, publication, posting.
168.349 Candidates for nomination; nominating petitions, signatures required, filing.
168.349a Repealed.
168.350 Repealed.
168.351 Candidates for nomination; withdrawal, notice.
168.352 Candidates for township offices; death; selection of new candidates; ballots.
168.353 Primaries; absent voters, provisions applicable.
168.354 Candidates for township offices; no candidate, write-in.
168.355 Candidates for township offices; nominees, certification.
168.356 Repealed.
168.357 Candidates for township offices; death or disqualification; write-in.
168.358 Township officers; election; date; conduct.
168.358a Township special elections; notice.
168.359 Repealed.
168.360 Township officers; certificate of election.
168.361 Township electors; annual meeting; notice, publication, posting.
Abolition in townships having 5,000 or more inhabitants, referendum.
168.362 Township officers; terms of office.
168.363 Township officers; oath of office.
168.364 Township treasurer; bond, approval, filing.
168.365 Constables; bond.
168.366 Justices of the peace; bond.
168.367 Township officers; resignation, filing.
168.368 Township offices; vacancy, creation.
168.369 Township officers; removal from office; service of charges, hearing.
168.370 Township officers; appointment to fill vacancy.
168.370a Township officers; vacancies, election of successor, term.
168.371 Township officers; primary election, recount of votes.
168.372 Township officers; recall.
168.373 Township clerk; appointment of substitute to perform election n law duties.

CHAPTER XVII.

VILLAGE OFFICES

168.381 Village officers; qualifications, nomination, election, appointment, terms, removal; charter provisions governing.
168.382 Village officers; nomination and election, time.
168.383 Village officers; removal from office; service of charges, hearing, ineligibility.

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CHAPTER XVIII.

JUSTICES OF THE SUPREME COURT

168.391 Justices of supreme court; eligibility.
168.392 Candidates for justice of supreme court; nomination at fall state convention.
168.392a Candidates for justice of supreme court; incumbents, affidavit of candidacy for re-election.
168.393 Candidates for justice of supreme court; certification of nomination.
168.394 Candidates for justice of supreme court; withdrawal, notice.
168.395 Candidates for justice of supreme court; death, withdrawal, disqualification; selection of new candidate, certification; ballots.
168.396 Supreme court justices; election.
168.397 Supreme court justices; certificate of determination by board of state canvassers.
168.398 Supreme court justices; certificate of election.
168.399 Supreme court justices; term of office.
168.400 Supreme court justices; oath of office, deposit.
168.401 Supreme court justices; resignation, notice.
168.402 Supreme court justices; vacancy, creation.
168.403 Supreme court justices; impeachment; removal from office, service of charges, hearing.
168.404 Supreme court justices; vacancy, appointment, election.
168.405 Supreme court justices; election, recount of votes.
168.406 Supreme court justices; not subject to recall.

CHAPTER XVIIIA.

JUDGES OF THE COURT OF APPEALS

168.409 Appeals court judges; eligibility.
168.409a Candidates for appeals court judge; nomination at general nonpartisan primary election; omission.
168.409b Court of appeals judge; nominating petition; form, filing.
Incumbent judge; affidavit of candidacy.
168.409c Candidates for nomination; withdrawal, notice.
168.409d Candidates for appeals court judge; nomination, certification.
168.409e Appeals court judges; election.
168.409f Appeals court judges; certificate of determination by board of state canvassers.
168.409g Appeals court judges; certificate of election.
168.409h Appeals court judges; oath of office, filing.
168.409i Appeals court judges; resignation, notice.
168.409j Appeals court judges; vacancy, creation.
168.409k Appeals court judges; impeachment; removal from office, service of charges, hearing; vacancy, notice.
168.409l Court of appeals judge; vacancy, appointment, election.
168.409m Appeals court judges; primary or election, recount of votes.
168.409n Appeals court judges; not subject to recall.

CHAPTER XIX.

JUDGES OF THE CIRCUIT COURT

168.411 Judges of circuit court; eligibility.
168.412 Candidates for circuit court judge; nomination at general nonpartisan primary election; omission.
168.413 Candidates for nomination; nominating petitions, signatures required, filing.
168.413a Circuit judge; affidavit of candidacy.
168.414 Candidates for nomination; withdrawal, notice.
168.415 Candidates for circuit court judge, nomination, certification.
168.416 Circuit court judges; election.
168.416a Circuit court judges; incumbents, expiration, extension of terms.
168.416b Circuit court judges; 1966 election, terms.
Nominating petitions or affidavit of candidacy for 1 office.
Subsequent elections.
168.416c Circuit court judges; 1966 election, terms in certain judicial circuits.
168.416d Circuit court judges; 1965 special election, terms.
168.417 Circuit court judges; certificate of determination by board of state canvassers.
168.418 Circuit court judges; preservation of statement and determination; certificate of election.
168.419 Circuit court judges; terms of office.
168.420 Circuit court judges; oath of office, filing.
168.421 Circuit court judges; resignation, notice.
168.422 Circuit court judges; vacancy, creation.
168.423 Circuit court judges; impeachment; removal from office, service of charges, hearing; vacancy, notice.
168.424 Circuit court judge; vacancy, appointment, election.
168.425 Circuit court judges; primary or election, recount of votes.
168.426 Circuit court judges; not subject to recall.

CHAPTER XIXA.

JUDGES OF MUNICIPAL COURTS OF RECORD

168.426a Judges of municipal courts of record; nomination and election.
168.426b Judges of municipal courts of record; eligibility.
168.426c Candidates for municipal court judge; nomination at general nonpartisan primary election.
168.426d Candidates for nomination; nominating petitions, signatures required, filing.
168.426e Candidates for nomination; affidavit as to eligibility and candidacy.
168.426f Candidates for municipal court judge; nomination, certification.
168.426g Municipal court judges; first general election, terms of office.
168.426h Municipal court judges; 1966 general election, judges on separate judicial ballot, terms of office.
168.426i Municipal court judges; subsequent elections.

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168.426j Municipal court judges; terms of office.
168.426k Municipal court of record judge; ballot, designation.
168.426l Municipal court judges; certificate of determination by city board of assessors.
168.426m Municipal court judges; certificate of election.
168.426n Municipal court judges; oath of office.

CHAPTER XX.

JUDGE OF PROBATE

168.431 Judges of probate; eligibility.
168.432 Candidates for probate judge; nomination at general nonpartisan primary election; omission.
168.433 Candidates for probate judge; nominating petitions, signatures required, filing.
168.433a Probate judge; affidavit of candidacy.
168.434 Candidates for nomination; withdrawal, notice.
168.435 Candidates for probate judge; nominees, certification.
168.436 Probate judges; election.
168.436a Probate judges; election in single-judge counties, term.
168.436b Probate judges; election in two-judge counties, terms, nominating petitions.
168.436c Probate judges; election in multi-judge counties with staggered terms.
168.436d Probate judges; time of election.
168.437 Probate judges; certificate of election by board of county canvassers.
168.438 Probate judges; certificate of election.
168.439 Probate judges; term of office.
168.440 Probate judges; oath of office.
168.441 Probate judges; resignation, notice.
168.442 Probate judges; vacancy, creation.
168.443 Probate judges; impeachment; removal from office, service of charges, hearing; notice of vacancy.
168.444 Probate judge; vacancy, appointment, election.
168.445 Probate judges; primary or election, recount of votes.
168.446 Probate judges; not subject to recall.

CHAPTER XXI.

CIRCUIT COURT COMMISSIONER

168.451-168.458 Repealed.
168.459 Repealed.
168.460-168.466 Repealed.

CHAPTER XXIA.

JUDGES OF THE DISTRICT COURT

168.467 Judge of district court; eligibility.
168.467a Candidates for district court judge; nomination at general nonpartisan primary election; certification of candidates.
168.467b Candidates for nomination; nominating petitions, signatures required, filing; filing fee.
168.467c District judge; affidavit of candidacy; ballot designation.
168.467d Candidates for nomination; withdrawal, notice.
168.467e Candidates for district court judge; nominees, certification.
168.467f District court judges; election.
168.467g District court judges; certificate of determination by board of state canvassers.
168.467h District court judges; certificate of election.
168.467i District court judges; term of office.
168.467j District court judges; oath of office.
168.467k District court judges; resignation.
168.467l District court judges; impeachment; removal from office, service of charges, hearing; notice of vacancy.
168.467m District court judge; vacancy, appointment, election.

CHAPTER XXII.

INITIATIVE AND REFERENDUM

168.471 Petitions proposing constitutional amendments; filing.
168.472 Initiative petitions; filing.
168.473 Referendum petitions; filing.
168.474 Board of state canvassers; duties; statement of purpose of proposed constitutional amendment.
168.475 Petitions; notice of filing to board of state canvassers, meeting.
168.476 Petitions; canvass by board of state canvassers, hearing upon complaint, investigations, completion date.
168.477 Petitions; official declaration of sufficiency or insufficiency by board of state canvassers; publication of statement of purpose, expense.
168.478 Petitions; notice of approval or rejection by board of state canvassers to persons filing.
168.479 Review of determination; mandamus, certiorari or other remedy.
168.480 Proposed constitutional amendment or question; certification; copies to voting precincts, posting.
168.481 Proposed constitutional amendment or question; form.
168.482 Petitions; form, contents.
168.483, 168.484 Repealed.
168.485 Questions submitted to electors; form.

CHAPTER XXIII.

REGISTRATION OF ELECTORS

168.491 Registration of electors; requirement.
168.492 Electors; qualifications.
168.493 Registration of electors; registration cards, contents.
168.494 Registration cards; file; definitions.
168.495 Registration of electors; registration affidavit, contents.
168.496 Registration of electors; duties of secretary of state.
168.497 Application for registration; acceptance by township, city and village clerks; time and place; registration after closing.
168.498 Application for registration; township, city and village clerks, office hours; notice, posting and publication.
168.499 Registration of electors; registration affidavit, execution, oath; interpreter; falsification, penalty; acceptance of registration; fees prohibited; voter identification card, issuance.

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168.500 Registration of electors; procedure for applicant unable to write.
168.501 Registration cards; precinct and master files.
168.502 Registration cards; township, city or village clerk; custody of files.
168.503 Registration records; loss or destruction of registration card, execution of new registration affidavit; loss or destruction of files, re-registration of electors; noncompliance, correction or re-registration, expense.
168.504 Registration of electors; procedure for applicant unable to make personal application.
168.505 Cancellation of previous registration; form, mailing.
168.506 Change of residence within township, city or village; transfer of registration by clerk.
168.507 Change of residence within township, city or village; transfer of registration by precinct election board.
168.507a Removal to another city or township after fifth Friday prior to primary or election; voting; affidavit, contents; cancellation of registration.
168.508 Transfer of registration; notice to elector.
168.509 Registration records; annual review; notice of suspension of registration, form, contents; cancellation, reinstatement.
168.509a Members of armed forces on active duty; non-cancellation of registration.
168.510 Deceased electors; cancellation of registration.
168.511 Cancellation of registration; authorization from elector.
168.512 Challenge of elector; affidavit, contents; answering affidavit; cancellation of registration; indiscriminate challenge, penalty.
168.513 Removal from municipality; notice to elector, cancellation of registration.
168.514 Cancellation of registration; cancelled registration cards, entries, filing, destruction.
168.515 Registration records; verification by house-to-house canvass.
168.516 Registration records; public inspection.
168.517 Division of ward or precinct; transfer of registration cards, notations, notice to electors.
168.518 Organization of new township; first registration of electors, records, notice; incorporation of new city, registration records.
Annexation to city; transfer of township registration records.
Statement by township clerk.
168.519 Illegal or fraudulent registration; penalty.
168.520 Illegal or fraudulent registration; township, city or village clerk, powers and duties; assistance by police or sheriff; assistant examiners, appointment, expenses.
168.521 Illegal or fraudulent registration; removal of names, notice; reinstatement; review by mandamus; challenge.
168.522 Lists of registered electors; preparation, certification by township, city or village clerk; cost.
168.523 Application to vote; identification of elector; challenge, procedure; approval of application; records, notations.
Increase of ad valorem tax rate; issuance of bonds, expenditure of public money; certificate of property ownership.
168.524 Number of eligible voters; reports by township, village and city clerks to county clerks after registration closing.

CHAPTER XXIV.

PRIMARY ELECTIONS

168.531 Primary elections; nomination of candidates by direct vote.
168.532 Parties not receiving 5% of total vote; nomination of candidates by caucuses or conventions; principal candidate, definition.
168.533 Applicability of act.
168.534 General primary; time, nominations to be made.
168.535 General primary; nomination of nonpartisan candidates.
168.536, 168.537 Repealed.
168.538 Primary elections; notice, posting and publication.
168.539 City and county primary elections; not held when no opposition; certification of candidates; notice to city and township clerks, public notice.
168.540 Nonpartisan primary elections; when not held; certification of candidates.
168.541 District primary elections; not held when no opposition; certification of candidates; notice to city and township clerks.

PREPARATION AND FILING OF NOMINATING PETITIONS; FEES

168.542 Nominating petitions; provisions governing.
168.543, 168.544 Repealed.
168.544a Nonpartisan nominating petitions; size, form, contents.
168.544b Candidates for judicial office; affidavit of qualifications to be filed with nominating petitions.
168.544c Nominating petitions; size, form, contents; circulator of petitions, eligibility, affidavit; circulation, restrictions; illegal signatures; applicability of section.
168.545 Nominating petitions; combination of two offices.
168.546 Nominating petitions; supply by county and city clerks; printing by candidate.
168.547 Repealed.
168.547a Nominating petitions; signatures by voters, number, counting.
168.548 Nominating petitions; maximum number of signatures.
168.549 Nominating petitions; excess signatures, counting.
168.550 Candidates for nomination; qualification upon compliance with act.
168.551 Nominating petitions; filing fees; deadline for filing.
168.551a Repealed.
168.552 Nominating petitions; certification of nominees; complaint as to validity of signatures on nominating petition; official declaration

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of sufficiency or insufficiency; review of determination by mandamus, certiorari or other remedy.
Secretary of state, duties as to petitions, canvass, complaints, investigation.
Declaration as to sufficiency of nominating petitions, review, certification of nominees.
168.553 Nominating petitions; insufficiency, notice to candidate.
168.554 List of candidates; posting.
168.554a Filing fee; deadline for filing.
168.555 Nominating petitions and filing fees; public record, contents; public inspection.
168.556 Nominating petitions; final disposition, record.
168.557 Nominating petitions; affidavit as to change of name; falsification, penalty; inapplicability of section.
168.558 Nominating petitions; filing fees; affidavit as to identity, contents; noncompliance.
Petitions of filing fees for incompatible offices, election.

PREPARATION AND DISTRIBUTION OF BALLOTS

168.559 Official primary election ballots; preparation, distribution.
168.560 Official ballots; contents; exclusive use; size.
168.561 Official ballots; names of candidates to be printed; similar surnames, appeal; married women.
168.561a Official ballots; designation of candidate with same given and surname as incumbent.
168.562 Official ballots; delegates to county convention.
168.563 Primary election ballots; printing; number; arrangement; color.
168.564 Official ballots; failure of party to file required petitions, party ballot not printed.
168.565 Official ballots; proof copies to secretary of state and candidates; corrections.
168.566 Official primary ballots; posting for public inspection.
168.567 Official primary ballots; errors, correction by board of election commissioners.
168.568 Official primary ballots; form, contents.
168.569 Official primary ballots; numbering; separation of columns.
168.570 Official primary ballots; candidates, order of listing; numbering of ballots, identification, distribution; sample form; applicability of section to nonpartisan and municipal elections.
168.570a Official primary ballots; candidates for township offices, order of listing, party qualification; references to February primary and April election, definition.
168.571 Repealed.
168.572 Official primary ballots; provision for write-in votes.
168.573 Official primary ballots; packaging, seal, certification.

CONDUCT OF PRIMARY ELECTIONS

168.574 Primary election; board of primary election inspectors, membership.
168.575 Primary elections; furnishing ballots to electors.
168.576 Primary elections; electors, marking; voting more than 1 ticket.
168.576a Primary elections; electors, number of votes.
168.577 Primary elections; electors, folding and delivery of ballots.
168.578 Primary elections; poll list, comparison of ballot number.
168.579 Primary elections; electors, exposure of ballot, rejection.
168.580 Primary elections; candidates deemed voted for.

CANVASSING OF PRIMARY RETURNS

168.581 Primary elections; canvass of returns and declaration of results.
168.582 Primary elections; nomination of write-in candidate, vote required.
168.583 Primary election day; service of civil process on electors prohibited.

VOTING MACHINES AT PRIMARIES

168.584 Primary elections; use of voting machines permitted; separate booths for paper ballots.
168.585 Primary elections; use of voting machines; supplementary ballots.
168.586 Primary elections; use of voting machines, provisions governing; candidates, order of listing.
168.587 Primary elections; voting machines, straight ticket and excess voting prevented.
168.588 Primary elections; voting machines, number in precinct.

CHAPTER XXV.

DELEGATES, CONVENTIONS AND PARTY COMMITTEES

168.591 State conventions in even years; time and place, issuance of calls.
168.592 County conventions in even years; time and place, issuance of calls, election of delegates to state convention; congressional district conventions, committee, temporary chairman, election of delegates, certification.
168.593 State conventions in odd years; time, issuance of calls; apportionment of delegates among counties.
168.594 County convention in odd years; time and place, issuance of call; election of delegates to state convention; congressional district conventions, committee, temporary chairman, election of delegates, certification.
168.595 Delegates to state conventions; apportionment to wards, precincts, townships or districts; basis.
168.595a Delegates to state convention; legislators as delegates at large, alternates, vote.
168.596 Fall conventions and spring conventions; definition.
168.597 State central committee; members, officers, term of service.

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168.598 State central committee; issuance of call for fall state convention, apportionment of delegates, additional delegates.
168.599 Fall county convention; convening, selection of party county executive committee, appointments, vacancies.
Certification, notice to members.
Officers, selection; proxy.
County committees.
Nominees as delegates at large.
168.600 Congressional district conventions; election of congressional district officers, terms.
168.600a Congressional district officers; residence requirement, exception.
168.601 County comprising single congressional or judicial district; county committee.
168.602 County comprising more than one congressional district; county committee.
168.603 Repealed.
168.603a Counties over 400,000; legislators as members of congressional district committee and delegates at large.
168.604 County committee; issuance of call for fall county convention, apportionment of delegates.
168.605 Delegates to fall county convention; write-in candidates.
168.606 Delegates to fall county convention; election, notice.
168.607 Delegates to fall county convention; election, votes required; tie vote, determination by lot.
168.608 Delegates to fall county convention; certification, record, notice of election.
168.609 Delegates to city or county convention; proxy prohibited; vacancies in delegation.
168.610 Delegates to national convention; selection of national committeeman and national committeewoman.
168.611 Delegates to national convention; election of congressional district delegates, delegates at large and presidential electors; certification.
168.612 Precinct or convention delegate; age.

CHAPTER XXVI.

DELEGATES—REFERENDUM

168.621 Party convention delegates; nomination.
168.622 County conventions; time and place, chairman, vacancies, rules and regulations.
168.623 Delegates to fall county conventions; election, apportionment to election precincts.
168.624 Candidates for delegate to fall county conventions; eligibility; nominating petitions, affidavit; violation of section, penalty; complaint as to validity of petitions, registration or residence of candidate, investigation.
168.625 Delegates to county fall conventions; canvass of returns, notice to candidate; tie vote, determination by lot; write-in candidates, certification.
168.626 Board of county election commissioners; preparation of ballots, contents, printing; distribution.

CHAPTER XXVII.

SPECIAL PRIMARIES AND ELECTIONS

168.631 Special primary election; time.
168.632 Special elections; in absence of choice for representative in congress.
168.633 Special elections; vacancy in office of representative in congress.
168.634 Special elections; vacancy in office of state senator or representative; general election, candidate, nomination, certification.
168.634a Repealed.
168.635 Special elections; referendum.
168.636 Applicability of act to special primary elections.
168.637 Primary elections; provisions governing.
168.638 Special elections; notice.
168.639 Special elections called by municipalities; county election scheduling committee, members, vacancies, compensation; conflict with other scheduled elections, determination, notice.

CHAPTER XXVIII.

HOLDING OF ELECTIONS

168.641 General November elections; time.
168.642 Repealed.
168.643 General November elections; national, state, county and township officers to be elected.
168.643a Referendums; questions submitted to electors, form.
168.644 Repealed.
168.644a Odd year general election; time.
168.644b Odd year primary election; time.
168.644c Officers to be elected.
168.644e Nomination by primary; exceptions.
168.644f Nominating petitions; filing; signatures; omission of primary.
168.644g Terms of office, extension.
168.644h Time of taking office.
168.644i Manner of conducting elections.
168.644j Exceptions to odd year elections.
168.644k School elections.
168.644l Exemption from odd year election; reinstatement.
168.645 Repealed.
168.646 City and village regular elections; provisions governing; judges, designation of incumbency on ballots.
168.646a Election of local officers; nomination; certification.
Local or county questions, submission.
Application of section, filing of affidavits and petitions.
168.646b City or village officers; nomination and election; primary date.
168.646c Election of judges of common pleas court; terms of office; affidavit of qualifications; nominating petitions, signatures required, filing.
168.646d Precinct divisions for 1968; effective date, notice; petitions for precinct delegate, effect; office of county supervisor, placement on ballot.

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NOTICES OF ELECTION

168.647 Notice of elections; registered or certified mail.
168.648 Notice of elections to county clerk; time, contents.
168.649 Referendum; certification of proposed constitutional amendment or special question.
168.649a Airport authority referendum; petitions, filing; submission.
168.650 Subsequent vacancy; additional notice to county clerks.
168.651 Special election; notice to county clerks, contents.
168.652 Special elections; notice to city and township clerks, contents.
168.653 Special elections; public notice, publication, posting, form.

ELECTION PRECINCTS

168.654 Election precincts; definition.
168.655 Election precincts; provisions governing.
168.656 Election precincts; establishment, petition, referendum; division of precincts, effective date, notice, expense.
168.657 Election precincts; division, rearrangement.
168.658 Election precincts; consolidation.
168.659 Repealed.
168.660 Election precincts; division, alteration, rearrangement or abolition, record; notice.
168.661 Election precincts; number of voting machines; division of precincts, effective date.

POLLING PLACES, EQUIPMENT, SUPPLIES

168.662 Polling places; designation, rental or erection by legislative bodies; equipment; central polling places; authority of township boards.
168.663 Polling places; erection of barriers.
168.664 Polling places; booths or temporary rooms, specifications.
168.665 Polling places; forms, stationery and supplies; provision, delivery, approval by state bureau of elections.
168.666 Michigan election law and manual of instructions; metal sealing devices; paper election seals; printed instructions to electors; blank forms for returns.
168.666a Sealing devices for ballot boxes.
168.667 Election supplies, furnished at county expense.
Forms for election returns; certificate of board of precinct election inspectors, form.
Tally sheets.
Envelopes for statement of returns.
Containers for wrapping ballots cast.
Pencils.
168.668 Polling places; posting of election law; delivery of register of electors and supplies.
168.669 Polling places; ballot boxes, specifications; United States flags.
168.669a Polling places; ballot containers.
168.670 Local primaries and elections; ballots, forms, stationery and supplies.
168.671 Blank forms for returns; metal sealing devices for ballot boxes.
168.672 Board of inspectors of elections; presence in precinct polling places.
168.673 Repealed.
168.674 Precinct election inspectors; appointment, chairman, political party membership, vacancies.
168.675 Precinct election inspectors; vacancies during election.
168.676 Repealed.
168.677 Precinct election inspectors; qualifications; application, contents; candidates ineligible.
168.678 Board of election inspectors; authority.
168.679 Counting board; provisions governing; duties.
168.680 Precinct election inspectors; oath of office.
168.681 Precinct election inspectors; right to vote.
168.682 Election officials; compensation.
168.683 Election inspectors; instruction, compensation, vacancies.

PREPARATION, PRINTING AND DELIVERY OF OFFICIAL BALLOTS

168.684 Vignette; preparation, adoption, size; notice of change; provision of cuts.
168.685 Petition to form new political party; filing, signatures required, form, type; disqualification of party.
168.686 State convention; canvass of returns, certification of nominees; presidential and vice-presidential candidates.
168.686a Small parties; nomination of candidates, procedure.
County caucuses; nominees, certificate of acceptance, affidavit of identity, withdrawal.
Same; delegates to state convention.
State convention; nominees, certificate of acceptance, affidavit of identity, withdrawal.
168.687 Certification of nominations by board of canvassers.
State at large.
District office.
County office.
City or ward office.
Contents of certificate.
168.688 Certificates of nomination; delivery.
168.689 Official ballots; preparation, printing.
168.690 Official ballots; delivery to township, village and city clerks; duties of township and municipal election boards.
168.691 Official ballots; names of candidates, identification; married women.
168.692 Nomination by more than one party; choice; nomination for more than one office.
168.693 Nomination by more than one party or for more than one office; failure to make choice; procedure.
168.694 Applicability of certain sections.
168.695 Ineligibility of candidate at subsequent election.
168.696 Official ballots; printing; candidates with similar surnames, determination, designation of occupation.
168.697 Official ballots; order of listing offices.
168.698 Repealed.

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168.699 Separate judicial ballot; order of listing offices.
168.700, 168.701 Repealed.
168.702 Official ballots; placing of name to fill vacancy.
168.703 Official ballots; position of parties.
168.703a Official ballots; listing of candidates, incumbents.
168.704 Official ballots; size of voting squares or circles.
168.705 Official ballots; paper, printing, numbering, color of paper.
168.706 Official ballots; sample form.
168.707 Referendum on proposed constitutional amendment or question; form of ballot, certification.
168.708 Proposed constitutional amendment or question; statement of purpose, publication.
168.709 Proposed constitutional amendment or question; statement of purpose, copies to voting precincts, posting.
168.710 Proposed constitutional amendment or question; proof copies of ballots, filing, public inspection.
168.711 Official ballots; proof copies, certification, correction of errors.
168.712 Official ballots; omissions or errors; correction by pasters.
168.713 Absent voters' and other ballots and election supplies; delivery to county clerks, deadline.
168.714 Absent voters' and other ballots and election supplies; delivery by county clerks to township and city clerks, deadline.
168.715 Absent voters' and other ballots; duties of township and city clerks, delivery to voting precinct boards of election inspectors.
168.716 Absent voters' and other ballots; wrapping, sealing.
168.717 Absent voters' ballots; numbering, packaging, marking.
168.717a Absent voters' ballots where voting machines used exclusively; form, contents, discontinuance.
168.718 Official ballots; printer, acts prohibited; instruction ballots, printing.
168.719 City, township and village election commissions; duties; party committees, duties; proof copy of ballot, public inspection.

CONDUCT OF ELECTIONS AND MANNER OF VOTING

168.720 Polls; times of opening and closing.
168.721 Polls; opening and closing governed by central standard time.
168.722 Polls; announcement of opening and closing.
168.723 Ballot boxes; examination, locking.
168.724 Ballots; opening packages; distribution of pencils; unused absent voters' ballots.
168.725 Repealed.
168.726 Ballots; delivery to elector.
168.727 Challenges; duty of election inspector or elector; indiscriminate challenges, penalty.
168.728 Challenges; disposition.
168.729 Challenges; oath, questions as to qualifications; false statements, penalty.
168.730 Challengers; appointment by political party or interested committee or organization; qualifications; number.
168.731 Challengers; notice of appointment by organization, contents; appointment without authorization, penalty.
168.732 Challengers; authority; evidence of right to be present; affidavit of qualifications.
168.733 Challengers; space in polling place; rights; expulsion for cause, protection.
168.734 Challengers; preventing presence, penalty.
168.735 Poll book and poll list; contents.
168.736 Voting; ballots, delivery to electors by numbers; assistance by election inspectors.
168.737 Voting; ballots, marking.
168.738 Voting; ballots, folding, deposit in ballot box; rejection for exposure.
168.739 Voting; ballots, deposit in separate boxes; label on box.
168.740 Voting; ballots, spoiling.
168.741 Voting; unused and spoiled ballots, preservation.
168.742 Voting; time for voting ballot.
168.743 Voting; ballots, return by elector; failure, penalty.
168.744 Unlawful acts.
168.745 Ballot of challenged voter; endorsement, rejection.
168.746 Ballot of challenged voter; endorsement concealed, identification prohibited.
168.747 Contested election; challenged voters' ballots, identification in court.
168.748 Contested election; petition to determine qualifications of electors.
168.749 Contested elections; challenged voters ballots, removal of slips concealing endorsements, replacement.
168.750 Electors; exemption from civil process.

ASSISTED VOTERS

168.751 Voting; assistance of elector by election inspectors.
168.752 Voting; assistance of elector, oath; form.
168.753 Assisted voters' ballots; marking for identification.
168.754 Assistance of electors; duties and restrictions.
168.755 Assistance of electors; record and report.
168.756 False swearing; perjury.
168.757 Unlawful acts; felony.

ABSENT VOTERS

168.758 Absent voter; definition.
168.758a Absent voters' ballots for president and vice-president; qualifications, applications.
Removal to Michigan from foreign state.
Removal to foreign state from Michigan.
Ballots; furnishing; designation; counting votes.
Application; time, form, content; oath; temporary registration.
Application by former resident of Michigan; form, certificate voting officer; cancellation of records.
168.759 Absent voters' ballots; application, deadline, form.

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168.759a Armed services members and employees outside United States; registration, absent voters' ballots.
168.759b Emergency absent voters' ballot; application.
168.760 Absent voters; records, public inspection.
168.761 Absent voters' ballots; marking, numbering; statement of voter, form.
168.761a Absent voters' ballots; precinct delegate ballots.
168.762 Absent voters' ballots; procedure when no application.
168.763 Repealed.
168.764 Absent voters' ballots; instructions.
168.765 Absent voters' ballots; safekeeping, public inspection, delivery to election inspectors, applications not received after opening of polls.
168.766 Absent voters' ballots; verification by election inspectors.
168.767 Absent voters' ballots; illegal vote; rejection of ballot, marking, preservation.
168.768 Absent voters' ballots; legal vote; deposit of ballot in box, record.
168.769 Absent voters' ballots; voting in person; return of ballot, double voting prohibited.

VOTING MACHINES

168.770 Voting machines; separate booths for marking paper ballots; contracts.
168.770a Voting machines; authorization of use by secretary of state; petition; rules as to election procedures.
168.771 Voting machines; purchase.
168.772 Voting machines; construction and operation.
168.773 Voting machines; maintenance, custody.
168.774 Voting machines; contracts for purchase, terms.
168.775 Voting machines; ballot labels, printing, order of names; amendments or questions; vignettes; printed ballots.
168.776 Voting machines; supplies and equipment; keys, delivery and return.
168.777 Voting machines; model, instructions.
168.778 Voting machines; control; officers of election, compensation, duties; lighting of machines; police protection.
168.779 Election inspectors; qualifications as to voting machines.
168.780 Repealed.
168.781 Election inspectors and poll clerks; opening of polls, examination of machine seals and counter, delivery of keys, other duties.
168.782 Repealed.
168.782a Voting machines; voting for more write-in candidates than space on machine, procedure.
168.782b Voting machines; use of emergency ballots when no reserve machine available.
168.783 Voting machines; challenged voter, procedure.
168.784 Voting machines; irregular ballots, unlawful use.
168.785 Voting machines; location.
168.786 Voting machines; voting, secrecy, time limit.
168.787 Voting machines; keyboard concealed.
168.788 Voting machines; locking.
168.789 Voting machines; election inspectors, instructions to voter, assistance to incapacitated voter.
168.790 Voting machines; defacing, altering or injuring machine or labels.
168.791 Voting machines; sealing against voting; reading and announcement of vote; tally of absent voters' ballots; locking of machines.
Absent voters ballots; legality; counting; returns statement.
Completion of returns; inspection; availability; closing machine.
Absent voters ballots; sealing; certificate.
Sealing and locking machine; duration.
168.791a Printer type voting machines; definition, operation.
168.792 Voting machines; discrepancy in return; investigation, re-canvass procedure, petition.
168.792a Absent voters' counting boards; establishment; powers and duties.
Counting places.
Supplies.
Delivery of ballots, time; rejected ballots.
Registration card; notation.
Absent voter voting in person; procedure.
Processing of ballots; oath; tallying; disposition.
Challenged voters; procedure.
168.793 Voting machines; inspectors' statement forms.
168.794 Electronic voting systems; definitions.
168.794a Electronic voting systems; authorization of use, acquisition, abandonment.
168.794b Electronic systems; manner of payment.
168.794c Applicability and construction of provisions; promulgation of rules by secretary of state.
168.795 Electronic systems; specifications.
168.795a Electronic systems; approval by board of state canvassers; improvement and changes, reapproval.
168.795b Electronic systems; ballot labels, materials, form, contents.
168.795c Ballots; differentiation of parts, voting straight party ticket or split ticket.
168.796 Sample ballots; posting; provision for write-in votes.
168.796a Electronic systems; voting equipment and supplies.
168.796b Election inspectors; instruction; emergencies.
168.797 Election inspectors; duties.
168.797a Electronic systems; instructions for electors; marked ballots, deposit in ballot box; spoiled ballots.
168.797b Unused ballots; opening ballot box; counting write-in votes; excessive votes for an office; voted ballots and voting devices, disposition.
168.797c Precinct election inspectors; report of votes cast and ballot container, disposition.
168.798 Electronic systems; automatic tabulating equipment, testing, notice, method.

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168.798a Electronic systems; counting center proceedings, direction, method.
168.798b Electronic systems; unofficial and official counts and returns; manual and mechanical counting.
168.798c Electronic systems; absentee votes; absent voters' ballots, counting, recounting, voting, processing.
168.799 Electronic systems; injury, alteration or defacement of voting devices or records prohibited; examination, repair.

CHAPTER XXIX.
CANVASS BY THE PRECINCT INSPECTORS

168.801 Canvass of votes by precinct inspectors; public access.
168.802 Excess ballots; disposition.
168.803 Canvass; rules for counting and recounting of votes.
168.804 Canvass; tallying.
168.805 Ballots; packaging, marking; placement in ballot box.
168.806 Duplicate statements of returns; contents, certificate of accuracy.
168.807 Election results; availability.
168.808 Statement of returns; failure to sign certificate, falsification, penalty.
168.809 Election returns and records; delivery; unofficial tabulation.
168.810 Poll list; delivery to clerk.
168.811 Election returns and records; preservation, destruction, time.

CHAPTER XXX.
THE COUNTY CANVASS

168.821 Board of county canvassers; meeting time and place.
168.822 Board of county canvassers; canvass of returns, conclusion.
168.823 Board of county canvassers; power to summon and open ballot boxes; correction of errors; summoning of election inspectors.
168.824 Board of county canvassers; statement of votes, preparation.
168.825 Statements of votes; contents, certification, filing.
168.826 Board of county canvassers; determination of election results; exception; publication, certificate of election.
168.827 Certificate of determination to secretary of state.
168.828 Statements of votes; certified copy to secretary of state.
168.829 Board of county canvassers; meeting for canvass of special election.
168.830 County canvassers and county clerk; compensation.

CHAPTER XXXI.
THE STATE CANVASS

168.841 Board of state canvassers; duties.
168.842 Board of state canvassers; meeting; time and place, notice, adjournment.
168.843 Statements of votes; filing and preservation by secretary of state; certified copies.
168.844 Statements of votes; examination, preparation of statement of totals by board of state canvassers.
168.845 Board of state canvassers; statement of votes, certificate of determination, delivery, publication.
168.846 Board of state canvassers; tie vote, certification to legislature, determination.

CHAPTER XXXII.
DETERMINATION OF ELECTION BY LOT

168.851 Tie vote; determination of election by lot, procedure; drawing for state legislature.
168.852 Procedure when no provision for determination of tie vote, right to recount.

CHAPTER XXXIII.
RECOUNTS
COUNTY, CITY, TOWNSHIP AND VILLAGE BOARDS OF CANVASSERS

168.861 Fraudulent or illegal voting, or tampering with ballots or ballot boxes; remedy by quo warranto.
168.862 Recount of votes; petition by candidate.
168.863 Recount of votes for proposed local amendment or question; petition by elector.
168.864 Recount of votes; petition by candidate for legislature, deposit; non-legislative recount in same precinct.
Primary election for legislative office, board of canvassers.
168.865 Recount petition; contents.
168.866 Recount petition; filing, deadline; copy, filing.
168.867 Recount petition; deposit, amount, disposition.
168.868 Recount petition; notice to opposing candidates; counter petition, filing, time, deposit, copy.
168.869 Recount petition; investigation, delay; expenses of local recount.
168.870 Board of canvassers; investigation of recount.
168.871 Recount; counting of ballots, procedure.
Voting machines; exceptions.
168.872 Board of canvassers; investigation, report to prosecutor and circuit judge.
168.873 Recount; misconduct of employees, felony.
168.874 Recount; return of ballots; manner of counting votes.
168.875 Recount; completion.
168.876 Recount; returns by board of canvassers, withdrawal of petition; final report open to public inspection.
168.877 Review of apparent error by certiorari.

STATE CANVASSERS

168.878 Construction of sections; action against board of state canvassers by mandamus.
168.879 Recount of votes; petition by candidate, deadline, contents; candidate for legislature, deposit, additional copies, preservation of ballots.
168.880 Recount of votes; petition by elector on constitutional amendment or question, deadline, contents.
168.880a Recount of votes; grounds; notice to candidates; elections involving propositions procedures.

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168.881 Recount petition; deposit, refund.
168.882 Recount petition; notice to opposing candidate; counter petitions, filing, time, deposit.
168.883 Recount petition; notice to county clerk; preservation of ballots; investigation and recount by state canvassers.
168.884 Boards of county canvassers; clerks and assistants for conduct of recount.
168.885 Boards of state and county canvassers; right to subpoena witnesses; noncompliance, penalty.
168.886 Witnesses; compensation and mileage.
168.887 Recount of votes; misconduct of employees, felony.
168.888 Board of state canvassers; return of ballot boxes, poll books, tally sheets, and statements of votes; concurrent recount.
168.889 Board of state canvassers; time and place, rules and regulations for recounts in counties.
168.890 Board of state canvassers; authority of members as to supervision of recounts in counties.
168.891 Recounts; manner of conduct under board of state canvassers.
168.892 Board of state canvassers; recounts in counties, certification of results.
168.893 Discontinuance of recount; original return deemed correct.
168.894 Recounts in counties; expenses, payment.

CHAPTER XXXIV.

CAMPAIGN EXPENSES

168.901 Campaign expenses; definitions.
168.902 Campaign expenses of candidates; limitation.
168.903 Political committee treasurer; appointment, duties.
168.904 Campaign expenses; lawful items.
168.905 Campaign contributions; payable to candidates or committee.
168.906 Campaign expense accounts; filing, contents; proof copy of ballot, filing; duplicates.
168.907 Campaign expense accounts; public inspection, preservation.
168.908 Campaign expense accounts; official inspection, notice to delinquents.
168.909 Campaign expense accounts; failure to file, report to prosecuting attorney or attorney general.
168.910 Immunity of witnesses.
168.911 Campaign expense accounts; blank forms.
168.912 Employer intimidation of employees prohibited.
168.913 Solicitation of donations from candidates prohibited.
168.914 Paid advertisements for candidates; marking; payment for editorials prohibited.
168.914a Paid advertisements for proposed amendments or questions; marking, name of sponsor.
168.915 Publication or circulation of false statement; penalties.
168.916 Campaign expense account; administration of oath of office before filing prohibited.
168.917 Anonymous contributions; prohibition.
168.918 Anonymous contributions; disbursement prohibited.
168.919 Corporate contributions; prohibition.
168.920 Violation of chapter; penalty.

CHAPTER XXXV.

OFFENSES AND PENALTIES

168.931 Statutory provisions; violation, misdemeanor.
168.932 Statutory provisions; violation deemed felony.
Corrupt influence of elector.
Unauthorized breaking open of seal or locks on ballot boxes or voting machines.
Destruction, mutilation, fraud or concealment as to election records by custodian.
Disclosure of contents of ballots; obstruction of electors.
168.933 Perjury; definition.
168.934 Misdemeanor; penalty.
168.935 Felony; penalty.
168.936 Perjury; penalty.
168.937 Forgery; penalty.
168.938 Candidate convicted of felony; election void quo warranto.
168.939 Election inspector; duty to furnish information to prosecuting attorney.
168.940 Prosecuting attorney; duty to prosecute.
168.941 Peace officers; duty to institute proceedings.
168.942 Prosecution; time limitations; fraudulent registrations; immunity of witnesses.
168.943 Recorder's court; jurisdiction; circuit courts, jurisdiction.
168.944 False designation of incumbency; misdemeanor.
168.945 Inducing improper applications to vote as absentee voter; misdemeanor.
168.947 Possession of master keys for voting machines; misdemeanor; master keys, definition.

CHAPTER XXXVI.

RECALL

168.951 Officers subject to recall; recall petition, circulation, time.
168.952 Recall petitions; form, contents.
168.953 Recall petitions; form, modification.
168.954 Recall petitions; eligibility of signers.
168.955 Recall petitions; signatures; number, time limit.
168.956 Recall petitions; village, signatures required.
168.957 Recall petitions; circulator, qualifications; affidavit, contents; falsification, perjury.
168.958 Recall petitions; separate circulation in cities and townships.
168.959 Recall petitions for United States and state legislators and elective officers, filing.
168.960 Recall petitions for elective county, township, city, village or school officers; filing.
168.961 Recall petitions; verification of signatures, striking of names.

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168.962 Recall petitions; insufficiency, notice to sponsor.
168.963 Recall petitions; sufficiency, election, time; additional petitions, effect.
168.964 Recall election; procedure, notice, ballots, supplies.
168.965 Recall of officer with election duties; appointment of impartial public officer.
168.966 Recall ballot; contents.
168.967 Recall election; payment of expenses.
168.968 Recall election; certification of result.
168.969 Further recall petition; filing, condition.
168.970 Recall of officer; vacancy.
168.971 Recall of officer; election to fill vacancy.
168.972 Election to fill vacancy; candidates, nomination by petition.
168.973 Election to fill vacancy; party candidates, nomination.
168.974 Recalled officer; ineligibility.
168.975 Candidate deemed elected.
168.976 Recall election; laws governing.

CHAPTER XXXVII.

REPEALS AND MISCELLANEOUS

168.991 Repeals.
168.992 Effective date of act.

Act 116, 1954, p. 142; Eff. Jun. 1, 1955.

AN ACT to reorganize, consolidate and add to the election laws; to provide for election officials and prescribe their powers and duties; to provide for the nomination and election of candidates for public office; to provide for the resignation, removal and recall of certain public officers; to provide for the filling of vacancies in public office; to provide for and regulate primaries and elections; to provide for the purity of elections; to guard against the abuse of the elective franchise; to define violations of this act; to prescribe the penalties therefor; and to repeal certain acts and all other acts inconsistent herewith.

The People of the State of Michigan enact:

CHAPTER I.

DEFINITIONS

168.1 Short title; Michigan election law.

Sec. 1. This act shall be known and may be cited as the "Michigan election law".

HISTORY: New 1954, p. 142, Act 116, Eff. Jun. 1, 1955.

CITED IN OTHER SECTIONS: Sections 168.1 to 168.992 are cited in §§ 42.4, 331.151, 340.539, and 701.1.

168.2 Election; definition.

Sec. 2. The term "election", as used in this act, shall mean and be held to include any election and primary election, at which the electors of the state or of any subdivision thereof choose or nominate by ballot public officials or decide any public question lawfully submitted to them. The term "election" is not synonymous with the term "civil appointment" as such term appears in section 9 of article 4 of the state constitution.

HISTORY: New 1954, p. 142, Act 116, Eff. Jun. 1, 1955;—Am. 1968, p. 214, Act 152, Eff. Jul. 1.

168.3 General November election; definition.

Sec. 3. The term "general November election", as used in this act, shall mean the election provided to be held in the state on the first Tuesday after the first Monday of November in every even numbered year.

HISTORY: New 1954, p. 142, Act 116, Eff. Jun. 1, 1955.

168.4 Biennial spring election; definition.

Sec. 4. The term "biennial spring election", "spring election" or other similar term, as used in city or village charters unless otherwise defined therein, shall mean the local election to be held on the first Monday of April in every odd numbered year.

HISTORY: New 1954, p. 142, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 10, Act 3, Imd. Eff. Dec. 27.

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168.5 General election; definition.

Sec. 5. The words "general election", as used in this act, shall mean the general November election.

HISTORY: New 1954, p. 142, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 10, Act 3, Imd. Eff. Dec. 27.

168.6 Special election; definition.

Sec. 6. The term "special election", as used in this act, shall mean any election, other than a regular election, called by competent authority for the purpose of choosing officials to fill vacancies in public office, or for submission to the electors of any public question.

HISTORY: New 1954, p. 142, Act 116, Eff. Jun. 1, 1955;—Am. 1965, p. 374, Act 212, Eff. Mar. 31, 1966.

168.7 Primary or primary election; definition.

Sec. 7. The term "primary" or "primary election", as used in this act, shall mean a primary election held for the purpose of deciding by ballot who shall be the nominees for the offices named in this act, or for the election by ballot of delegates to political conventions.

HISTORY: New 1954, p. 142, Act 116, Eff. Jun. 1, 1955.

168.8 Special primary; definition.

Sec. 8. The term "special primary", as used in this act, shall mean a primary called by competent authority for the nomination of candidates to be voted for at a special election as defined in section 6 of this act.

HISTORY: New 1954, p. 142, Act 116, Eff. Jun. 1, 1955.

168.9 Village; definition.

Sec. 9. The term "village", as used in this act, shall mean an incorporated village. Except where the contrary is clearly indicated, the provisions of this act shall apply to the holding of any general, special or primary election in a village.

HISTORY: New 1954, p. 142, Act 116, Eff. Jun. 1, 1955.

168.10 Qualified elector; definition.

Sec. 10. The term "qualified elector", as used in this act, shall be construed to mean any person who possesses the qualifications of an elector as prescribed in section 1 of article 2 of the state constitution and who has resided in the city or township 30 days.

HISTORY: New 1954, p. 143, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 10, Act 3, Imd. Eff. Dec. 27.

168.11 Residence; definition.

Sec. 11. (a) The term "residence", as used in this act, for registration and voting purposes shall be construed to mean that place at which a person habitually sleeps, keeps his or her personal effects and has a regular place of lodging. Should a person have more than 1 residence, or should a wife have a residence separate from that of the husband, that place at which such person resides the greater part of the time shall be his or her official residence for the purposes of this act. This section shall not be construed to affect existing judicial interpretation of the term residence.

(b) No elector shall be deemed to have gained or lost a residence by reason of his being employed in the service of the United States or of this state, nor while engaged in the navigation of the waters of this state or of the United States or of the high seas, nor while a student at any institution of learning, nor while kept at any almshouse or other asylum at public expense, nor while confined in any public prison. Honorably discharged members of the armed forces of the United States or of this state and who reside in the veterans' facility established by this state may acquire a residence where the facility is located.

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(c) No member of the armed forces of the United States shall be deemed a resident of this state in consequence of being stationed in any military or naval place within the state.

HISTORY: New 1954, p. 143, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 10, Act 3, Imd. Eff. Dec. 27.

168.12 Immediate family; definition.

Sec. 12. The term "immediate family" as used in this act means a person's father, mother, brother, sister, spouse and any relative residing in the same household with that person.

HISTORY: Add. 1967, p. 54, Act 35, Eff. Nov. 2.

168.13 Time limits; extension due to holiday, exception.

Sec. 13. Notwithstanding any other provision of the law to the contrary, anything required by this act to be done by a day certain, except the final day for applying for an absentee ballot, if that day falls on a Saturday, Sunday or legal holiday, may be done within the same time limits on the next secular day.

HISTORY: Add. 1967, p. 74, Act 57, Eff. Nov. 2.

168.14 Locked and sealed; definition.

Sec. 14. The term "locked and sealed", or terms of similar import, when used in this act to refer to locking and sealing of ballot boxes means sealed with a numbered flat metal seal furnished by the election commission and do not mean that a padlock is required.

HISTORY: Add. 1969, p. 221, Act 127, Eff. Mar. 20, 1970.

168.15 Nominating petition signatures; determination of number.

Sec. 15. Whenever the number of signatures required on a nominating petition is based on a percentage of the vote for a party's candidate for secretary of state at the last preceding election and that party did not have a candidate for secretary of state at the last preceding election, the vote of the party's principal candidate at the last preceding election shall be used in lieu of the vote for secretary of state.

HISTORY: Add. 1970, p. 76, Act 28, Imd. Eff. Jun. 2.

CHAPTER II.

BOARDS OF ELECTION COMMISSIONERS AND BOARDS OF CANVASSERS

168.21 Secretary of state; chief election officer, powers and duties.

Sec. 21. The secretary of state shall be the chief election officer of the state and shall have supervisory control over local election officials in the performance of their duties under the provisions of this act.

HISTORY: New 1954, p. 143, Act 116, Eff. Jun. 1, 1955.

168.22 Repealed. 1956, p. 46, Act 37, Imd. Eff. Mar. 28.

Section provided for composition of board of state canvassers.

168.23 Board of county election commissioners; membership, quorum, officers; absences, acting members.

Sec. 23. The judge of probate or the presiding or senior judge of probate, the county clerk and the county treasurer shall constitute a board of county election commissioners for each county, 2 of whom shall be a quorum for the transaction of business. The judge of probate or the presiding or senior judge of probate and the county clerk shall act as chairman and secretary of the board. In the absence of the county clerk from any meeting of the board of election commissioners, the board may select 1 of his dep-

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uties to act in his stead. In the event of the absence of any member of the board of election commissioners other than the county clerk, the members of the board who are present shall appoint some other county officer in his place, and such county officer, on being notified, shall attend without delay and act as a member of said board.

HISTORY: New 1954, p. 143, Act 116, Eff. Jun. 1, 1955.

168.24 Repealed. 1963, p. 403, Act 237, Eff. Sep. 6.

Section provided for election of board of county canvassers, clerk, compensation, disqualification.

168.24a Board of county canvassers; powers and duties; appointment, terms; other boards abolished.

Sec. 24a. (1) A 4-member board of county canvassers is established in every county in this state. All of the powers granted to and duties required by law to be performed by all boards of canvassers established by law, other than the board of state canvassers, boards of canvassers in cities having more than 5 precincts, boards of canvassers in counties having a population of 1,000,000 or more and boards of canvassers in townships having more than 5 precincts are granted to and required to be performed by the board of county canvassers. The board of county canvassers shall conduct all recounts of elections in cities, townships, villages, school districts or any other districts and be vested with all of the powers and required to perform all the duties in connection with any recount. If a city, village, school district or any other district lies in more than 1 county, and a duty is to be performed by the board of county canvassers, the board of county canvassers in the county in which the greatest number of registered voters of the city, village or district resides at the close of registration for the election involved shall perform the duty. The cost of canvass of school, city, township and village elections shall be borne by the school district, city, township or village holding the election, and upon presentation of a bill for the costs incurred by the board of county canvassers, the school district, city, township or village shall reimburse the county treasurer.

Other boards abolished.

(2) All boards of canvassers provided for in law including boards of school canvassers, the duties of which are by this act required to be performed by boards of county canvassers, are abolished.

Appointment, term, notice.

(3) Members of the board shall be appointed for terms of 4 years beginning on November 1 following their appointment. Of the members first appointed, 1 member of each of the political parties represented on the canvassing board shall be appointed for a term of 4 years and 1 for a term of 2 years. Members of the board shall be notified of their appointment within 5 days thereafter by the county clerk.

Elections applicable to.

(4) This section shall apply to all elections, any charter provision to the contrary notwithstanding.

HISTORY: Add. 1963, p. 401, Act 237, Eff. Sep. 6;—Am. 1963, 2nd Ex. Ses., p. 95, Act 65, Imd. Eff. Dec. 27;—Am. 1968, p. 104, Act 65, Eff. Jul. 1, 1968, except in any county with a population of 400,000 or more it shall take effect on Jul. 1, 1970;—Am. 1970, p. 361, Act 108, Eff. Apr. 1, 1971.

168.24b Board of county canvassers; members, eligibility, oath of office, holding other office prohibited.

Sec. 24b. Members of the board shall be qualified electors of the county and shall take and subscribe to the constitutional oath of office.

No person holding an elective public office shall be eligible for membership on the

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board of county canvassers. If any member of the board of county canvassers, during his term of office, becomes a candidate for any elective public office, his office shall be vacant.

HISTORY: Add. 1963, p. 401, Act 237, Eff. Sep. 6.

168.24c Board of county canvassers; members, selection, procedure.

Sec. 24c. Selection of the members of such board shall be made from each of the 2 political parties casting the greatest number of votes for secretary of state at the preceding general November election in that county. No political party shall be represented by more than 2 members on the board at any one time.

The county committee of each political party, not later than September 1, 1963 and not later than September 1 of each odd numbered year thereafter, shall submit to the county clerk the names of 3 persons for each position to which the party is entitled. In any county having 2 or more congressional districts within its boundaries, the chairmen of the congressional district committees shall act as the county committee for the purposes of sections 24c and 24d of this act and shall select one of their number to act as chairman for such purposes.

The board of supervisors, within 10 days after convening for their annual meeting, shall elect by ballot to each position one of the 3 persons nominated for the position, and the board thereupon shall appoint the person to the position. Failure of the board of supervisors to appoint one of the persons nominated for any position on the board within 10 days after convening for their annual meeting shall result in a vacancy existing in the position and shall be filled as hereinafter provided for the filling of vacancies on the board.

HISTORY: Add. 1963, p. 401, Act 237, Eff. Sep. 6.

168.24d Board of county canvassers; vacancies.

Sec. 24d. Whenever a vacancy occurs in the membership of the board of county canvassers, the county clerk shall give notice forthwith of the vacancy to the chairman of the county committee of the political party entitled to fill the vacancy.

The county committee of the political party entitled to fill any vacancy on the board of county canvassers, within 10 days after receiving information concerning such vacancy, shall nominate 3 persons for the position and submit the list of nominees to the county clerk who, within 10 days from receipt of the nomination, shall appoint one of the persons so nominated. Any person appointed to fill a vacancy shall serve for the balance of the unexpired term.

HISTORY: Add. 1963, p. 402, Act 237, Eff. Sep. 6.

168.24e Board of county canvassers; meetings; election of officers; quorum, action; clerk; assistants, compensation.

Sec. 24e. The board shall meet as necessary to transact their business, and during the month of January in each even numbered year elect one of their members chairman and one as vice-chairman. Any 3 members shall constitute a quorum but no action shall become effective unless 1 member from each political party represented concurs therein.

The county clerk shall be the clerk of the board of county canvassers. The board of county canvassers may employ such assistants as are necessary adequately to perform the duties of the board, and the payment for the assistants shall be in amounts authorized by the board of county canvassers and shall be paid from an appropriation made for that purpose by the board of supervisors prior to the canvass.

HISTORY: Add. 1963, p. 402, Act 237, Eff. Sep. 6.

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168.24f Board of county canvassers in counties under 1,000,000; compensation and expenses.

Sec. 24f. In counties of less than 1,000,000 population, the members of the board of county canvassers shall receive actual and necessary expenses incurred in the performance of their official duties, and in addition shall be paid the same daily rate as is paid the members of the board of supervisors for meetings. Payments for meetings and reimbursement of expenses shall be paid by the county treasurer upon the warrant of the county clerk.

HISTORY: Add. 1963, p. 402, Act 237, Eff. Sep. 6;—Am. 1966, p. 105, Act 81, Eff. Mar. 10, 1967.

168.24g Board of state canvassers; compensation at meetings, expenses.

Sec. 24g. Notwithstanding any other provisions of law to the contrary, the members of the board of state canvassers shall be entitled to actual and necessary expenses incurred in the performance of their official duties and shall receive $50.00 for each day's actual physical attendance at meetings of the board.

HISTORY: Add. 1965, p. 696, Act 354, Eff. Mar. 31, 1966.

168.24h Board of county canvassers in counties over 1,000,000; compensation and expenses.

Sec. 24h. In counties having a population over 1,000,000, the members of the board of county canvassers shall receive actual and necessary expenses incurred in the performance of their official duties, and in addition shall be paid a daily rate of $25.00 for meetings and $50.00 for recounts. Payments for meetings, recounts and reimbursement of expenses shall be paid by the county treasurer upon the warrant of the county clerk.

HISTORY: Add. 1966, p. 105, Act 81, Eff. Mar. 10, 1967.

168.24j Board of county canvassers; examination of ballot boxes, approval; procurement of proper boxes; use of disapproved box, offense.

Sec. 24j. Before June 1 of every fourth year, beginning in 1970, a county board of canvassers shall examine the ballot boxes to be used in any election conducted under the provisions of this act. The board shall designate on the ballot box that the box does or does not meet the specifications required by this act. A ballot box which has not been approved by the board shall not be used to store voted ballots. A clerk of a city, village or township may procure, at the expense of the unit of government using the same, a sufficient number of proper ballot boxes to meet the requirements of this act. A clerk who uses or permits the use of any ballot box which has been disapproved is guilty of a misdemeanor.

HISTORY: Add. 1969, p. 364, Act 184, Eff. Mar. 20, 1970.

168.25 Board of city election commissioners; membership, quorum, chairman; absences, appointment of acting member.

Sec. 25. Notwithstanding any other provision of law to the contrary, unless otherwise provided by a charter adopted by a majority vote of the people voting on the adoption thereof, the city clerk, the city attorney and the city assessor shall constitute the board of city election commissioners for each city, 2 of whom shall be a quorum for the transaction of business. The city clerk shall act as chairman of the board. Should only 1 of said officers be in attendance on the day appointed for a meeting of the board, the officer in attendance shall appoint a qualified and registered elector of said city to act in the absentee's stead, during the period of nonattendance.

HISTORY: New 1954, p. 144, Act 116, Eff. Jan. 1, 1955;—Am. 1955, p. 609, Act 271, Imd. Eff. Jun. 30;—Am. 1957, p. 291, Act 231, Eff. Sep. 27;—Am. 1963, 2nd Ex. Sess., p. 95, Act 65, Imd. Eff. Dec. 27.

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168.26 Board of township election commissioners; membership, quorum, chairman; absences, appointment of acting member.

Sec. 26. Unless otherwise provided by charter, the supervisor, clerk and township treasurer shall constitute the board of township election commissioners for each township, 2 of whom shall be a quorum for the transaction of business. The township clerk shall act as chairman of the board. Should only 1 of said officers be in attendance on the day appointed for a meeting of the board, the officer in attendance shall appoint a qualified and registered elector of the township to act in the absentee's stead during the period of nonattendance.

HISTORY: New 1954, p. 144, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 95, Act 65, Imd. Eff. Dec. 27.

168.27 Board of village election commissioners; membership, quorum, chairman; absences, appointment of acting member.

Sec. 27. Notwithstanding any other provision of law to the contrary, unless otherwise provided by a charter adopted by a majority vote of the people voting on the adoption thereof, the president, clerk and treasurer shall constitute the board of village election commissioners for each village, 2 of whom shall be a quorum for the transaction of business. The village clerk shall act as chairman of the board. Should only 1 of said officers be in attendance on the day appointed for a meeting of the board, the village assessor shall act in the absentee's stead during the period of nonattendance.

HISTORY: New 1954, p. 144, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 609, Act 271, Imd. Eff. Jun. 30;—Am. 1957, p. 291, Act 231, Eff. Sep. 27;—Am. 1963, 2nd Ex. Ses., p. 96, Act 65, Imd. Eff. Dec. 27.

168.28 Boards of election commissioners and boards of canvassers; compensation.

Sec. 28. Members of the various boards of election commissioners and boards of canvassers and any other person charged with duties in connection with the conduct of primaries, elections, canvassing of returns and recounts shall receive such compensation as shall be determined by the legislative body of the state, county, city, township or village, as the case may be.

HISTORY: New 1954, p. 144, Act 116, Eff. Jun. 1, 1955.

168.29 Election assistants; appointment, powers and duties, oath of office, instruction, compensation.

Sec. 29. The clerk of each township, city and village is authorized and empowered to appoint such number of assistants as may be necessary to carry out the general provisions of the election law. Such assistants shall possess only the authority conferred upon them by the township, city or village clerks appointing them, and shall perform only such duties that are assigned to them by such clerk. Each such assistant, before he enters upon the discharge of his duties, shall take and subscribe to the oath of office as provided in section 1 of article 11 of the state constitution, which shall be filed in the office of the township, city or village clerk and shall be properly instructed by the city, village or township clerk in the duties he is assigned to perform. Such assistants shall receive such compensation as shall be fixed by the township board or legislative body of the city or village.

HISTORY: New 1954, p. 144, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 96, Act 65, Imd. Eff. Dec. 27;—Am. 1967, p. 248, Act 186, Eff. Nov. 2.

168.30a Board of city or township canvassers; powers and duties; members, appointment, terms, notice; contract with county for services of board of county canvassers, cost.

Sec. 30a. (1) A 4-member board of canvassers is established in every city and township having more than 5 precincts, notwithstanding any statutory or charter provision, or any other rule or law to the contrary. All of the powers granted to and duties re-

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quired by law to be performed by city and township boards of canvassers are granted to and required to be performed by the boards of city and township canvassers in cities and townships having more than 5 precincts. School district elections in cities of over 5 precincts which are held in conjunction with the city elections shall be canvassed by the city board of canvassers. Members of the board shall be appointed for terms of 4 years beginning January 1 next following their appointment. Of the members first appointed, 1 member of each of the political parties represented on the canvassing board shall be appointed for a term ending December 31, 1967, and 1 for a term ending December 31, 1965. Members of the board shall be notified of their appointment within 5 days thereafter by their city or township clerk.

(2) The city council or the township board of any city or township having more than 5 precincts may contract with the board of supervisors of the county in which all or the greater portion of the city or township's population resides to provide that the board of county canvassers of that county shall perform all the functions of the board of city or township canvassers. Financial arrangements of such a contract may provide that the city or township shall bear all or part of cost of such work.

HISTORY: Add. 1963, 2nd Ex. Ses., p. 96, Act 65, Imd. Eff. Dec. 27;—Am. 1968, p. 104, Act 65, Eff. Jul. 1, 1968, except in any county with a population of 400,000 or more it shall take effect on Jul. 1, 1970.

168.30b Board of city or township canvassers; members, eligibility, affidavit; holding other office prohibited.

Sec. 30b. Members of the board shall be qualified and registered electors of the city or township in which they serve. No person shall be appointed to a board of canvassers unless such person shall have filed with the city or township clerk an affidavit on a form approved by the state bureau of elections containing at least the following information: name, home address, political party affiliation, date of birth, employment and statement of physical disability, if any. The city or township clerk shall notify the county clerk of the name, address and political affiliation of board members, and the county clerk shall maintain such record for public inspection. A member of the board of canvassers vacates his office if at any time during his term of office he or any member of his immediate family serves as an election inspector or becomes a candidate for any elective public office at an election to be canvassed by his board of canvassers or serves as a member of the governing body of the unit for which his board is established.

HISTORY: Add. 1963, 2nd Ex. Ses., p. 96, Act 65, Imd. Eff. Dec. 27;—Am. 1968, p. 105, Act 65, Eff. Jul. 1, 1968, except in any county with a population of 400,000 or more it shall take effect on Jul. 1, 1970.

168.30c Board of city or township canvassers; members, selection, procedure; applications, appointments, vacancies.

Sec. 30c. Selection of the members of such board shall be made from each of the 2 political parties casting the greatest number of votes for secretary of state at the preceding November election in the county or counties in which the city or township is located. No political party shall be represented by more than 2 members on the board at any one time. Persons possessing qualifications for membership on the board may submit an application for the position on a form approved by the state bureau of elections. The governing body of the city or township shall appoint from the applications on file the members of the canvassing board by December 1 of each odd-numbered year. In event of a vacancy, the governing body shall make the appointment to fill the vacancy. Any person appointed to fill the vacancy shall serve for the balance of the unexpired term. Notwithstanding section 30b, if an insufficient number of applications to fill the positions has been submitted, the governing body shall make the appointments in any manner it deems advisable.

HISTORY: Add. 1963, 2nd Ex. Ses., p. 96, Act 65, Imd. Eff. Dec. 27;—Am. 1968, p. 105, Act 65, Eff. Jul. 1, 1968, except in any county with a population of 400,000 or more it shall take effect on Jul. 1, 1970.

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168.30d Board of city or township canvassers; meetings, election of officers; quorum; clerk.

Sec. 30d. The board shall meet as necessary to transact their business and shall elect 1 of their members chairman and 1 vice chairman. Any 3 members shall constitute a quorum but no action shall become effective unless 1 member from each political party represented concurs therein. The city or township clerk shall be the clerk of the board of city or township canvassers.

HISTORY: Add. 1963, 2nd Ex. Ses., p. 97, Act 65, Imd. Eff. Dec. 27;—Am. 1968, p. 105, Act 65, Eff. Jul. 1, 1968, except in any county with a population of 400,000 or more it shall take effect on Jul. 1, 1970.

168.30e Board of city or township canvassers; compensation and expenses; incomplete canvass, completion by board of county canvassers, cost.

Sec. 30e. The members of the board of city or township canvassers shall receive actual and necessary expenses incurred in the performance of their official duties and in addition may be paid a daily rate if so ordered by the governing body of the city or township. Should the board fail to certify the results of any election for any office or proposition within the 14 days immediately following the election at which the office or proposition was voted on, the city or township clerk shall immediately deliver to the secretary of the board of county canvassers of that county, all records and other information pertaining thereto. The board of county canvassers shall meet forthwith, make the necessary determinations and certify the results of that election within the 7 days immediately following receipt of the records. The cost of such canvass shall be borne by the city or township involved.

HISTORY: Add. 1963, 2nd Ex. Ses., p. 97, Act 65, Imd. Eff. Dec. 27;—Am. 1968, p. 105, Act 65, Eff. Jul. 1, 1968, except in any county with a population of 400,000 or more it shall take effect on Jul. 1, 1970.

168.30f Repealed. 1968, p. 108, Act 65, Eff. Jul. 1, (except in any county with a population of 400,000 or more it shall take effect on Jul. 1, 1970.)

Section related to combination of governmental units for board of canvassers, expenses, withdrawal.

168.30g Board of canvassers; absences, appointment of temporary members, qualifications, tenure.

Sec. 30g. Whenever a board of canvassers created under this act is required to perform its statutory duties and because of illness or absence of members of the board a quorum is not present, the clerk of the political subdivision may appoint a sufficient number of temporary members to constitute a quorum. If the vacancy is on the board of county canvassers, the appointment shall be made by the county clerk from party recommendations on file, if available. If the vacancy is on the board of city or township canvassers, the appointment shall be made from applications on file, if available. The appointments shall be of the same political party as the ill or absent members of the board. Any temporary appointee to the board of canvassers must possess all of the qualifications required for regular membership on that board. Temporary appointees shall serve only until the business on hand has been transacted.

HISTORY: Add. 1966, p. 92, Act 65, Imd. Eff. Jun. 9;—Am. 1968, p. 105, Act 65, Eff. Jul. 1, 1968, except in any county with a population of 400,000 or more it shall take effect on Jul. 1, 1970.

CHAPTER III.

DUTIES OF SECRETARY OF STATE

168.31 Secretary of state; powers and duties as to elections.

Sec. 31. The secretary of state in addition to other powers and duties conferred upon him shall have the power and it shall be his duty:

Rules, regulations and instructions.

(1) To prepare rules, regulations and instructions for the conduct of elections and registrations in accordance with the laws of the state;

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Advice to local election officials.

(2) To advise local election officials upon request as to the proper methods of conducting elections;

Manual of instructions.

(3) To publish and furnish for the use in each election precinct prior to each state primary and election a manual of instructions;

Pamphlet copies of registration, primary and election laws; distribution.

(4) To publish indexed pamphlet copies of the registration, primary and election laws and to furnish to the various county, city, township and village clerks a sufficient number of copies for their own use and to enable them to include 1 copy with the election supplies furnished each precinct board of election inspectors under their respective jurisdictions, and he may furnish single copies of the publications to organizations or individuals who request the same for purposes of instruction or public reference;

Forms, notices and supplies.

(5) To prescribe and require such uniform forms, notices and supplies as he shall deem advisable for use in the conduct of elections and registrations;

Form of ballot; amendment to constitution, initiative, referendum.

(6) To prepare the form of ballot for any proposed amendment to the constitution or proposal under the initiative or referendum provision of the constitution to be submitted to the voters of the state;

Reports from local election officials.

(7) To require such reports from the local election officials as may be deemed necessary;

Investigation and report of election law violations.

(8) To investigate, or cause to be investigated by local authorities, the administration of election laws, and to report violations of the election laws and regulations to the attorney general or prosecuting attorney, or both, for prosecution; and

Legislative manual, publication of votes, further information.

(9) To publish in the legislative manual the vote for governor and secretary of state by townships and wards and the vote for members of the state legislature cast at the preceding November election, which shall be returned to the secretary of state by the several county clerks on or before the first day of December following such election, and it shall be the further duty of all clerks to furnish to the secretary of state, promptly and without compensation, any further information requested of them, to be used in the compilation of the manual.

HISTORY: New 1954, p. 145, Act 116, Eff. Jun. 1, 1955;—Am. 1957, p. 307, Act 249, Eff. Sep. 27.

168.32 Bureau of elections; director of elections, appointment, powers and duties.

Sec. 32. There is hereby continued in the office of the secretary of state the bureau of elections created by Act No. 65 of the Public Acts of 1951, under the supervision of a director of elections, to be appointed by the secretary of state under civil service regulations. The director of elections shall be vested with the powers and shall perform the duties of the secretary of state under his supervision, with respect to the supervision and administration of the election laws. The director of elections shall be a nonmember secretary of the state board of canvassers.

Statement of purpose of proposed constitutional amendment or question.

The director of elections, with the approval of the state board of canvassers, shall prepare a statement for designation on the ballot in not more than 100 words, exclusive of caption, of the purpose of any proposed amendment or question, to be submit-

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ted to the electors as required under section 2 of article 12 of the state constitution. The powers and duties of the state board of canvassers and the secretary of state with respect to the preparation of such statement are hereby transferred to the director of elections.

HISTORY: New 1954, p. 145, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 609, Act 271, Imd. Eff. Jun. 30;—Am. 1964, p. 378, Act 251, Imd. Eff. May 28.

168.33 Training schools on conducting elections in accordance with election laws; conduct, cost.

Sec. 33. The director of elections shall conduct training schools throughout the state of Michigan preceding the general November election, and preceding such other elections as the director shall deem advisable, for county clerks and their representatives with respect to the conducting of elections in accordance with the election laws. In case any county clerk shall fail to conduct in his county a training school for election boards within the county, the director of elections shall conduct such training school, the cost thereof to be charged as an obligation of the county.

HISTORY: New 1954, p. 146, Act 116, Eff. Jun. 1, 1955;—Am. 1964, p. 378, Act 251, Imd. Eff. May 28.

168.34 Director of elections; restrictions.

Sec. 34. The director of elections shall perform no other duties which will interfere with his duties as director of elections.

HISTORY: New 1954, p. 146, Act 116, Eff. Jun. 1, 1955.

168.35 Assistants to director; employment, expenses.

Sec. 35. The secretary of state is authorized to employ such assistants to the director of elections and incur such expenses as shall be necessary in carrying out the supervision of the election laws of this state.

HISTORY: New 1954, p. 146, Act 116, Eff. Jun. 1, 1955.

CHAPTER IV.

ELECTORS OF PRESIDENT AND VICE-PRESIDENT

168.41 Presidential electors; eligibility.

Sec. 41. No person shall be eligible to be an elector of president and vice-president who shall not have been a citizen of the United States for at least 10 years and a resident and registered elector of the congressional district for an elector representing a congressional district, or of the state, for an elector representing the state at large for at least 1 year prior to the election. No senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector, as provided in section 1 of article 2 of the United States constitution.

HISTORY: New 1954, p. 146, Act 116, Eff. Jun. 1, 1955.

168.42 Presidential electors; selection at state political party conventions, certification.

Sec. 42. In the year in which presidential electors are to be elected as provided in section 43 of this act, each political party in this state shall choose at its fall state convention as many electors of president and vice-president of the United States as this state may be entitled to elect of senators and representatives in congress, and the chairman and the secretary of the state central committee of each political party shall, within 24 hours after the conclusion of the state convention, forward by registered or certified mail a certificate containing the names of such electors so chosen to the secretary of state. Those candidates for electors of president and vice-president of this

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state shall be deemed elected whose names have been certified to the secretary of state by that political party receiving the greatest number of votes for said office at the ensuing November election.

HISTORY: New 1954, p. 146, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 609, Act 271, Imd. Eff. Jun. 30;—Am. 1956, p. 361, Act 190, Imd. Eff. Apr. 26.

168.43 Presidential electors; election.

Sec. 43. At the general November election held in the year 1956 and at the general November election held every fourth year thereafter, electors of president and vice-president of the United States shall be elected in the manner herein provided: Provided, That if congress should hereafter fix a different day for such election, then the election for electors shall be held on such day as shall be named by congress as provided in section 1 of article 2 of the United States constitution.

HISTORY: New 1954, p. 146, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 610, Act 271, Imd. Eff. Jun. 30.

168.44 Repealed. 1955, p. 634, Act 271, Imd. Eff. Jun. 30;—1955, p. 743, Act 283, Imd. Eff. Jul. 19.

Section prescribed a form of an official presidential ballot.

168.45 Official presidential ballot; deemed vote for electors.

Sec. 45. Marking a cross (X) in the circle under the party name of a political party, at the general November election in a presidential year, shall not be deemed and taken as a direct vote for the candidates of the said political party for president and vice-president or either of them, but, as to the presidential vote, as a vote for the entire list or set of presidential electors chosen by that political party and certified to the secretary of state as in this chapter provided.

HISTORY: New 1954, p. 147, Act 116, Eff. Jun. 1, 1955.

168.46 Presidential electors; determination by board of state canvassers; certificate of election.

Sec. 46. As soon as practicable after the state board of canvassers has, by the official canvass, ascertained the result of an election as to electors of president and vice-president of the United States, the governor shall certify, under the seal of the state, to the United States secretary of state, the names and post office addresses of the electors of this state chosen as electors of president and vice-president of the United States. The governor shall also transmit to each elector chosen as an elector for president and vice-president of the United States a certificate, in triplicate, under the seal of the state, of his election.

HISTORY: New 1954, p. 147, Act 116, Eff. Jun. 1, 1955.

168.47 Presidential electors; convening at state capitol, time; vacancies.

Sec. 47. The electors of president and vice-president shall convene in the senate chamber at the capitol of the state at the hour of 2 o'clock p.m., eastern standard time, on the first Monday after the second Wednesday in December following their election. If at such time there shall be any vacancy caused by death, refusal to act or neglect to attend at the hour of 2 o'clock in the afternoon of said day, on account of the ineligibility of any person elected, or for any other cause, the qualified electors of president and vice-president shall proceed to fill such vacancy by ballot, by a plurality of votes. When all the electors shall appear and the vacancy shall be filled, as above provided, they shall proceed to perform the duties of such electors, as required by the constitution and laws of the United States: Provided, That if congress should hereafter fix a different day for such meeting, then said electors shall meet and give their votes on such day as shall be designated by act of congress.

HISTORY: New 1954, p. 147, Act 116, Eff. Jun. 1, 1955.

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CHAPTER V.

GOVERNOR AND LIEUTENANT GOVERNOR

168.51 Governor or lieutenant governor; eligibility.

Sec. 51. No person shall be eligible to the office of governor or lieutenant governor who shall not have attained the age of 30 years and who has not been a registered and qualified elector in this state for 4 years next preceding his election, as provided in section 22 of article 5 of the state constitution.

HISTORY: New 1954, p. 148, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 40, Act 34, Imd. Eff. Dec. 27.

168.52 Gubernatorial candidates; nomination at primary.

Sec. 52. A general primary election of all political parties shall be held in every election precinct in this state on the Tuesday succeeding the first Monday in August preceding every general November election in which a governor is to be elected, at which time the qualified and registered electors of each political party shall vote for party candidates for the office of governor. This section shall not apply to parties required to nominate candidates at caucuses or conventions.

HISTORY: New 1954, p. 148, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 40, Act 34, Imd. Eff. Dec. 27.

168.53 Candidates for nomination; nominating petitions, signatures required, filing.

Sec. 53. To obtain the printing of the names of persons as candidates for nomination by any political party for the office of governor under a particular party heading upon the official primary ballots, there shall be filed with the secretary of state, nominating petitions, signed by a number of qualified and registered electors residing in this state, equal to not less than 1% nor more than 4% of the number of votes cast by such party for secretary of state at the last preceding November election in which a secretary of state was elected. Nominating petitions shall be signed by at least 100 registered resident electors in each of at least 20 counties of the state and no more than 25% of the minimum required number of signatures may be by resident registered electors of any one county. Nominating petitions shall be in the form as prescribed in section 544 of this act. Nominating petitions shall be received by the secretary of state for filing in accordance with the provisions of this act up to 4 p.m., eastern standard time, of the seventh Tuesday preceding the August primary.

HISTORY: New 1954, p. 148, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 40, Act 34, Imd. Eff. Dec. 27.

168.54 Candidates for nomination; withdrawal, notice.

Sec. 54. After the filing of a nominating petition by or in behalf of a proposed candidate for governor, such candidate shall not be permitted to withdraw unless a written notice of withdrawal is served on the secretary of state or his duly authorized agent not later than 4 p.m., eastern standard time, of the third day after the last day for filing such petitions.

HISTORY: New 1954, p. 148, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 40, Act 34, Imd. Eff. Dec. 27.

168.55 Candidates for nomination; no candidate, write-in.

Sec. 55. If, for any reason, there is no candidate of a political party for the office of governor or lieutenant governor, a blank space shall be provided on each of the official primary ballots which will afford every elector of said party an opportunity to vote for a candidate for such offices by writing in the name of his or her selection or by the use of a slip or paster.

HISTORY: New 1954, p. 148, Act 116, Eff. Jun. 1, 1955.

168.56 Governor; death; selection of new candidate; ballots.

Sec. 56. When any candidate of a political party for the office of governor, after having qualified as a candidate, shall die, after the time specified for filing in section

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53, leaving such party without a candidate for such office, a candidate to fill the vacancy thereby caused may be selected by the state central committee of such party, and the name of the candidate so selected shall be transmitted to the county officers, required by law to print and distribute ballots. The name of such candidate shall be printed on the ballot, but if the primary ballots have been printed, the county officers shall cause to be printed a sufficient number of gummed labels or stickers bearing the name of such candidate, which shall be distributed to the various voting precincts in their respective counties, and the board of election inspectors of each such precinct shall cause 1 of such stickers to be placed on each ballot, over the name of the candidate who has died, before such ballot is handed to the elector.

HISTORY: New 1954, p. 148, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 40, Act 34, Imd. Eff. Dec. 27;—Am. 1966, p. 582, Act 322, Imd. Eff. Jul. 19.

168.57 Gubernatorial candidates; nominees, certification.

Sec. 57. The candidate of each political party for the office of governor receiving the greatest number of votes cast for candidates for said office, as set forth in the report of the board of state canvassers based on the returns from the various boards of county canvassers, or as determined by the board of state canvassers as the result of a recount, shall be declared the nominee of that political party for said office at the next ensuing November election. The board of state canvassers shall forthwith certify such nominations to the secretary of state.

HISTORY: New 1954, p. 149, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 40, Act 34, Imd. Eff. Dec. 27.

168.58 Gubernatorial candidates; withdrawal after nomination.

Sec. 58. When a candidate of any political party for the office of governor has filed a nominating petition for such office and has been nominated for said office by said party, he shall not be permitted to withdraw unless he has removed from the state, or has become physically unfit. This prohibition shall not be construed to prohibit the withdrawal of any candidate who has been nominated without having filed a nominating petition and whose name has been written or placed on the ballot of any political party.

HISTORY: New 1954, p. 149, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 41, Act 34, Imd. Eff. Dec. 27.

168.59 Gubernatorial candidates; death, withdrawal or disqualification; new candidate, selection, certification; ballots.

Sec. 59. When the candidate of a political party, after having been nominated to the office of governor, shall die, withdraw as provided in section 58 of this act, remove from the state, or become disqualified for any reason, the state central committee of such party shall meet forthwith and by a majority vote of the members thereof shall select a candidate to fill the vacancy thereby caused. The name of the candidate so selected shall be immediately certified by the chairman and the secretary of said committee to the secretary of state and to the board of election commissioners for each county, whose duty it is to prepare the official ballots, and said board shall cause to be printed or placed upon such ballots in the proper place the name of the candidate so selected and certified to fill such vacancy.

HISTORY: New 1954, p. 149, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 41, Act 34, Imd. Eff. Dec. 27.

168.60 Governor and lieutenant governor; election.

Sec. 60. A governor and lieutenant governor shall be elected jointly at the general election in 1964, 1966, and every fourth year thereafter.

HISTORY: New 1954, p. 149, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 41, Act 34, Imd. Eff. Dec. 27.

168.61 Governor and lieutenant governor; certificate of determination by board of state canvassers.

Sec. 61. The board of state canvassers shall determine which candidates for governor and lieutenant governor have received the greatest number of votes and shall de-

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clare such candidates to be duly elected. The said board shall forthwith make and subscribe on its statement of return a certificate of such determination and deliver the same to the secretary of state.

HISTORY: New 1954, p. 149, Act 116, Eff. Jun. 1, 1955.

168.62 Governor and lieutenant governor; certificate of election.

Sec. 62. The secretary of state shall file in his office and preserve the original statement and determination of the board of state canvassers of the result of the election and shall forthwith execute and cause to be delivered to the persons thereby declared to be elected to the offices of governor and lieutenant governor certificates of election, certified by him under the great seal of the state.

HISTORY: New 1954, p. 149, Act 116, Eff. Jun. 1, 1955.

168.63 Governor and lieutenant governor; terms of office.

Sec. 63. The terms of office of governor and lieutenant governor shall commence at 12 noon on January 1 next following the election, and shall continue until a successor is elected and qualified. The terms of office of the governor and lieutenant governor elected at the general election of 1964 shall be 2 years. The terms of office of the governor and lieutenant governor elected at the general election in 1966 and every fourth year thereafter shall be 4 years.

HISTORY: New 1954, p. 150, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 41, Act 34, Imd. Eff. Dec. 27.

168.64 Governor and lieutenant governor; oath of office, deposit.

Sec. 64. Every person elected to the office of governor or lieutenant governor, before entering upon the duties of his office, shall take and subscribe to the oath as provided in section 1 of article 11 of the state constitution and deposit same with the secretary of state.

HISTORY: New 1954, p. 150, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 41, Act 34, Imd. Eff. Dec. 27.

168.65 Governor or lieutenant governor; resignation, notice.

Sec. 65. Any person duly elected to the office of governor or lieutenant governor who desires to resign shall file a written notice containing the effective date of such resignation with the legislature and the secretary of state.

HISTORY: New 1954, p. 150, Act 116, Eff. Jun. 1, 1955.

168.66 Governor or lieutenant governor; vacancy, creation; impeachment.

Sec. 66. The office of governor or lieutenant governor shall become vacant upon the happening of any of the following events: Death of the incumbent; his resignation; his removal from office for cause; his ceasing to be a resident of the state; his conviction of an infamous crime, or an offense involving the violation of his oath of office; the decision of a competent tribunal declaring his election void; or his neglect or refusal to take and subscribe to the constitutional oath of office and deposit the same in the manner and within the time prescribed by law.

Any person holding the office of governor or lieutenant governor may be removed from office upon conviction in impeachment proceedings as provided in section 7 of article 11 of the state constitution.

HISTORY: New 1954, p. 150, Act 116, Eff. June 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 41, Act 34, Imd. Eff. Dec. 27.

168.67 Governor or lieutenant governor; vacancy, line of succession; officers-elect.

Sec. 67. Whenever a vacancy shall occur in the office of governor, the powers and duties of the office shall devolve upon the lieutenant governor for the residue of the term or until the disability ceases. Whenever the lieutenant governor succeeds to the office of governor, or whenever a vacancy occurs in the office of lieutenant governor, the senate president pro tempore, serving at the time the succession or vacancy occurs for the residue of the term, shall use the title "president of the senate and acting lieu-

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tenant governor". The "president of the senate and acting lieutenant governor" shall be entitled to his vote as a state senator but shall not be entitled to cast an additional vote as a tie-breaking vote. Whenever a vacancy shall occur in both the offices of governor and lieutenant governor, the elected secretary of state, the elected attorney general, the senate president pro tempore, and the speaker of the house of representatives, in that order shall act as governor until the vacancy is filled or the disability of either the governor or lieutenant governor ceases, as provided in section 26 of article 5 of the state constitution. Should the governor-elect die or fail to qualify by the first of January next following his election, the lieutenant governor-elect shall qualify and exercise all the powers and duties of the office for the entire term, or until the governor-elect shall qualify. Should the lieutenant governor-elect also die or fail to qualify, the powers and duties of the office of governor shall devolve upon the secretary of state-elect and the attorney general-elect in that order in a like manner.

HISTORY: New 1954, p. 150, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 41, Act 34, Imd. Eff. Dec. 27;—Am. 1969, p. 13, Act 8, Eff. Mar. 20, 1970.

168.68 Governor or lieutenant governor; recount of vote.

Sec. 68. The votes cast for any candidate for the office of governor or lieutenant governor at any primary or election shall be subject to recount as provided in chapter 33 of this act.

HISTORY: New 1954, p. 150, Act 116, Eff. Jun. 1, 1955.

168.69 Governor or lieutenant governor; recall.

Sec. 69. Any person elected to the office of governor or lieutenant governor shall be subject to recall as provided in chapter 36 of this act and in section 8 of article 2 of the state constitution.

HISTORY: New 1954, p. 150, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 42, Act 34, Imd. Eff. Dec. 27.

CHAPTER VI.

LIEUTENANT GOVERNOR; SECRETARY OF STATE; ATTORNEY GENERAL

(Chapter heading amended 1963, 2nd Ex. Ses., p. 11, Act 4, Imd. Eff. Dec. 27.)

168.71 Secretary of state and attorney general; eligibility.

Sec. 71. No person shall be eligible to the offices of secretary of state or attorney general who is not a qualified elector of this state.

HISTORY: New 1954, p. 151, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 11, Act 4, Imd. Eff. Dec. 27.

168.72 Candidates for lieutenant governor, secretary of state, attorney general; nomination at fall state convention.

Sec. 72. At its fall state convention, each political party may nominate a candidate for each of the offices of lieutenant governor, secretary of state and attorney general.

HISTORY: New 1954, p. 151, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 610, Act 271, Imd. Eff. Jun. 30;—Am. 1963, 2nd Ex. Ses., p. 11, Act 4, Imd. Eff. Dec. 27.

168.73 Candidates; nominees, certification.

Sec. 73. Not more than 24 hours after the conclusion of the fall state convention, the state central committee of each political party shall convene and canvass the proceedings of the convention immediately preceding and determine the nominees of said convention and, not more than 24 hours after such convention, the chairman and secretary of said committee shall forthwith forward to the secretary of state and to the board of election commissioners of each county, in care of the county clerk, at the county seat a typewritten or printed list of names, together with residence, including the street address if known, of such candidates nominated at such state convention.

HISTORY: New 1954, p. 151, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 610, Act 271, Imd. Eff. Jun. 30.

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168.74 Candidates; withdrawal, notice.

Sec. 74. Any person who has been certified by the state central committee of any party as nominated for the office of lieutenant governor, secretary of state or attorney general may withdraw by filing a written notice of withdrawal with the secretary of state or his duly authorized agent and a copy with the chairman and the secretary of the state central committee of said party not later than 4 p.m., eastern standard time, of the third day following such convention.

HISTORY: New 1954, p. 151, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 610, Act 271, Imd. Eff. Jun. 30;—Am. 1963, 2nd Ex. Ses., p. 11, Act 4, Imd. Eff. Dec. 27.

168.75 Candidates; death, withdrawal or disqualification; new candidate, selection, certification; ballots.

Sec. 75. When a candidate of a political party, after having been nominated to the office of lieutenant governor, secretary of state or attorney general, shall die, withdraw, remove from the state, or become disqualified for any reason, the state central committee of such party shall meet forthwith and by a majority vote of the members thereof shall select a candidate to fill the vacancy thereby caused. The name of the candidate so selected shall be immediately certified by the chairman and the secretary of said committee to the secretary of state and to the board of election commissioners for each county whose duty it is to prepare the official ballots and said board shall cause to be printed or placed upon said ballots, in the proper place, the name of the candidate so selected to fill the vacancy.

HISTORY: New 1954, p. 151, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 11, Act 4, Imd. Eff. Dec. 27.

168.76 Secretary of state and attorney general; election.

Sec. 76. A secretary of state and attorney general shall be elected at the general election in 1964, 1966, and every fourth year thereafter.

HISTORY: New 1954, p. 151, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 11, Act 4, Imd. Eff. Dec. 27.

168.77 Secretary of state and attorney general; certificate of determination by board of state canvassers.

Sec. 77. The board of state canvassers shall determine which candidates for the offices of secretary of state and attorney general have received the greatest number of votes and shall declare such candidates to be duly elected. The said board shall forthwith make and subscribe on its statement of returns a certificate of such determination and deliver the same to the secretary of state.

HISTORY: New 1954, p. 151, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 11, Act 4, Imd. Eff. Dec. 27.

168.78 Secretary of state and attorney general; certificate of election.

Sec. 78. The secretary of state shall file in his office and preserve the original statements and determination of the board of state canvassers of the results of the election and shall forthwith execute and cause to be delivered to the persons thereby declared to be elected to the offices of secretary of state and attorney general certificates of election, certified by him under the great seal of the state.

HISTORY: New 1954, p. 152, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 12, Act 4, Imd. Eff. Dec. 27.

168.79 Secretary of state and attorney general; terms of office.

Sec. 79. The terms of office of the secretary of state and attorney general shall commence at 12 noon on January 1 next following the election, and shall continue until a successor is elected and qualified.

The terms of office of the secretary of state and attorney general elected at the general election in 1964 shall be 2 years. The terms of office of the secretary of state and attorney general elected at the general election in 1966 and every fourth year thereafter shall be 4 years.

HISTORY: New 1954, p. 152, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 12, Act 4, Imd. Eff. Dec. 27.

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168.80 Secretary of state and attorney general; oath of office, bond, deposit.

Sec. 80. Every person elected to the office of secretary of state or attorney general, before entering upon the duties of his office, shall take and subscribe to the oath as provided in section 1 of article 11 of the state constitution, and shall give bond in the amount and manner prescribed by law, and shall deposit said oath and bond with the secretary of state, except that any person elected to the office of secretary of state shall deposit said oath and bond with the attorney general.

HISTORY: New 1954, p. 152, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 12, Act 4, Imd. Eff. Dec. 27.

168.81 Secretary of state or attorney general; resignation, notice.

Sec. 81. Any person duly elected to the office of secretary of state or attorney general who desires to resign shall file a written notice, containing the effective date of such resignation, with the governor and a copy with the office of the secretary of state.

HISTORY: New 1954, p. 152, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 12, Act 4, Imd. Eff. Dec. 27.

168.82 Secretary of state or attorney general; vacancy, creation, notice to governor.

Sec. 82. The office of secretary of state or attorney general shall become vacant upon the happening of any of the following events: Death of the incumbent; his resignation; his removal from office for cause; his ceasing to be a resident of the state; his conviction of an infamous crime or an offense involving the violation of his oath of office; the decision of a competent tribunal declaring his election or appointment void; or his neglect or refusal to take and subscribe to the constitutional oath of office and deposit the same in the manner and within the time prescribed by law. When a vacancy shall occur in any of the said offices, a notice of such vacancy and the reason why the same exists shall, within 10 days after such vacancy occurs, be given in writing to the governor. Such notice shall be given by the secretary of state unless such vacancy occurs in the office of the secretary of state, then by the attorney general.

HISTORY: New 1954, p. 152, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 12, Act 4, Imd. Eff. Dec. 27.

168.83 Secretary of state or attorney general; impeachment; removal from office; service of charges, hearing.

Sec. 83. Any person holding the office of secretary of state or attorney general may be removed from office upon conviction in impeachment proceedings for the reasons and in the manner set forth in section 7 of article 11 of the state constitution. The governor shall have the power and it shall be his duty, except at such times as the legislature may be in session, to examine into the condition and administration of the public offices and the acts of the public officers enumerated herein, and to remove from office for gross neglect of duty or for corrupt conduct in office, or any other misfeasance or malfeasance therein, and report the causes of such removal to the legislature at its next session as provided in section 10 of article 5 of the state constitution. Such person shall be served with a written notice of the charges against him and be afforded an opportunity for a public hearing conducted personally by the governor.

HISTORY: New 1954, p. 152, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 12, Act 4, Imd. Eff. Dec. 27.

168.84 Secretary of state or attorney general; vacancy; successor, appointment by governor, oath of office, bond.

Sec. 84. Whenever a vacancy shall occur in the office of secretary of state or attorney general, the governor shall appoint a successor to fill such vacancy and the person so appointed shall take the oath of office, give bond in the manner required by law and shall hold such office until his successor is elected and qualified. The candidate receiving the highest number of votes for either of said offices who has subscribed to the constitutional oath and filed the requisite bond shall be deemed to be elected and

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qualified even though a vacancy occurs prior to the time he shall have entered upon the duties of his office.

HISTORY: New 1954, p. 152, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 13, Act 4, Imd. Eff. Dec. 27.

168.85 Secretary of state or attorney general; election, recount of votes.

Sec. 85. The votes cast for any candidate for the office of secretary of state or attorney general at any election shall be subject to recount as provided in chapter 33 of this act.

HISTORY: New 1954, p. 153, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 13, Act 4, Imd. Eff. Dec. 27.

168.86 Secretary of state or attorney general; recall.

Sec. 86. Any person elected to the office of secretary of state or attorney general shall be subject to recall as provided in chapter 36 of this act and in section 8 of article 2 of the state constitution.

HISTORY: New 1954, p. 153, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 13, Act 4, Imd. Eff. Dec. 27.

CHAPTER VII.

UNITED STATES SENATOR

168.91 United States senator; eligibility.

Sec. 91. No person shall be a United States senator who shall not have attained the age of 30 years and been a citizen of the United States for 9 years, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen as provided in section 3 of article 1 of the United States constitution.

HISTORY: New 1954, p. 153, Act 116, Eff. Jun. 1, 1955.

168.92 Candidates for United States senator; nomination at primary.

Sec. 92. A general primary election of all political parties shall be held in every election precinct in this state on the Tuesday succeeding the first Monday in August preceding every general November election, at which time the qualified and registered electors of each political party may vote for a party candidate for the office of United States senator, to be filled at said election: Provided, That this section shall not apply to parties required to nominate candidates at caucuses or conventions: Provided further, That no nomination for the office of United States senator shall be made unless such official is to be elected at the next succeeding general November election.

HISTORY: New 1954, p. 153, Act 116, Eff. Jun. 1, 1955.

168.93 Candidates for nomination; nominating petitions, signatures required, filing.

Sec. 93. To obtain the printing of the name of any person as a candidate for nomination by any political party for the office of United States senator under a particular party heading upon the official primary ballots, there shall be filed with the secretary of state, nominating petitions, signed by a number of qualified and registered electors residing within this state, equal to not less than 1% nor more than 4% of the number of votes cast by such party for secretary of state at the last preceding general November election: Provided, That such petitions shall be signed by at least 100 qualified and registered electors in each of at least 20 counties of the state and that no more than 25% of the minimum required number of signatures may be by qualified and registered voters of any one county: Provided further, That such nominating petitions shall be in the form as prescribed in section 544 of this act: Provided further, That such petitions shall be received by the secretary of state for filing in accordance with the provisions of this act up to 4 o'clock, eastern standard time, in the afternoon of the seventh Tuesday preceding the August primary. Persons qualifying to have their names printed on the official primary ballot as a candidate for the office of United States senator for the term commencing January 3, 1967 shall also be qualified as candidates to

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fill the vacancy occurring in that office before January 3, 1967 and for which an election is called under section 105 of this act.

HISTORY: New 1954, p. 153, Act 116, Eff. Jun. 1, 1955;—Am. 1966, p. 64, Act 42, Imd. Eff. May 26.

168.94 Candidates; withdrawal, notice.

Sec. 94. After the filing of a nominating petition by or in behalf of a proposed candidate for United States senator, such candidate shall not be permitted to withdraw unless a written notice of withdrawal is served on the secretary of state or his duly authorized agent not later than 4 o'clock, eastern standard time, in the afternoon of the third day after the last day for filing such petitions.

HISTORY: New 1954, p. 153, Act 116, Eff. Jun. 1, 1955.

168.95 Candidates; death; new candidate, selection, certification; ballots.

Sec. 95. When any candidate of a political party for the office of United States senator, after having qualified as a candidate, shall die, after the last day for qualifying, leaving such party without a candidate for the office of United States senator, a candidate to fill the vacancy thereby caused may be selected by the state central committee and the name of the candidate so selected shall be transmitted to the secretary of state and to the county officials required by law to print and distribute ballots, and such county officials shall cause to be printed a sufficient number of gummed labels or stickers bearing the name of the candidate, which shall be distributed to the various voting precincts within their respective counties, and the board of election inspectors of each such precinct shall cause 1 of such stickers to be placed on each ballot over the name of the candidate who has died before such ballot is handed to the elector.

HISTORY: New 1954, p. 154, Act 116, Eff. Jun. 1, 1955;—Am. 1966, p. 582, Act 322, Imd. Eff. Jul. 19.

168.96 Candidates for nomination; no candidate, write-in.

Sec. 96. If for any reason there is no candidate of a political party for the office of United States senator, a blank space shall be provided on each of the official primary ballots which will afford every elector of said party an opportunity to vote for a candidate for such office by writing in the name of his or her selection or by the use of a slip or paster.

HISTORY: New 1954, p. 154, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 94, Act 64, Imd. Eff. Dec. 27;—Am. 1964, p. 302, Act 227, Imd. Eff., May 22.

168.97 Candidates; nomination, certification.

Sec. 97. The candidate of each political party for the office of United States senator receiving the greatest number of votes cast for candidates for said office, as set forth in the report of the board of state canvassers, based on the returns from the various boards of county canvassers, or as determined by the board of state canvassers as the result of a recount, shall be declared the nominee of that political party for said office at the next ensuing November election. The board of state canvassers shall forthwith certify such nomination to the secretary of state.

HISTORY: New 1954, p. 154, Act 116, Eff. Jun. 1, 1955.

168.98 Candidates; withdrawal after nomination.

Sec. 98. When a candidate of any political party has filed a nominating petition for such office and has been nominated for said office by said party, he shall not be permitted to withdraw unless he has removed from the state, or has become physically unfit. No vacancy shall be filled by the state central committees except for the causes and as herein specified: Provided, That this prohibition shall not be construed to prohibit the withdrawal of any candidate who has been nominated without having filed a nominating petition and whose name has been written or placed on the ballot of any political party.

HISTORY: New 1954, p. 154, Act 116, Eff. Jun. 1, 1955.

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168.99 Candidates; death, withdrawal or disqualification; new candidate, selection, certification; ballots.

Sec. 99. When the candidate of a political party, after having been nominated to the office of United States senator, shall die, withdraw, remove from the state, or become disqualified for any reason, the state central committee of such party shall meet forthwith and by a majority vote of the members thereof shall select a candidate to fill the vacancy thereby caused. The name of the candidate so selected shall be immediately certified by the chairman and the secretary of said committee to the secretary of state and to the board of election commissioners for each county, whose duty it is to prepare the official ballots; and said boards shall cause to be printed or placed upon such ballots in the proper place the name of the candidate so selected and certified to fill such vacancy.

HISTORY: New 1954, p. 154, Act 116, Eff. Jun. 1, 1955.

168.100 United States senator; election.

Sec. 100. A United States senator shall be elected at the general November election held in the year 1958, and at the general November election every sixth year thereafter. A United States Senator shall be elected at the general November election held in the year 1960 and at the general November election every sixth year thereafter.

HISTORY: New 1954, p. 154, Act 116, Eff. Jun. 1, 1955.

168.101 United States senator; certificate of determination by board of state canvassers.

Sec. 101. The board of state canvassers shall determine which candidate for United States senator has received the greatest number of votes and shall declare such candidate to be duly elected. The said board shall forthwith make and subscribe on its statement of returns a certificate of such determination and deliver the same to the secretary of state, who shall forthwith deliver a true copy of said certificate to the governor.

HISTORY: New 1954, p. 154, Act 116, Eff. Jun. 1, 1955.

168.102 United States senator; certificate of election by governor.

Sec. 102. It shall be the duty of the governor, upon the election or appointment of a United States senator, to certify his election or appointment to the president of the senate of the United States. Said certificate shall be under the great seal of the state and countersigned by the secretary of state, and a copy thereof shall be delivered to the person so elected or appointed as United States senator.

HISTORY: New 1954, p. 155, Act 116, Eff. Jun. 1, 1955.

168.103 United States senator; term of office.

Sec. 103. The term of office of a United States senator shall be 6 years, beginning on the third day of January next succeeding his election.

HISTORY: New 1954, p. 155, Act 116, Eff. Jun. 1, 1955.

168.104 United States senator; resignation, notice.

Sec. 104. Any person duly elected to the office of United States senator who desires to resign shall file a written notice containing the effective date of such resignation with the governor and a copy with the secretary of state.

HISTORY: New 1954, p. 155, Act 116, Eff. Jun. 1, 1955.

168.105 United States senator; vacancy; successor, appointment by governor, tenure.

Sec. 105. Whenever a vacancy shall occur in the office of United States senator, the governor shall appoint, to fill the vacancy, some suitable person having the necessary qualifications for senator. The person so appointed shall hold office from the time of his appointment and qualification until the first day of December following the next general November election which occurs more than 120 days after such vacancy hap-

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pens. At such general November election, a United States senator to fill such vacancy shall be elected and the person so elected shall hold office from the first day of December following such election for the balance of the unexpired term of the senator whose vacancy is filled.

HISTORY: New 1954, p. 155, Act 116, Eff. Jun. 1, 1955.

168.106 United States senator; primary, recount of votes.

Sec. 106. The votes cast for any candidate for nomination to the office of United States senator at any primary shall be subject to recount as provided in chapter 33 of this act.

HISTORY: New 1954, p. 155, Act 116, Eff. Jun. 1, 1955.

168.107 United States senator; vacancy, creation.

Sec. 107. The office of United States senator shall become vacant on the happening of any of the following events before the expiration of the term of such office: The death of the incumbent; his resignation; his removal from office; the decision of a competent tribunal declaring void his election or appointment; or his refusal or neglect to take his oath of office.

HISTORY: New 1954, p. 155, Act 116, Eff. Jun. 1, 1955.

168.108 United States senator; removal from office.

Sec. 108. Any United States senator may be removed from office as provided in section 5 of article 1 of the United States constitution.

HISTORY: New 1954, p. 155, Act 116, Eff. Jun. 1, 1955.

168.109 United States senator; contested election; restraining order of supreme court.

Sec. 109. Whenever the election of a United States senator is contested before the United States senate, or notice of a contested election for United States senator may be given, or whenever any judicial proceeding may be instituted preliminary to a contested election involving the right to a seat in said United States senate from the state of Michigan, and it shall be made to appear to the supreme court of the state of Michigan that there is danger that the ballot boxes used in the election of said United States senator within said state will not be properly preserved, the seals upon said boxes interfered with, said ballot boxes opened or the ballots therein interfered with or destroyed, such supreme court shall grant a restraining order directed to the officers having custody of said ballot boxes within said state restraining them and all other persons from interfering with said boxes, seals or locks thereon, or the ballots therein, except as therein provided.

HISTORY: New 1954, p. 155, Act 116, Eff. Jun. 1, 1955.

168.110 Contested election; preservation of ballots, application for restraining order by petition; notice, hearing; temporary restraining order pending hearing.

Sec. 110. Application for such restraining order may be made by any candidate for such office and shall be made by petition duly verified under oath setting up the material facts relative to the election and the election contest involved. Such petition shall be heard in open court, and the court shall give such notice of the hearing on such application as it shall deem sufficient to the candidates for the office of United States senator in the election concerning which the application was filed and to such persons as shall be named in such application. Pending such hearing, any justice of the supreme court may, in his discretion, grant a temporary order restraining any interference with said ballot boxes or the ballots therein.

HISTORY: New 1954, p. 156, Act 116, Eff. Jun. 1, 1955.

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168.111 Contested election; service of restraining order, method.

Sec. 111. Service of any restraining order may be made personally, as in the case of the service of other process of said court, or such service may be made by registered or certified mail. In cases of emergency, notice of the issuance of a restraining order may be given to the officers to whom the same is directed by telegraph or by telephone in advance of the actual service of said order and, after such notice, whether by telegraph or telephone, said officers shall be charged with the same duty with regard to the preservation of said ballot boxes and the ballots therein as after the service of said order.

HISTORY: New 1954, p. 156, Act 116, Eff. Jun. 1, 1955;—Am. 1956, p. 362, Act 190, Imd. Eff. Apr. 26.

168.112 Contested election; permanent restraining order, delivery of ballot boxes to custody of county clerk.

Sec. 112. On being served with a copy of a permanent restraining order issued by said court, it shall be the duty of all officers having the custody of ballot boxes containing ballots cast at said election for said office forthwith to deliver the same to the county clerks of the counties in which such officers reside. It shall be the duty of said county clerks to receive such ballot boxes containing such ballots and to receipt therefor to the officers so delivering them. Said county clerks shall thereupon deposit said ballot boxes containing said ballots in some secure place to await the action of the commissioners herein provided for.

HISTORY: New 1954, p. 156, Act 116, Eff. Jun. 1, 1955.

168.113 Contested election; commissioners, appointment, packaging of ballots.

Sec. 113. Upon issuing a permanent restraining order as herein provided, the supreme court shall name 3 commissioners, who shall proceed to the offices of the several county clerks as soon as may be, open said ballot boxes, remove the ballots therefrom and place them in packages securely wrapped and sealed and so marked as to show in what voting districts such ballots were cast.

HISTORY: New 1954, p. 156, Act 116, Eff. Jun. 1, 1955.

168.114 Contested election; commissioners, redeposit of ballots with county clerk, statement.

Sec. 114. Such packages shall be sealed by said commissioners and redeposited with said county clerks, and it shall be the duty of said county clerks to again place said packages of ballots in some secure place pending the further order of the court. It shall also be the duty of said commissioners to make a statement, duly signed by them, to be included within each such package, as to the character and condition of the ballot boxes when opened by them as herein provided, and of the condition of the ballots within such boxes. Each county clerk shall thereupon notify the several officers of election within the county that such ballot boxes have been released and direct such officers of election to appear and secure said boxes.

HISTORY: New 1954, p. 156, Act 116, Eff. Jun. 1, 1955.

168.115 Contested election; removal of ballots by commissioners, notice.

Sec. 115. The commissioners, as herein provided for, shall give public notice of the time when they will appear at each county seat for the purpose of removing the ballots from the ballot boxes, as herein provided, and such removal shall be publicly made in the presence of the county clerk and judge of probate in the office of the county clerk during office hours.

HISTORY: New 1954, p. 156, Act 116, Eff. Jun. 1, 1955.

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168.116 Contested election; removal of ballots, representation of candidate.

Sec. 116. It shall be the right of each candidate to the office of United States senator at such election to be present in person at such removal, or to be represented thereat.

HISTORY: New 1954, p. 157, Act 116, Eff. Jun. 1, 1955.

168.117 Contested election; commissioners, compensation.

Sec. 117. The compensation of the commissioners herein provided for shall be fixed by the supreme court and such court shall allow such traveling and personal expenses of such commissioners as it may deem proper. All allowances to commissioners shall be taxed by the court as costs in the proceeding.

HISTORY: New 1954, p. 157, Act 116, Eff. Jun. 1, 1955.

168.118 Contested election; violation of restraining order, penalty.

Sec. 118. Any person who shall violate the terms of any such restraining order shall be in contempt of court and shall, in addition to such penalty as may be imposed thereby, be liable to a fine of $1,000.00.

HISTORY: New 1954, p. 157, Act 116, Eff. Jun. 1, 1955.

168.119 Contested election; application for restraining order to circuit court, authority of court.

Sec. 119. Instead of filing the petition for relief provided for in this act with the supreme court of the state of Michigan, application may be made in like manner to the circuit court for the county of Ingham, and when application is so made such court shall have full jurisdiction to make all orders, name the commissioners and otherwise exercise all necessary authority to carry out the purposes of this act.

HISTORY: New 1954, p. 157, Act 116, Eff. Jun. 1, 1955.

168.120 Contested elections; purpose of act.

Sec. 120. It is the intention of this act to furnish a speedy and effective means for the preservation of evidence of the intention of voters in the case of elections to the office of United States senator. It is remedial in character and shall be construed in such manner as fully to carry out the intention herein expressed.

HISTORY: New 1943, p. 157, Act 116, Eff. Jun. 1, 1955.

168.121 United States senator; recall.

Sec. 121. Persons holding the office of United States senator are subject to recall by the qualified and registered electors of the state as provided in chapter 36 of this act.

HISTORY: New 1954, p. 157, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 94, Act 64, Imd. Eff. Dec. 27.

CHAPTER VIII.

REPRESENTATIVE IN CONGRESS

168.131 Representative in congress; eligibility.

Sec. 131. No person shall be a representative who shall not have attained the age of 25 years and been a citizen of the United States for 7 years, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen, as provided in section 2 of article 1 of the United States constitution.

HISTORY: New 1954, p. 157, Act 116, Eff. Jun. 1, 1955.

168.132 Candidates for representative in congress; nomination at primary.

Sec. 132. A general primary election of all political parties shall be held in every election precinct in this state on the Tuesday succeeding the first Monday in August preceding every general November election, at which time the qualified and registered electors of each political party within every congressional district shall vote for party candidates for the office of representative in congress to be filled at said elec-

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tion: Provided, That this section shall not apply to parties required to nominate candidates at caucuses or conventions.

HISTORY: New 1954, p. 157, Act 116, Eff. Jun. 1, 1955.

168.133 Candidates for nomination; nominating petitions, signatures required, filing.

Sec. 133. To obtain the printing of the name of any person as a candidate for nomination by any political party for the office of representative in congress under a particular party heading upon the official primary ballots in the various election precincts of the congressional district when such district is comprised of 1 county or less, there shall be filed with the county clerk of such county, nominating petitions, signed by a number of qualified and registered electors residing in such district, equal to not less than 1% nor more than 4% of the number of votes cast by such party in said district for secretary of state at the last preceding November election; and in the case of a candidate for representative in congress, in a district comprising more than 1 county, to obtain the printing of the name of any candidate of any political party under a particular party heading upon the official primary ballots in the various election precincts of said district, there shall be filed with the secretary of state nominating petitions, signed by a number of qualified and registered electors residing in such district equal to not less than 1% nor more than 4% of the number of votes cast by such party for secretary of state at the last preceding general November election. Such nominating petitions shall be in the form as prescribed in section 544 of this act. The secretary of state and the various county clerks shall receive nominating petitions for filing in accordance with the provisions of this act up to 4 p.m., eastern standard time, of the seventh Tuesday preceding the August primary. Persons qualifying to have their names printed on the official primary ballot as a candidate for the office of representative in congress for the term commencing January 3, 1967 shall also be qualified as candidates to fill the vacancy occurring in that office before January 3, 1967 and for which an election is called under section 145 of this act.

HISTORY: New 1954, p. 157, Act 116, Eff. Jun. 1, 1955;—Am. 1966, p. 64, Act 42, Imd. Eff. May 26.

168.134 Candidates for nomination; withdrawal, notice.

Sec. 134. After the filing of a nominating petition by or in behalf of a proposed candidate for representative in congress, such candidate shall not be permitted to withdraw unless a written notice of withdrawal is served on the official with whom the petition was filed or his duly authorized agent not later than 4 o'clock, eastern standard time, in the afternoon of the third day after the last day for filing such petitions.

HISTORY: New 1954, p. 158, Act 116, Eff. Jun. 1, 1955.

168.135 Candidates for nomination; death; selection of new candidate; ballots.

Sec. 135. When any candidate of a political party for the office of representative in congress, after having qualified as a candidate, shall die, after the last day for qualifying, leaving such party without a candidate for the office of representative in congress, a candidate to fill the vacancy thereby caused may be selected by 3 delegates elected by a majority of the precinct delegates and nominees for state representative and state senator in a state representative or state senatorial district of the candidate's political party from within the boundaries of the congressional district. In case said district comprises more than 1 county, the meeting shall be called and conducted by the chairman of the state central committee or his authorized representative; the name of the candidate so selected shall be transmitted to the county officials required by law to print and distribute ballots, and such county officials shall cause to be printed a sufficient number of gummed labels or stickers bearing the name of the candidate, which shall be distributed to the various voting precincts within their respective counties.

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The board of election inspectors of each such precinct shall cause 1 of such stickers to be placed on each ballot, over the name of the candidate who has died, before such ballot is handed to the elector.

HISTORY: New 1954, p. 158, Act 116, Eff. Jun. 1, 1955;—Am. 1966, p. 582, Act 322, Imd. Eff. Jul. 19.

168.136 Candidates for nomination; no candidate, write-in.

Sec. 136. If for any reason there is no candidate of a political party for the office of representative in congress, a blank space shall be provided on each of the official primary ballots which will afford every elector of said party an opportunity to vote for a candidate for such office by writing in the name of his or her selection or by the use of a slip or paster.

HISTORY: New 1954, p. 158, Act 116, Eff. Jun. 1, 1955.

168.137 Candidates for representative in congress; nomination, certification.

Sec. 137. The candidate of each political party for the office of representative in congress receiving the greatest number of votes cast for candidates for said office, as set forth in the report of the board of state canvassers, based on the returns from the various boards of county canvassers, or as determined by the board of state canvassers as the result of a recount, shall be declared the nominee of that political party for said office at the next ensuing November election. The board of state canvassers shall forthwith certify such nomination to the secretary of state.

HISTORY: New 1954, p. 158, Act 116, Eff. Jun. 1, 1955.

168.138 Candidates; withdrawal after nomination.

Sec. 138. When a candidate of any political party has filed a nominating petition for such office and has been nominated for said office by said party, he shall not be permitted to withdraw unless he has removed from the state or has become physically unfit; no vacancy shall be filled by the district or county committees except for the causes and as herein specified: Provided, That this prohibition shall not be construed to prohibit the withdrawal of any candidate who has been nominated without having filed a nominating petition and whose name has been written or placed on the ballot of any political party.

HISTORY: New 1954, p. 158, Act 116, Eff. Jun. 1, 1955.

168.139 Candidates for representative in congress; death, withdrawal or disqualification; selection of new candidate, certification; ballots.

Sec. 139. When a candidate of a political party, after having been nominated to the office of representative in congress, shall die, withdraw as provided in this chapter, remove from the state or become disqualified for any reason, a candidate to fill such vacancy shall be chosen by a committee selected as follows: (a) If such candidate shall have been nominated from a district composed of 1 or more counties, the committee shall consist of the members of the county committees of such candidate's political party for the counties comprising such congressional district: Provided, That if a congressional district comprises 3 or more counties, each county shall be entitled to have only the chairman, the treasurer and secretary of the county committee of such political party present and voting; or (b) if such candidate shall have been nominated from a district consisting of less than 1 county, the committee shall consist of the members of the district committee of such candidate's political party for such district. Such committee shall meet at a time and place designated by the chairman of the state central committee of such political party and notice of such meeting shall be sent to all members of the county or district committee, as the case may be. The meeting shall be conducted by the secretary of the state central committee or his duly authorized agent, but said secretary or agent shall not be privileged to vote at such meeting. A majority vote of the committee members present and voting shall be necessary for the

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selection of a candidate. The name of the candidate so selected shall be certified immediately by the secretary of the state central committee to the secretary of state and to the board of election commissioners for each county, whose duty it is to prepare the official ballots; and said board shall cause to be printed or placed upon such ballots, in the proper place, the name of the candidate so selected and certified to fill such vacancy.

HISTORY: New 1954, p. 159, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 610, Act 271, Imd. Eff. Jun. 30.

168.140 Representative in congress; election.

Sec. 140. A representative in congress in each congressional district shall be elected at each general November election.

HISTORY: New 1954, p. 159, Act 116, Eff. Jun. 1, 1955.

168.141 Representative in congress; certificate of determination by board of state canvassers.

Sec. 141. The board of state canvassers shall determine which candidate has received the greatest number of votes and shall declare such candidate to be duly elected. The said board shall forthwith make and subscribe on its statement of returns a certificate of such determination and deliver the same to the secretary of state.

HISTORY: New 1954, p. 159, Act 116, Eff. Jun. 1, 1955.

168.142 Representative in congress; certificate of election.

Sec. 142. The secretary of state shall file in his office and preserve the original statement and determination of the board of state canvassers of the result of the election and shall forthwith execute and cause to be delivered to the person thereby declared to be elected a certificate of election, certified by him under the great seal of the state.

HISTORY: New 1954, p. 159, Act 116, Eff. Jun. 1, 1955.

168.143 Representative in congress; term of office.

Sec. 143. The term of office of a representative in congress shall be 2 years beginning on the third day of January next following his election.

HISTORY: New 1954, p. 159, Act 116, Eff. Jun. 1, 1955.

168.144 Representative in congress; resignation, notice.

Sec. 144. Any person duly elected to the office of representative in congress who desires to resign shall file a written notice containing the effective date of such resignation with the governor and a copy with the secretary of state.

HISTORY: New 1954, p. 159, Act 116, Eff. Jun. 1, 1955.

168.145 Representative in congress; vacancy, special election.

Sec. 145. The governor shall call a special election as provided in section 633 of this act, in any congressional district of the state when the right of office of a person elected representative in congress shall cease before the commencement of the term of service for which he shall have been elected, or whenever a vacancy shall occur in the office of representative in congress after the term of service has begun for which such representative was elected.

HISTORY: New 1954, p. 159, Act 116, Eff. Jun. 1, 1955.

168.146 Representative in congress; vacancy, creation.

Sec. 146. The office of representative in congress shall become vacant on the happening of any of the following events before the expiration of the term of such office: The death of the incumbent; his resignation; his removal from office; the decision of a competent tribunal declaring void his election; or his refusal or neglect to take his oath of office.

HISTORY: New 1954, p. 160, Act 116, Eff. Jun. 1, 1955.

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168.147 Representative in congress; removal from office.

Sec. 147. Any representative in congress may be removed from office as provided in section 5 of article 1 of the United States constitution.

HISTORY: New 1954, p. 160, Act 116, Eff. Jun. 1, 1955.

168.148 Representative in congress; primary, recount of votes.

Sec. 148. The votes cast for any candidate for nomination to the office of representative in congress at any primary shall be subject to recount as provided in chapter 33 of this act.

HISTORY: New 1954, p. 160, Act 116, Eff. Jun. 1, 1955.

168.149 Representative in congress; recall.

Sec. 149. Persons holding the office of representatives in congress are subject to recall by the qualified and registered electors of their congressional districts as provided in chapter 36 of this act.

HISTORY: New 1954, p. 160, Act 116, Eff. Jun. 1, 1955.

168.150 Representative in congress; contested election; preservation of ballots; restraining order of circuit court.

Sec. 150. Whenever a contest for the office of congressman is in progress before the house of representatives involving the right to a seat in said house from any of the congressional districts of Michigan, and it shall be made to appear to any circuit court in the state of Michigan that there is danger that the ballot boxes used in such congressional election within the district in which said circuit court has jurisdiction will be tampered with, the seals upon said boxes destroyed or tampered with, said ballot boxes opened or the ballots therein interfered with or destroyed, such circuit court shall grant a restraining order directed to the officers having custody of the ballot boxes within such congressional district restraining them from interfering with said boxes, the seals or locks thereon, or the ballots therein, during the pendency of the taking of testimony in such contest before the house of representatives.

HISTORY: New 1954, p. 160, Act 116, Eff. Jun. 1, 1955.

168.151 Contested election; application for restraining order by petition; notice, hearing.

Sec. 151. Said application shall be made by sworn petition setting up the material facts touching the election and the election contest involved. It may be heard in chambers or in open court, in the discretion of the court, and it shall be heard upon such notice as will be sufficient to give the attorney of the party not applying for the order sufficient time to reach the court in which such application is made, by the usual method of travel from his place of business to such court, plus 24 hours.

HISTORY: New 1954, p. 160, Act 116, Eff. Jun. 1, 1955.

168.152 Contested election; service of restraining order, notice.

Sec. 152. Service of such restraining order may be made either personally, as in the case of ordinary process of said court, or in cases of emergency such service may be made by registered or certified mail. Notice of the issuance of such restraining order may be given to the officers to whom the same is directed, by telegraph or by telephone, in advance of the actual service of said order, and after the giving of such advance notice, said officer shall be charged with the same duties with regard to the preservation of the ballot boxes and ballots as after actual service of a copy of said order.

HISTORY: New 1954, p. 160, Act 116, Eff. Jun. 1, 1955;—Am. 1956, p. 362, Act 190, Imd. Eff. Apr. 26.

168.153 Contested election; violation of restraining order, penalty.

Sec. 153. Any officer or any other person who shall violate the terms of any such restraining order shall be in contempt of court and shall, in addition to such penalty as

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may be imposed thereby, be liable to a fine of not less than $50.00 nor more than $500.00, in the discretion of the court.

HISTORY: New 1954, p. 160, Act 116, Eff. Jun. 1, 1955.

168.154 Contested election; intent of act.

Sec. 154. It is the intention of this act to furnish a speedy and effective remedy for the preservation of the evidence of the intention of the voters in the case of elections to the office of representative in congress and, for that purpose, the provisions of this act shall be construed as remedial.

HISTORY: New 1954, p. 160, Act 116, Eff. Jun. 1, 1955.

168.155 Contested election; proceeding in equity, fees.

Sec. 155. The proceeding herein specified shall be in equity, and the provisions of law relative to fees to be charged as entry fees and fees for the service of papers shall govern the proceedings under this act.

HISTORY: New 1954, p. 161, Act 116, Eff. Jun. 1, 1955.

CHAPTER IX.

STATE SENATE AND HOUSE OF REPRESENTATIVES

168.161 State senators and representatives; eligibility.

Sec. 161. No person shall be eligible to the office of state senator or representative who is not a citizen of the United States and a qualified elector of the district he represents, as provided in section 7 of article 4 of the state constitution.

HISTORY: New 1954, p. 161, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 93, Act 63, Imd. Eff. Dec. 27.

168.162 Candidates for state senator or representative; nomination at primary.

Sec. 162. A general primary election of all political parties shall be held in every election precinct in this state on the Tuesday succeeding the first Monday in August preceding every general November election, at which time the qualified and registered electors of each political party within every senatorial district and every representative district shall vote for party candidates for the offices of state senator and representative, to be filled at the November election: Provided, That this section shall not apply to parties required to nominate candidates at caucuses or conventions.

HISTORY: New 1954, p. 161, Act 116, Eff. Jun. 1, 1955.

168.163 Candidates for nomination; nominating petitions, signatures required, filing; filing fees.

Sec. 163. To obtain the printing of the name of any person as a candidate for nomination by any political party for the offices of state senator or representative under a particular party heading upon the official primary ballots in the various election precincts of the district when such district is comprised of 1 county or less, there shall be filed with the county clerk of such county, nominating petitions signed by a number of qualified and registered electors residing in such district equal to not less than 1% nor more than 4% of the number of votes cast by such party in said district for secretary of state at the last preceding November election; and, in the case of a candidate for either of said offices in a district comprising more than 1 county to obtain the printing of the name of any candidate of any political party under a particular party heading upon the official primary ballots in the various election precincts of said district, there shall be filed with the secretary of state nominating petitions signed by a number of qualified and registered electors residing in such district equal to not less than 1% nor more than 4% of the number of votes cast by such party for secretary of state in said district at the last preceding general November election: Provided, That such nominating petitions shall be in the form as prescribed in section 544 of this act: Provided further,

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That the secretary of state and the various county clerks shall receive nominating petitions for filing in accordance with the provisions of this act up to 4 o'clock, eastern standard time, in the afternoon of the seventh Tuesday preceding the August primary: Provided further, That in any county entitled to 1 or more representatives in the state legislature, to obtain the printing of the name of any candidate of any political party under the particular party heading upon the primary election ballots in the various voting precincts of such district, there shall be filed by each candidate with the county clerk of the county of which such district forms a part, a nominating petition signed by a number of registered and qualified voters residing in such district equal to not less than 1% nor more than 4% of the number of votes that such political party cast in such district for secretary of state at the last preceding November election. In lieu thereof, a filing fee of $100.00 to be paid to the county clerk, or in the case of candidates in a district comprising more than 1 county to the secretary of state, payment of the fee and certification of the candidate's name paying same to be governed by the same provisions as in the case of nominating petitions, which fee shall be deposited in the general fund of the county or state and shall be returned to all candidates who shall be nominated and to a like number of candidates who are next highest in order thereto in the number of votes received in the primary election and in case 2 or more candidates shall tie in having the lowest number of votes allowing a refund hereunder, the sum of $100.00 shall be divided or prorated among them. No refunds shall be made of a deposit because of the withdrawal of a candidate.

HISTORY: New 1954, p. 161, Act 116, Eff. Jun. 1, 1955;—Am. 1957, p. 144, Act 125, Eff. Sep. 27.

168.163a Repealed. 1963, 2nd Ex. Ses., p. 94, Act 63, Imd. Eff. Dec. 27.

Section provided for designation of incumbent on ballot.

168.164 Candidates for nomination; withdrawal, notice.

Sec. 164. After the filing of a nominating petition or filing fee by or in behalf of a proposed candidate for the office of state senator or representative, such candidate shall not be permitted to withdraw unless a written notice of withdrawal is served on the official with whom his nominating petitions or filing fee were filed, or his duly authorized agent, not later than 4 o'clock, eastern standard time, in the afternoon of the third day after the last day for filing such petition.

HISTORY: New 1954, p. 162, Act 116, Eff. Jun. 1, 1955.

168.165 Candidates for nomination; death; selection of new candidate; ballots.

Sec. 165. When any candidate of a political party for the office of state senator or representative, as the case may be, after having qualified as a candidate, shall die, after the last day for qualifying, leaving such party without a candidate for the office of state senator or representative, a candidate to fill the vacancy thereby caused may be selected by 3 delegates elected by a majority of the precinct delegates and nominees for state representative and state senator of the candidate's political party from within the senatorial or representative district, in case said district comprises more than 1 county the meeting will be called and conducted by the chairman of the state central committee or his authorized representative; the name of the candidate so selected shall be transmitted to the county officials required by law to print and distribute ballots, and such county officials shall cause to be printed a sufficient number of gummed labels or stickers bearing the name of the candidate, which shall be distributed to the various voting precincts within their respective county, and the board of election inspectors of each such precinct shall cause 1 of such stickers to be placed on each ballot, over the name of the candidate who has died, before such ballot is handed to the elector.

HISTORY: New 1954, p. 162, Act 116, Eff. Jun. 1, 1955;—Am. 1966, p. 582, Act 322, Imd. Eff., Jul. 19.

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168.166 Candidates for nomination; no candidate, write-in.

Sec. 166. If for any reason the number of candidates of a political party for the office of state senator or representative shall be equal to less than the total number to be nominated and elected, a sufficient number of blank spaces shall be provided on the primary ballots which will afford every elector of said party an opportunity to vote for as many candidates as are to be nominated and elected by writing in the name or names of his or her selection or by the use of slips or pasters.

HISTORY: New 1954, p. 162, Act 116, Eff. Jun. 1, 1955.

168.167 Candidates for state senator or representative; nomination, certification.

Sec. 167. The candidates of each political party for the office of state senator and representative receiving the greatest number of votes cast for candidates for said offices as set forth in the report of the board of canvassers canvassing said votes, based on the returns from the various election precincts or as determined by said board as a result of a recount, shall be declared the nominees of that political party for said offices at the next ensuing November election. If the district which the candidate seeks to represent comprises 1 county or less, said determination shall be by the board of county canvassers. If the district which the candidate seeks to represent comprises more than 1 county, then the county clerk of each such county shall transmit to the secretary of state within 8 days after the primary elections a certified statement of the number of votes received by each person for nominations as a candidate of any political party for said offices. The secretary of state shall appoint a meeting of the board of state canvassers at his office not later than 15 days after the primary elections, which date he shall forthwith certify to the chairman of the state central committee of each political party for the purpose of canvassing the returns and declaring the result of the primary for the nomination of the candidates for state senator and representative. The board of canvassers making such canvass shall forthwith certify such nomination or nominations to the county election commission or commissions.

HISTORY: New 1954, p. 162, Act 116, Eff. Jun. 1, 1955.

168.168 Candidates for state senator or representative; withdrawal after nomination, procedure.

Sec. 168. When a candidate of any political party has filed a nominating petition or filing fee for state senator or representative and has been nominated for the office by a party, he shall not be permitted to withdraw unless he shall be certified as a nominee at the subsequent state convention of the same party for a statewide office, or has removed from the district or has become physically unfit. If certified by a state convention for a statewide office, the candidate shall be deemed to have withdrawn from the previous nomination. No vacancy shall be filled by the county committee or committees except for the causes and as herein specified. This prohibition shall not be construed to prohibit the withdrawal of any candidate who has been nominated without having filed a nominating petition or filing fee and whose name has been written or placed on the ballot of any political party.

HISTORY: New 1954, p. 163, Act 116, Eff. Jun. 1, 1955;—Am. 1970, p. 528, Act 175, Imd. Eff. Aug. 3.

168.169 Candidates for state senator or representative; death, withdrawal or disqualification; new candidate, selection, certification; ballots.

Sec. 169. When the candidate of a political party, after having been nominated to the office of state senator or representative, shall die, withdraw from the district or become disqualified for any reason, the members of the county committees of such candidate's political party for the counties comprising said senatorial or representative district shall meet at a time and place designated by the chairman of the state central committee of such political party and notice of such meeting shall be sent to all mem-

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bers of the county committees. The meeting shall be conducted by the secretary of the state central committee or his duly authorized agent, but said secretary or agent shall not be privileged to vote at such meeting. A candidate to fill the vacancy shall be selected by a majority vote of the committee members present and voting: Provided, That if such vacancy occurs in a senatorial or representative district wholly within 1 county, a candidate to fill the vacancy shall be selected by the county committee of the county by a majority vote thereof. The name of the candidate so selected shall be certified immediately by the chairman and the secretary of said committee to the secretary of state in those districts comprising 2 or more counties and to the county clerk in those districts contained within 1 county. The certification shall be sent in any case to the board of election commissioners for each county, whose duty it is to prepare the official ballots; and said board shall cause to be printed or placed upon such ballots, in the proper place, the name of the candidate so selected and certified to fill such vacancy.

HISTORY: New 1954, p. 163, Act 116, Eff. Jun. 1, 1955.

168.170 State senators and representatives; election, date.

Sec. 170. A state senator in each senatorial district shall be elected in the general election in 1964, 1966 and every fourth year thereafter. A representative in each representative district shall be elected at each general November election.

HISTORY: New 1954, p. 163, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 93, Act 63, Imd. Eff. Dec. 27.

168.171 State senators and representatives; certificate of determination by board of state canvassers.

Sec. 171. The board of state canvassers or the board of county canvassers, as the case may be, shall determine which candidate has received the greatest number of votes and shall declare such candidate to be duly elected. The said board shall forthwith make and subscribe on its statement of returns a certificate of such determination and deliver the same to the secretary of state or to the county clerk.

HISTORY: New 1954, p. 163, Act 116, Eff. Jun. 1, 1955.

168.172 State senators and representatives; certificate of election.

Sec. 172. The secretary of state or the county clerk, as the case may be, shall file in his office and preserve the original statement and determination of the board of state canvassers or the board of county canvassers of the result of the election and shall, forthwith, execute and cause to be delivered to the persons thereby declared to be elected a certificate of election, certified by them under the great seal of the state or the seal of the circuit court of the county, as the case may be. In each county which alone constitutes 1 or more senatorial or representative districts, the county clerk shall cause a copy of such certificate of determination, together with a statement of votes cast at the election for said officers, to be published in at least 1 newspaper printed and/or circulated in said county.

HISTORY: New 1954, p. 163, Act 116, Eff. Jun. 1, 1955.

168.173 State senators and representatives; terms of office.

Sec. 173. The term of office of state senator and representative shall commence at 12 noon on January 1 next following his election. The term of office of state representative shall be 2 years. The term of office of state senators elected at the general election in 1964 shall be 2 years. The term of office of state senators elected at the general election in 1966 and every fourth year thereafter shall be 4 years.

HISTORY: New 1954, p. 164, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 93, Act 63, Imd. Eff. Dec. 27.

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168.174 State senators and representatives; oath of office.

Sec. 174. Every person elected to the office of state senator or representative, before entering upon the duties of his office, shall take and subscribe to the oath as provided in section 1 of article 11 of the state constitution.

HISTORY: New 1954, p. 164, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 93, Act 63, Imd. Eff. Dec. 27.

168.175 State senators and representatives; resignation, notice.

Sec. 175. Any person duly elected to the office of state senator or representative who desires to resign shall file a written notice containing the effective date of such resignation with the presiding officer of his respective house, who shall immediately transmit the same to the governor.

HISTORY: New 1954, p. 164, Act 116, Eff. Jun. 1, 1955.

168.176 State senators and representatives; vacancy, creation.

Sec. 176. The office of state senator or representative shall become vacant on the happening of any of the following events, before the expiration of the term of such office: The death of the incumbent; his resignation; his removal from office; his ceasing to be an inhabitant of the district for which he shall have been elected; the decision of a competent tribunal declaring void his election or appointment; or his refusal or neglect to take and subscribe to his oath of office. Regardless of any change in the boundaries of any state senatorial or representative district, an incumbent state senator or representative shall continue to represent the district from which he was elected until his current term of office shall expire or his successor is elected and qualified.

HISTORY: New 1954, p. 164, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 93, Act 63, Imd. Eff. Dec. 27.

168.177 State senators and representatives; removal from office.

Sec. 177. Any state senator or representative may be removed from office as provided in section 16 of article 4 of the state constitution.

HISTORY: New 1954, p. 164, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 93, Act 63, Imd. Eff. Dec. 27.

168.178 State senators and representatives; vacancy, special election.

Sec. 178. The governor may call a special election as provided in section 634 of this act in any senatorial or representative district of the state when the right of office of a person elected state senator or representative shall cease before the commencement of the term of service for which he shall have been elected, or whenever a vacancy shall occur in the office of state senator or representative after the term of service has begun for which such state senator or representative was elected.

HISTORY: New 1954, p. 164, Act 116, Eff. Jun. 1, 1955.

168.179 State senators and representatives; primary or election, recount of votes.

Sec. 179. The votes cast for any candidate for the office of state senator or representative at any primary or election shall be subject to recount as provided in chapter 33 of this act.

HISTORY: New 1954, p. 164, Act 116, Eff. Jun. 1, 1955.

168.180 State senators and representatives; recall.

Sec. 180. Any person elected to the office of state senator or representative shall be subject to recall as provided in chapter 36 of this act and in section 8 of article 2 of the state constitution.

HISTORY: New 1954, p. 164, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 93, Act 63, Imd. Eff. Dec. 27.

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CHAPTER IXA.

DELEGATES TO CONVENTIONS FOR GENERAL REVISION OF THE STATE CONSTITUTION

168.181-168.190 Repealed. 1967, p. 55, Act 35, Eff. Nov. 2.

Sections related to constitutional convention delegates for general revision of constitution.

CHAPTER X.

PROSECUTING ATTORNEY; SHERIFF; COUNTY CLERK; COUNTY TREASURER; REGISTER OF DEEDS; DRAIN COMMISSIONER; CORONERS; SURVEYOR

168.191 County officers; eligibility.

Sec. 191. No person shall be eligible to the office of county clerk, county treasurer, register of deeds, prosecuting attorney, sheriff, drain commissioner, surveyor or coroner who is not a qualified elector of the county in which election is sought.

HISTORY: New 1954, p. 164, Act 116, Eff. Jun. 1, 1955.

168.192 Candidates for county offices; nomination at primary.

Sec. 192. A general primary election of all political parties shall be held in every county of this state on the Tuesday succeeding the first Monday in August preceding the general November election at which the officers named in section 191 of this act are to be elected, at which time the qualified and registered electors of each political party may vote for party candidates for the offices. This section shall not apply to parties required to nominate candidates at caucuses or conventions.

HISTORY: New 1954, p. 165, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 42, Act 35, Eff. Mar. 24, 1964.

168.193 Candidates for nomination; nominating petitions, signatures required, filing; fees, refund.

Sec. 193. To obtain the printing of the name of any person as a candidate for nomination by any political party for any of the offices named in section 191 of this act under a particular party heading upon the official primary ballots, there shall be filed with the county clerk of each county nominating petitions signed by a number of qualified and registered electors residing within said county, equal to not less than 1% nor more than 4% of the number of votes cast by such party in said county for secretary of state at the last general election in which a secretary of state was elected. Nominating petitions shall be in the form prescribed in section 544 of this act. The county clerk shall receive nominating petitions up to 4 p.m., eastern standard time, of the seventh Tuesday preceding the August primary in which the officers named in section 191 of this act are to be nominated. To obtain the printing of the name of any such candidate of any political party under the particular party's heading upon the primary election ballots in the various voting precincts of such county, there may be filed by each candidate, in lieu of filing nomination petitions as herein provided, a filing fee of $100.00 to be paid to the county clerk, payment of the fee and certification of the candidate's name paying same to be governed by the same provisions as in the case of nominating petitions, which fee shall be deposited in the general fund of the county and shall be returned to all candidates who shall be nominated and to a like number of candidates who are next highest in order thereto in the number of votes received in the primary election; and in case 2 or more candidates shall tie in having the lowest number of votes allowing a refund hereunder, the sum of $100.00 shall be divided or prorated among them. The deposits of all other defeated candidates, as well as the deposits of all candidates who may withdraw or be disqualified, shall be forfeited and said candidates shall be notified of such forfeitures. Deposits forfeited under this section shall be paid into and credited to the general fund of the county.

HISTORY: New 1954, p. 165, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 42, Act 35, Eff. Mar. 24, 1964.

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168.194 Candidates for nomination; withdrawal, notice.

Sec. 194. After the filing of a nominating petition or filing fee by or in behalf of a proposed candidate for any of the offices named in section 191 of this act, such candidate shall not be permitted to withdraw unless a written notice of withdrawal is served on the county clerk or his duly authorized agent not later than 4 o'clock, eastern standard time, in the afternoon of the third day after the last day for filing such petition or filing fee, as in this act provided, unless the third day falls on a Saturday, Sunday or legal holiday, in which case the notice of withdrawal may be served on the clerk up to 4 o'clock, eastern standard time, on the next secular day.

HISTORY: New 1954, p. 165, Act 116, Eff. Jun. 1, 1955;—Am. 1959, p. 247, Act 173, Eff. Mar. 19, 1960.

168.195 Candidates for nomination; death; selection of new candidate; ballots.

Sec. 195. When any candidate of a political party for any of the following offices: Prosecuting attorney, sheriff, county clerk, county treasurer, register of deeds, drain commissioner, coroner or surveyor, as the case may be, after having qualified as a candidate, shall die, after the last day for qualifying, leaving such party without a candidate for the offices named above, a candidate to fill the vacancy thereby caused may be selected by the members of the county committee of such candidate's political party, and the name of the candidate so selected shall be transmitted to the county officials required by law to print and distribute ballots, and such county officials shall cause to be printed a sufficient number of gummed labels or stickers bearing the name of the candidate which shall be distributed to the various voting precincts within their respective counties, and the board of election inspectors of each such precinct shall cause 1 of such stickers to be placed on each ballot over the name of the candidate who has died before such ballot is handed to the elector.

HISTORY: New 1954, p. 165, Act 116, Eff. Jun. 1, 1955;—Am. 1966, p. 583, Act 322, Imd. Eff. Jul. 19.

168.196 Candidates for nomination; write-in when no candidate.

Sec. 196. If for any reason the number of candidates of a political party for any 1 or more of the offices named in section 191 of this act shall be equal to less than the total number to be nominated by said political party, a blank space or spaces shall be provided on each of the official primary ballots which will afford every elector of said party an opportunity to vote for as many candidates for such office as are to be nominated by said party, by writing in the name or names of his or her selection or by the use of slips or pasters.

HISTORY: New 1954, p. 166, Act 116, Eff. Jun. 1, 1955.

168.197 Candidates for county offices; nomination, certification.

Sec. 197. The candidates of each political party for the offices named in section 191 of this act receiving the greatest number of votes cast for said offices, as set forth in the reports of the board of county canvassers, based on the returns from the various election precincts, or as determined by said board as the result of a recount, shall be declared the nominees of that political party for said offices at the next ensuing November election. The board of county canvassers shall forthwith certify such nominations to the county election commission.

HISTORY: New 1954, p. 166, Act 116, Eff. Jun. 1, 1955.

168.198 Candidates for county offices; withdrawal after nomination.

Sec. 198. When a candidate of any political party has filed a nominating petition or filing fee for such office and has been nominated for such office by said party, he shall not be permitted to withdraw unless he has removed from the county or has become physically unfit. No vacancy shall be filled by the county committees except for the above causes and as herein specified: Provided, That this prohibition shall not be construed to prohibit the withdrawal of any candidate who has been nominated without

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having filed a nominating petition or filing fee and whose name has been written or placed on the ballot of any political party.

HISTORY: New 1954, p. 166, Act 116, Eff. Jun. 1, 1955.

168.199 Candidates for county offices; death, withdrawal or disqualification; new candidate, selection, certification; ballots.

Sec. 199. Whenever a candidate of a political party, after having been nominated to any office named in section 191 of this act, shall die, withdraw as provided in section 198, remove from the county, or become disqualified for any reason, the county committee of such party shall meet forthwith and, by a majority vote of the members thereof, shall select a candidate to fill the vacancy thereby caused. The name of the candidate so selected shall be immediately certified by the chairman and the secretary of said committee to the county clerk and to the board of county election commissioners, whose duty it is to prepare the official ballots and who shall cause to be printed or placed upon such ballots, in the proper place, the name of the candidate so selected to fill such vacancy.

HISTORY: New 1954, p. 166, Act 116, Eff. Jun. 1, 1955.

168.200 County officers; election.

Sec. 200. A county clerk, a county treasurer, a register of deeds, a prosecuting attorney, a sheriff, a drain commissioner, a surveyor and 2 coroners shall be elected at each general November election: Provided, That in any county in which 1 or more of these offices have been or may be abolished, as provided by law, no person shall be elected therefor. The board of supervisors in any county may unite the offices of county clerk and register of deeds in 1 office or separate the same at pleasure.

HISTORY: New 1954, p. 166, Act 116, Eff. Jun. 1, 1955.

168.201 County officers; certificate of determination by board of county canvassers.

Sec. 201. The board of county canvassers shall determine which candidates for the offices named in section 191 of this act received the greatest number of votes and shall declare such candidates to be duly elected. The said board shall forthwith make and subscribe on its statement of returns a certificate of such determination and deliver same to the county clerk within 14 days following the date of the election.

HISTORY: New 1954, p. 166, Act 116, Eff. Jun. 1, 1955.

168.202 County officers; certificate of election.

Sec. 202. The county clerk shall file in his office and preserve the original statement and determination of the board of county canvassers of the results of the election and shall forthwith execute and cause to be delivered to the persons thereby declared to be elected to the offices named in section 200 of this act a certificate of election, certified by him under the seal of the county. The said county clerk shall cause a copy of such certificate of determination, together with a statement of the votes cast at the election for said offices, to be published in at least 1 newspaper printed and/or circulated in said county.

HISTORY: New 1954, p. 167, Act 116, Eff. Jun. 1, 1955.

168.203 County officers; terms of office.

Sec. 203. The term of office of the county clerk, county treasurer, register of deeds, prosecuting attorney, sheriff, drain commissioner, surveyor and coroner shall begin on January 1 next following the election, and continues until a successor is elected and qualified, except that in counties having a population of 1,000,000 or more the term of office of the county treasurer shall begin on July 1 next following the election.

HISTORY: New 1954, p. 167, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 43, Act 35, Eff. Mar. 24, 1964;—Am. 1964, p. 258, Act 155, Imd. Eff. May 20.

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168.204 County officers; oath of office, bond, deposit.

Sec. 204. Every person elected to an office named in section 200 of this act, before entering upon the duties of his office, shall take and subscribe to the oath as provided in section 1 of article 11 of the state constitution and, with the exception of the prosecuting attorney, shall give bond in the amount and manner prescribed by law and shall deposit said oath with the county clerk and said bond with the county treasurer. The county treasurer shall file his bond with the county clerk.

HISTORY: New 1954, p. 167, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 43, Act 35, Eff. Mar. 24, 1964.

168.205 County officers; resignation, notice.

Sec. 205. Any person duly elected to any of the county offices named in section 200 of this act who desires to resign shall file a written notice containing the effective date of such resignation with the presiding or senior judge of probate, the county clerk and the prosecuting attorney of said county: Provided, That if the county clerk or the prosecuting attorney desires to resign, he shall file a written notice containing the effective date of such resignation with the presiding judge of that judicial circuit.

HISTORY: New 1954, p. 167, Act 116, Eff. Jun. 1, 1955.

168.206 County offices; vacancy, creation.

Sec. 206. The office of county clerk, county treasurer, register of deeds, prosecuting attorney, sheriff, drain commissioner, surveyor or coroner in any county in this state shall become vacant upon the happening of any of the following events: Death of the incumbent; his resignation; his removal from office for cause; his ceasing to be a resident of the county in which his office is located; his conviction of an infamous crime or an offense involving the violation of his oath of office; the decision of a competent tribunal declaring his election or appointment void; his refusal or neglect to take and subscribe to the constitutional oath of office and deposit the same in the manner and within the time prescribed by law; or his refusal or neglect to give bond in the amount and manner and within the time prescribed by law.

HISTORY: New 1954, p. 167, Act 116, Eff. Jun. 1, 1955.

168.206a County officers; death before commencement of term.

Sec. 206a. Whenever any person elected to the office of county clerk, county treasurer, register of deeds, prosecuting attorney, sheriff, drain commissioner, surveyor or coroner in any county shall die before the commencement of the term for which he was elected, there shall be a vacancy for the term to which such person was elected to be filled according to law. The vacancy shall be filled within 15 days after the beginning of the term for which he was elected.

HISTORY: Add. 1965, p. 250, Act 156, Eff. Mar. 31, 1966.

168.207 County officers; removal from office; service of charges, hearing.

Sec. 207. The governor may remove any and all county officers named in section 200 of this chapter when he shall be satisfied from sufficient evidence submitted to him, as hereinafter provided, that such officer has been guilty of official misconduct, or of wilful neglect of duty, or of extortion, or habitual drunkenness, or has been convicted of being drunk, or whenever it shall appear by a certified copy of the judgment of a court of record of this state that such officer, after his election or appointment, shall have been convicted of a felony; but the governor shall take no action upon any such charges made to him against any such officer until the same shall have been exhibited to him in writing, verified by the affidavit of the party making them, that he believes the charges to be true. But no such officer shall be removed for such misconduct or neglect until charges thereof shall have been exhibited to the governor as above provided and a copy of the same served on such officer and an opportunity given him of being heard in his defense: Provided, That the service of such charges upon the person or persons complained against shall be made by handing to such per-

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son or persons a copy of such charges, together with all affidavits or exhibits which may be attached to the original petition if such person or persons can be found; and if not, by leaving a copy at the last place of residence of such person or persons, with some person of suitable age, if such person can be found; and if not, by posting it in some conspicuous place upon his last known place of residence. No officer who has been removed in accordance with the provisions of this section shall be eligible to election or appointment to any office for a period of 3 years from the date of such removal.

HISTORY: New 1954, p. 167, Act 116, Eff. Jun. 1, 1955.

168.208 County clerk; removal from office; service of charges, notice, hearing.

Sec. 208. The judge of the circuit court and the circuit court commissioner shall have authority, in term or vacation, to remove the county clerk when in their opinion he is incompetent to execute properly the duties of his office, or when, on charges and evidence, they shall be satisfied that he has been guilty of official misconduct or habitual or wilful neglect of duty, if in their opinion such misconduct or neglect shall be a sufficient cause for such removal; but no such clerk shall be removed for such misconduct or neglect unless charges thereof shall have been preferred to said judge or commissioner, and notice of the hearing with a copy of the charges delivered to such clerk, and a full opportunity given him to be heard in his defense. (All expense on the part of the prosecution for examination of charges, provided for in the preceding section of this act shall be paid by the counties in which the officer to be examined holds his office.)

HISTORY: New 1954, p. 168, Act 116, Eff. Jun. 1, 1955.

168.209 County offices; vacancies, filling.

Sec. 209. When a vacancy shall occur in an elective or appointive county office, it shall be filled in the following manner:

(1) If the vacancy shall be in the office of county clerk or prosecuting attorney, it shall be filled by appointment by the judge or judges of that judicial circuit.

(2) If the vacancy shall be in any other county office, either elective or appointive, the presiding or senior judge of probate, the county clerk and the prosecuting attorney shall appoint some suitable person to fill such vacancy.

(3) Any person so appointed shall take and subscribe to the oath as provided in section 1 of article 11 of the state constitution, give bond in the manner required by law and shall hold such office for the remainder of the unexpired term and until his successor shall have been elected and qualified. However, if the next general election is to be held more than 150 days after the vacancy occurs, and it is not the general election at which a successor in office would be elected if there had been no vacancy, the person appointed shall hold office only until a successor is elected at such general election, held more than 150 days after the vacancy occurs, in the manner provided by law and qualifies for office. Such successor shall hold the office for the remainder of the unexpired term.

HISTORY: New 1954, p. 168, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 43, Act 35, Eff. Mar. 24, 1964;—Am. 1968, p. 242, Act 156, Imd. Eff. Jun. 17.

168.210 County officers; primary or election, recount of votes.

Sec. 210. The votes cast for any candidate for any of the offices named in section 200 of this act at any primary or election shall be subject to recount as provided in chapter 33 of this act.

HISTORY: New 1954, p. 168, Act 116, Eff. Jun. 1, 1955.

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168.211 County officers; recall.

Sec. 211. Any person elected to the offices named in section 200 of this act shall be subject to recall as provided in chapter 36 of this act.

HISTORY: New 1954, p. 168, Act 116, Eff. Jun. 1, 1955.

CHAPTER XI.

COUNTY AUDITORS

168.221 Scope of chapter.

Sec. 221. The provisions of this chapter shall apply only to counties electing county auditors by popular vote.

HISTORY: New 1954, p. 168, Act 116, Eff. Jun. 1, 1955.

168.222 County auditor; eligibility.

Sec. 222. No person shall be eligible to the office of county auditor who is not a qualified and registered elector of the county in which election is sought.

HISTORY: New 1954, p. 168, Act 116, Eff. Jun. 1, 1955.

168.223 Candidates for county auditor; nomination at primary.

Sec. 223. A primary of all political parties shall be held on the Tuesday succeeding the first Monday in August preceding the general November election in the year 1956 and every fourth year thereafter, at which time the qualified and registered electors of each political party may vote for party candidates for nomination for the office of county auditor. A primary of all political parties shall be held on the third Monday in February preceding the general April election in the year 1957 and every fourth year thereafter, and in the year 1959 and every fourth year thereafter, at which time the qualified and registered electors of each political party may vote for party candidates for nomination for the office of county auditor: Provided, That this section shall not apply to parties required to nominate candidates at conventions.

HISTORY: New 1954, p. 169, Act 116, Eff. Jun. 1, 1955.

168.223a County auditor; term of office in counties over 1,000,000; abolition of office.

Sec. 223a. Notwithstanding the provisions of any general or local acts to the contrary, in any county now or hereafter having a population of 1,000,000 or more, any elected county auditor whose term of office expires on December 31, 1965, shall continue in office until December 31, 1966; any elected county auditor whose term of office expires on December 31, 1967, shall continue in office until December 31, 1968; any elected county auditor whose term of office expires on December 31, 1968, shall continue in office until December 31, 1970. Thereafter each county auditor shall be elected for a term of 6 years and until a successor shall be elected and qualified. If for any reason the office of county auditor is abolished before the expiration of the term of any county auditor, the term shall be deemed to have expired on the date the office was abolished. County auditors shall be nominated and elected in all respects in the same manner as provided by law for the nomination and election of other partisan county officers.

HISTORY: Add. 1965, p. 124, Act 90, Imd. Eff. Jun. 28.

168.224 Candidates for county auditor; nominating petitions, signatures required, filing; filing fees, refund.

Sec. 224. To obtain the printing of the name of any person as candidate for nomination by any political party for the office of county auditor under a particular party heading upon the official primary ballots, there shall be filed with the county clerk of each county nominating petitions signed by a number of qualified and registered electors residing within said county, equal to not less than 1% nor more than 4% of the

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number of votes cast by such party in said county for secretary of state at the last preceding general November election in which a secretary of state was elected. Such nominating petitions shall be in the form prescribed in section 544 of this act. The county clerk shall receive such nominating petitions up to 4 p.m., eastern standard time, of the seventh Tuesday preceding the August primary. To obtain the printing of the name of any such candidate of any political party under the particular party's heading upon the primary election ballots in the various voting precincts of such county, there may be filed by each candidate, in lieu of filing nominating petitions as herein provided, a filing fee of $100.00 to be paid to the county clerk, payment of the fee and certification of the candidate's name paying same to be governed by the same provisions as in the case of nominating petitions, which fee shall be deposited in the general fund of the county and shall be returned to all candidates who shall be nominated and to a like number of candidates who are next highest in order thereto in the number of votes received in the primary election; and in case 2 or more candidates shall tie in having the lowest number of votes allowing a refund hereunder, the sum of $100.00 shall be divided or prorated among them. The deposits of all other defeated candidates or of candidates who may withdraw or be disqualified shall be forfeited and said candidates shall be notified of such forfeitures. Deposits forfeited under this section shall be paid into and credited to the general fund of the county.

HISTORY: New 1954, p. 169, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 44, Act 38, Imd. Eff. Dec. 27.

168.225 Candidates for county auditor; withdrawal, notice.

Sec. 225. After the filing of nominating petitions or filing fee by or in behalf of a proposed candidate for the office of county auditor, such candidate shall not be permitted to withdraw unless a written notice of withdrawal is served on the county clerk or his duly authorized agent not later than 4 o'clock, eastern standard time, in the afternoon of the third day after the last day for filing such petitions, as in this act provided, unless the third day falls on a Saturday, Sunday or legal holiday, in which case the notice of withdrawal may be served on the clerk up to 4 o'clock, eastern standard time, on the next secular day.

HISTORY: New 1954, p. 169, Act 116, Eff. Jun. 1, 1955;—Am. 1959, p. 247, Act 173, Eff. Mar. 19, 1960.

168.226 Candidates for county auditor; death; selection of new candidate; ballots.

Sec. 226. When any candidate of a political party for the office of county auditor, after having qualified as a candidate, shall die, after the last day for qualifying, leaving such party without a candidate for the office of county auditor, a candidate to fill the vacancy thereby caused may be selected by the members of the county committee of such candidate's political party for the county, and the name of the candidate so selected shall be transmitted to the county officials required by law to print and distribute ballots, and such county officials shall cause to be printed a sufficient number of gummed labels or stickers bearing the name of the candidate, which shall be distributed to the various voting precincts within their respective counties, and the board of election inspectors of each such precinct shall cause 1 of such stickers to be placed on each ballot over the name of the candidate who has died before such ballot is handed to the elector.

HISTORY: New 1954, p. 169, Act 116, Eff. Jun. 1, 1955;—Am. 1966, p. 583, Act 322, Imd. Eff. Jul. 19.

168.227 Candidates for county auditor; no candidate, write-in.

Sec. 227. If for any reason there is no candidate of a political party for county auditor, a blank space shall be provided on each of the official primary ballots which will afford every elector of said party an opportunity to vote for a candidate for such office by writing in the name of his or her selection or by the use of a slip or paster.

HISTORY: New 1954, p. 170, Act 116, Eff. Jun. 1, 1955.

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168.228 Candidates for county auditor; nomination, certification.

Sec. 228. The candidate of each political party for the office of county auditor receiving the greatest number of votes cast for candidates for said office, as set forth in the report of the board of county canvassers, based on the returns from the various election precincts, or as determined by said board as the result of a recount, shall be declared the nominee of that political party for said office at the next ensuing November election, and the board of county canvassers shall forthwith certify such nomination to the county election commission not later than 35 days prior to said ensuing election.

HISTORY: New 1954, p. 170, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 44, Act 36, Imd. Eff. Dec. 27.

168.229 Candidates for county auditor; withdrawal after nomination.

Sec. 229. When a candidate of any political party has filed nominating petitions or filing fee for such office and has been nominated for said office by said party, he shall not be permitted to withdraw unless he has removed from the county or has become physically unfit. No vacancy shall be filled by the county committee except for the above causes and as herein specified: Provided, That this prohibition shall not be construed to prohibit the withdrawal of any candidate who has been nominated without having nominating petitions or filing fee and whose name has been written or placed on the ballot of any political party.

HISTORY: New 1954, p. 170, Act 116, Eff. Jun. 1, 1955.

168.230 Candidates for county auditor; death, withdrawal or disqualification; selection of new candidate, certification; ballots.

Sec. 230. When the candidate of a political party, after having been nominated to the office of county auditor, shall die, withdraw as provided in section 229 of this act, remove from the county, or become disqualified for any reason, the county committee of such party shall meet forthwith and, by a majority vote of the members thereof, shall select a candidate to fill the vacancy thereby caused. The name of the candidate so selected shall be immediately certified by the chairman and the secretary of said committee to the county clerk and to the board of county election commissioners, and the board of county election commissioners, whose duty it is to prepare the official ballots, shall cause to be printed or placed upon such ballots, in the proper place, the name of the candidate so selected to fill such vacancy.

HISTORY: New 1954, p. 170, Act 116, Eff. Jun. 1, 1955.

168.231 County auditor; election.

Sec. 231. A county auditor shall be elected at the general November election in the year 1956 and every fourth year thereafter, and in counties electing a county auditor in the spring, a county auditor shall be elected at the biennial spring election.

HISTORY: New 1954, p. 170, Act 116, Eff. Jun. 1, 1955.

168.232 County auditor; certificate of determination by board of county canvassers.

Sec. 232. The board of county canvassers shall determine which candidate for county auditor received the greatest number of votes and shall declare such candidate to be duly elected. The said board shall forthwith make and subscribe on its statement of returns a certificate of such determination and deliver the same to the county clerk within 14 days following the date of the election.

HISTORY: New 1954, p. 170, Act 116, Eff. Jun. 1, 1955.

168.233 County auditor; certificate of election.

Sec. 233. The county clerk shall file in his office and preserve the original statement and determination of the board of county canvassers of the results of the election and shall forthwith execute and cause to be delivered to the person thereby declared to be

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elected to the office of county auditor a certificate of election, certified by him under the seal of the county. The said county clerk shall cause a copy of such certificate of determination, together with a statement of the votes cast at the election for said offices, to be published in at least 1 newspaper printed and/or circulated in said county.

HISTORY: New 1954, p. 170, Act 116, Eff. Jun. 1, 1955.

168.234 County auditor; term of office.

Sec. 234. The term of office for county auditor shall be for 4 years, beginning on the first day of January next following the election, and until his successor is elected and qualified.

HISTORY: New 1954, p. 171, Act 116, Eff. Jun. 1, 1955.

168.235 County auditor; oath of office, bond, deposit.

Sec. 235. Every person elected to the office of county auditor, before entering upon the duties of his office, shall take and subscribe to the oath as provided in section 1 of article 11 of the state constitution, and shall give bond in the amount and manner prescribed by law, and shall deposit said oath with the county clerk and said bond with the county treasurer.

HISTORY: New 1954, p. 171, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 44, Act 36, Imd. Eff. Dec. 27.

168.236 County auditor; resignation, notice.

Sec. 236. Any person duly elected to the office of county auditor of any county who desires to resign shall file a written notice containing the effective date of such resignation with the presiding or senior judge of probate, county clerk and prosecuting attorney.

HISTORY: New 1954, p. 171, Act 116, Eff. Jun. 1, 1955.

168.237 County auditor; vacancy, creation.

Sec. 237. The office of county auditor in any county in this state shall become vacant upon the happening of any of the following events: Death of the incumbent; his resignation; his removal from office for cause; his ceasing to be a resident of the county where his office is located; his conviction of an infamous crime, or an offense involving the violation of his oath of office; the decision of a competent tribunal declaring his election or appointment void; his refusal or neglect to take and subscribe to the constitutional oath of office and deposit the same in the manner and within the time prescribed by law; or his refusal or neglect to give bond in the amount and manner and within the time prescribed by law.

HISTORY: New 1954, p. 171, Act 116, Eff. Jun. 1, 1955.

168.238 County auditor; removal from office; service of charges, hearing.

Sec. 238. The governor may remove any county auditor when he shall be satisfied from sufficient evidence submitted to him, as hereinafter provided, that such officer has been guilty of official misconduct, or of wilful neglect of duty, or of extortion, or habitual drunkenness, or has been convicted of being drunk, or whenever it shall appear by a certified copy of the judgment of a court of record of this state that such officer, after his election or appointment, shall have been convicted of a felony; but the governor shall take no action upon any such charges made to him against any such officer until the same shall have been exhibited to him in writing, verified by the affidavit of the party making them, that he believes the charges to be true. But no such officer shall be removed for such misconduct or neglect until charges thereof shall have been exhibited to the governor as above provided and a copy of the same served on such officer and an opportunity given him of being heard in his defense: Provided, That the service of such charges upon the person or persons complained against shall be made by handing to such person or persons a copy of such charges, together with all affidavits or exhibits which may be attached to the original petition if such person

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or persons can be found; and if not, by leaving a copy at the last place of residence of such person or persons, with some person of suitable age, if such person can be found; and if not, by posting it in some conspicuous place upon his last known place of residence. No officer who has been removed in accordance with the provisions of this section shall be eligible to election or appointment to any office for a period of 3 years from the date of such removal.

HISTORY: New 1954, p. 171, Act 116, Eff. Jun. 1, 1955.

168.239 County auditor; appointment to fill vacancy, oath of office, bond, tenure.

Sec. 239. Whenever a vacancy shall occur in the office of county auditor of any county, a qualified person to fill said vacancy shall be appointed by a committee consisting of the presiding or senior judge of probate, the county clerk and the prosecuting attorney of said county, 2 of whom shall constitute a quorum. The person so appointed shall take the oath of office, as provided in section 1 of article 11 of the state constitution, give bond in the manner required by law, and shall hold such office for the remainder of the unexpired term and until his successor is elected and qualified. However, if the next general election is to be held more than 150 days after the vacancy occurs, and it is not the general election at which a successor in office would be elected if there had been no vacancy, the person appointed shall hold office only until a successor is elected at such general election, held more than 150 days after the vacancy occurs, in the manner provided by law and qualifies for office. Such successor shall hold the office for the remainder of the unexpired term.

HISTORY: New 1954, p. 171, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 44, Act 36, Imd. Eff. Dec. 27;—Am. 1968, p. 243, Act 156, Imd. Eff. Jun. 17.

CITED IN OTHER SECTIONS: The above section is cited in § 47.5.

168.240 County auditor; primary or election, recount of votes.

Sec. 240. The votes cast for any candidate for county auditor at any primary or election shall be subject to recount as provided in chapter 33 of this act.

HISTORY: New 1954, p. 172, Act 116, Eff. Jun. 1, 1955.

168.241 County auditor; recall.

Sec. 241. Any person elected to the office of county auditor shall be subject to recall as provided in chapter 36 of this act.

HISTORY: New 1954, p. 172, Act 116, Eff. Jun. 1, 1955.

CHAPTER XII.

COUNTY ROAD COMMISSIONERS

168.251 Scope of chapter.

Sec. 251. This chapter shall not be applicable in counties in which the county road commissioners are appointed by the board of county supervisors.

HISTORY: New 1954, p. 172, Act 116, Eff. Jun. 1, 1955.

168.252 County road commissioner; eligibility.

Sec. 252. No person shall be eligible to the office of county road commissioner who shall not have been a citizen of the United States and a qualified and registered elector of the county in which election is sought for at least 1 year next preceding his election, nor shall he be a member of the county board of supervisors.

HISTORY: New 1954, p. 172, Act 116, Eff. Jun. 1, 1955.

168.253 Candidates for county road commissioner; nomination at primary.

Sec. 253. A general primary election of all political parties shall be held on the Tuesday succeeding the first Monday in August preceding every general November election in which county road commissioners are elected, at which time the qualified and

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registered electors of each political party may vote for party candidates for the office of county road commissioner.

HISTORY: New 1954, p. 172, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 92, Act 62, Imd. Eff. Dec. 27.

168.254 Candidates for nomination; nominating petitions, signatures required, filing; filing fees, refund, forfeiture.

Sec. 254. To obtain the printing of the name of any person as a candidate for nomination by any political party for the office of county road commissioner under a particular party heading upon the official primary ballots, there shall be filed with the county clerk of each county nominating petitions signed by a number of qualified and registered electors residing within said county, equal to not less than 1% nor more than 4% of the number of votes cast by such party in said county for secretary of state at the last preceding general November election in which a secretary of state was elected. Such nominating petitions shall be in the form prescribed in section 544 of this act. The county clerk shall receive such nominating petitions up to 4 p.m., eastern standard time, of the seventh Tuesday preceding the August primary in which county road commissioners are to be elected. To obtain the printing of the name of any such candidate of any political party under the particular party's heading upon the primary election ballots in the various voting precincts of such county, there may be filed by each candidate, in lieu of filing nominating petitions as herein provided, a filing fee of $100.00 to be paid to the county clerk, payment of the fee and certification of the candidate's name paying same to be governed by the same provisions as in the case of nominating petitions, which fee shall be deposited in the general fund of the county and shall be returned to all candidates who shall be nominated and to a like number of candidates who are next highest in order thereto in the number of votes received in the primary election; and in case 2 or more candidates shall tie in having the lowest number of votes allowing a refund hereunder, the sum of $100.00 shall be divided or prorated among them. The deposits of all other defeated candidates, as well as the deposits of all candidates who may withdraw or be disqualified, shall be forfeited and said candidates shall be notified of such forfeitures. Deposits forfeited under this section shall be paid into and credited to the general fund of the county.

HISTORY: New 1954, p. 172, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 92, Act 62, Imd. Eff. Dec. 27.

168.255 Candidates for nomination; death; selection of new candidate; ballots.

Sec. 255. When any candidate of a political party for the office of county road commissioner, after having qualified as a candidate, shall die, after the last day for qualifying, leaving such party without a candidate for the office of county road commissioner, a candidate to fill the vacancy thereby caused may be selected by the members of the county committee of such candidate's political party for the county, and the name of the candidate so selected shall be transmitted to the county officials required by law to print and distribute ballots, and such county officials shall cause to be printed a sufficient number of gummed labels or stickers bearing the name of the candidate which shall be distributed to the various voting precincts within their respective county, and a board of election inspectors of each such precinct shall cause 1 of such stickers to be placed on each ballot over the name of the candidate who has died before such ballot is handed to the elector.

HISTORY: New 1954, p. 173, Act 116, Eff. Jun. 1, 1955;—Am. 1966, p. 583, Act 322, Imd. Eff. Jul. 19.

168.256 Candidates for nomination; withdrawal, notice.

Sec. 256. After the filing of nominating petitions or filing fee by or in behalf of a proposed candidate for the office of county road commissioner, such candidate shall not be permitted to withdraw unless a written notice of withdrawal is served on the county clerk or his duly authorized agent not later than 4 o'clock, eastern standard

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time, in the afternoon of the third day after the last day for filing such petition, as in this act provided.

HISTORY: New 1954, p. 173, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 611, Act 271, Imd. Eff. Jun. 30.

168.257 Candidates for nomination; no candidate, write-in.

Sec. 257. If for any reason there is no candidate of a political party for county road commissioner, a blank space shall be provided on each of the official primary ballots which will afford every elector of said party an opportunity to vote for a candidate for such office by writing in the name of his or her selection or by the use of a slip or paster.

HISTORY: New 1954, p. 173, Act 116, Eff. Jun. 1, 1955.

168.258 Candidates for county road commissioner; nomination, certification.

Sec. 258. The candidate of each political party for the office of county road commissioner receiving the greatest number of votes cast for candidates for said office, as set forth in the report of the board of county canvassers, based on the returns from the various election precincts, or as determined by said board as the result of a recount, shall be declared the nominee of that political party for said office at the next ensuing November election, and the board of county canvassers shall forthwith certify such nomination to the county election commission.

HISTORY: New 1954, p. 173, Act 116, Eff. Jun. 1, 1955.

168.259 Candidates; withdrawal after nomination.

Sec. 259. When a candidate of any political party has filed nominating petitions or filing fee for such office and has been nominated for said office by said party, he shall not be permitted to withdraw unless he has removed from the county, or has become physically unfit. No vacancy shall be filled by the county committee except for the causes and as herein specified: Provided, That this prohibition shall not be construed to prohibit the withdrawal of any candidate who has been nominated without having filed a nominating petition or filing fee, and whose name has been written or placed on the ballot of any political party.

HISTORY: New 1954, p. 173, Act 116, Eff. Jun. 1, 1955.

168.260 Candidates; death, withdrawal or disqualification; selection of new candidate, certification; ballots.

Sec. 260. When the candidate of a political party, after having been nominated to the office of county road commissioner, shall die, withdraw, remove from the county, or become disqualified for any reason, the county committee of such party shall meet forthwith and, by a majority vote of the members thereof, shall select a candidate to fill the vacancy thereby caused. The name of the candidate so selected shall be immediately certified by the chairman and the secretary of said committee to the county clerk and to the board of county election commissioners, whose duty it is to prepare the official ballots and who shall cause to be printed or placed upon such ballots, in the proper place, the name of the candidate so selected to fill such vacancy.

HISTORY: New 1954, p. 173, Act 116, Eff. Jun. 1, 1955.

168.261 County road commissioner; election.

Sec. 261. A county road commissioner shall be elected at the general election to be held on the Tuesday succeeding the first Monday of November in every even numbered year.

HISTORY: New 1954, p. 174, Act 116, Eff. Jun. 1, 1955.

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168.262 County road commissioner; certificate of determination by board of county canvassers.

Sec. 262. The board of county canvassers shall determine which candidate for county road commissioner received the greatest number of votes and shall declare such candidate to be duly elected. The said board shall forthwith make and subscribe on its statement of returns a certificate of such determination and deliver the same to the county clerk.

HISTORY: New 1954, p. 174, Act 116, Eff. Jun. 1, 1955.

168.263 County road commissioner; certificate of election.

Sec. 263. The county clerk shall file in his office and preserve the original statement and determination of the board of county canvassers of the results of the election and shall forthwith execute and cause to be delivered to the person thereby declared to be elected to the office of county road commissioner a certificate of election, certified by him under the seal of the county.

HISTORY: New 1954, p. 174, Act 116, Eff. Jun. 1, 1955.

168.264 County road commissioner; term of office.

Sec. 264. The term of office for county road commissioner shall be 6 years, beginning on the first day of January next following his election, and shall continue until a successor shall have been elected and qualified.

HISTORY: New 1954, p. 174, Act 116, Eff. Jun. 1, 1955.

168.265 County road commissioner; oath of office, bond, deposit.

Sec. 265. Every person elected to the office of county road commissioner, before entering upon the duties of his office, shall take and subscribe to the oath as provided in section 1 of article 11 of the state constitution, and shall give bond in the amount and manner prescribed by law, and shall deposit said oath with the county clerk and said bond with the board of county auditors. In counties having no county auditors, the bond shall be deposited with the county treasurer.

HISTORY: New 1954, p. 174, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 92, Act 62, Imd. Eff. Dec. 27.

168.266 County road commissioner; resignation, notice.

Sec. 266. Any person duly elected to the office of county road commissioner of any county who desires to resign shall file a written notice containing the effective date of such resignation with the chairman of the board of county supervisors and a copy with the county clerk.

HISTORY: New 1954, p. 174, Act 116, Eff. Jun. 1, 1955.

168.267 County road commissioner; vacancy, creation.

Sec. 267. The office of county road commissioner in any county in this state shall become vacant upon the happening of any of the following events: Death of the incumbent; his resignation; his removal from office for cause; his ceasing to be a resident of the county where his office is located; his conviction of an infamous crime, or an offense involving the violation of his oath of office; the decision of a competent tribunal declaring his election or appointment void; his refusal or neglect to take and subscribe to the constitutional oath of office and deposit the same in the manner and within the time prescribed by law; or his refusal or neglect to give bond in the amount and manner and within the time prescribed by law.

HISTORY: New 1954, p. 174, Act 116, Eff. Jun. 1, 1955.

168.268 County road commissioner; removal from office; service of charges, hearing; ineligibility for office.

Sec. 268. The governor may remove any county road commissioner when he shall be satisfied from sufficient evidence submitted to him, as hereinafter provided, that such officer has been guilty of official misconduct, or of wilful neglect of duty, or of extor-

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tion, or habitual drunkenness, or has been convicted of being drunk, or whenever it shall appear by a certified copy of the judgment of a court of record of this state that such officer, after his election or appointment, shall have been convicted of a felony; but the governor shall take no action upon any such charges made to him against any such officer until the same shall have been exhibited to him in writing, verified by the affidavit of the party making them, that he believes the charges to be true. But no such officer shall be removed for such misconduct or neglect until charges thereof shall have been exhibited to the governor as above provided and a copy of the same served on such officer and an opportunity given him of being heard in his defense: Provided, That the service of such charges upon the person or persons complained against shall be made by handing to such person or persons a copy of such charges, together with all affidavits or exhibits which may be attached to the original petition if such person or persons can be found; and if not, by leaving a copy at the last place of residence of such person or persons, with some person of suitable age, if such person can be found; and if not, by posting it in some conspicuous place upon his last known place of residence. No officer who has been removed in accordance with the provisions of this section shall be eligible to election or appointment to any office for a period of 3 years from the date of such removal.

HISTORY: New 1954, p. 174, Act 116, Eff. Jun. 1, 1955.

168.269 County road commissioner; appointment to fill vacancy, oath of office, bond.

Sec. 269. Whenever a vacancy shall occur in the office of county road commissioner, a qualified person to fill said vacancy shall be appointed by the board of supervisors of said county. The person so appointed shall take the oath of office, give bond in the manner required by law, and shall hold such office for the remainder of the unexpired term and until his successor shall have been elected and qualified. However, in counties in which county road commissioners are elected, if the next general election is to be held more than 150 days after the vacancy occurs, and it is not the general election at which a successor in office would be elected if there had been no vacancy, the person appointed shall hold office only until a successor is elected at such general election, held more than 150 days after the vacancy occurs, in the manner provided by law and qualifies for office. Such successor shall hold the office for the remainder of the unexpired term.

HISTORY: New 1954, p. 175, Act 116, Eff. Jun. 1, 1955;—Am. 1968, p. 243, Act 156, Imd. Eff. Jun. 17.

168.270 County road commissioner; primary or election, recount of votes.

Sec. 270. The votes cast for any candidate for county road commissioner at any primary or election shall be subject to recount as provided in chapter 33 of this act.

HISTORY: New 1954, p. 175, Act 116, Eff. Jun. 1, 1955.

168.271 County road commissioner; recall.

Sec. 271. Any person elected to the office of county road commissioner shall be subject to recall as provided in chapter 36 of this act.

HISTORY: New 1954, p. 175, Act 116, Eff. Jun. 1, 1955.

CHAPTER XIII.

STATE BOARD OF EDUCATION; BOARD OF REGENTS OF UNIVERSITY OF MICHIGAN; BOARD OF TRUSTEES OF MICHIGAN STATE UNIVERSITY; BOARD OF GOVERNORS OF WAYNE STATE UNIVERSITY

(Chapter heading amended 1963, 2nd Ex. Ses., p. 13, Act 5, Imd. Eff. Dec. 27.)

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168.281 State board of education and boards of state universities; eligibility.

Sec. 281. No person shall be eligible to membership on the state board of education, the board of regents of the University of Michigan, the board of trustees of Michigan State University, or the board of governors of Wayne State University who is not a registered and qualified elector of this state.

HISTORY: New 1954, p. 175, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 14, Act 5, Imd. Eff. Dec. 27.

168.282 Candidates for boards of state universities; nomination at fall state conventions.

Sec. 282. At its fall state convention each political party may nominate 2 candidates for membership on the board of regents of the University of Michigan, 2 candidates for membership on the board of trustees of Michigan State University and 2 candidates for membership on the board of governors of Wayne State University. Nomination to membership on the board of regents of the University of Michigan shall occur in 1966 and every second year thereafter. Nomination to the board of trustees of Michigan State University and to the board of governors of Wayne State University shall occur in 1964 and every second year thereafter.

HISTORY: New 1954, p. 175, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 14, Act 5, Imd. Eff. Dec. 27.

168.282a Candidates for state board of education; nomination at fall state convention.

Sec. 282a. At its fall state convention of 1964, each political party may nominate 8 candidates for membership on the state board of education. Two candidates shall be nominated for 2-year terms, 2 for 4-year terms, 2 for 6-year terms and 2 for 8-year terms. At its fall state convention of 1966, and every 2 years thereafter, each political party may nominate 2 candidates for membership on the state board of education.

HISTORY: Add. 1963, 2nd Ex. Ses., p. 14, Act 5, Imd. Eff. Dec. 27.

168.283 Candidates for state board of education and boards of state universities; certification; vignette.

Sec. 283. Not more than 24 hours after the conclusion of the fall state convention, the state central committee of each political party shall convene and canvass the proceedings of said convention and determine the nominees of said convention for membership on the state board of education, the board of regents of the University of Michigan, the board of trustees of Michigan State University, and the board of governors of Wayne State University. The chairman and secretary of said committee shall, within 24 hours after the conclusion of the state convention, forward by registered or certified mail to the secretary of state and to the board of election commissioners of each county, in care of the county clerk at the county seat, a copy of the vignette adopted by said state central committee and the typewritten or printed names, together with residence, including the street address if known, of the candidates nominated at said convention for said offices.

HISTORY: New 1954, p. 175, Act 116, Eff. Jun. 1, 1955;—Am. 1956, p. 362, Act 190, Imd. Eff. Apr. 26;—Am. 1963, 2nd Ex. Ses., p. 14, Act 5, Imd. Eff. Dec. 27.

168.284 Candidates for state board of education and boards of state universities; withdrawal, notice.

Sec. 284. Any person who has been certified by the state central committee of any party as nominated for membership on the state board of education, the board of regents of the University of Michigan, the board of trustees of Michigan State University, or the board of governors of Wayne State University may withdraw by filing a written notice of withdrawal with the secretary of state or his duly authorized agent and a copy with the chairman and the secretary of the state central committee of said party not later than 4 p.m. eastern standard time, of the thirty-third day preceding the election.

HISTORY: New 1954, p. 176, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 14, Act 5, Imd. Eff. Dec. 27.

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168.285 Candidates for state board of education and boards of state universities; death, withdrawal or disqualification; election of new candidate, certification; ballots.

Sec. 285. Whenever a candidate of a political party, after having been nominated to membership on the state board of education, the board of regents of the University of Michigan, the board of trustees of Michigan State University, or the board of governors of Wayne State University, shall die, withdraw, remove from the state, or become disqualified for any reason, the state central committee of said party shall meet forthwith and, by a majority vote of the members thereof, shall select a candidate to fill the vacancy thereby caused. The name of the candidate so selected shall be immediately certified by the chairman and the secretary of said committee to the secretary of state and to the board of election commissioners for each county, whose duty it is to prepare the official ballots, and said board shall cause to be printed or placed upon said ballots, in the proper place, the name of the candidate so selected to fill the vacancy.

HISTORY: New 1954, p. 176, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 14, Act 5, Imd. Eff. Dec. 27.

168.286 Boards of state universities; election.

Sec. 286. Two members of the board of regents of the University of Michigan shall be elected at the general election in 1966 and in every general election thereafter. Two members of the board of trustees of Michigan State University and 2 members of the board of governors of Wayne State University shall be elected at the general election in 1964 and in every general election thereafter.

HISTORY: New 1954, p. 176, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 15, Act 5, Imd. Eff. Dec. 27.

168.286a State board of education; election.

Sec. 286a. Eight members of the state board of education shall be elected at the general election in 1964. Two members shall be elected for 2-year terms, 2 for 4-year terms, 2 for 6-year terms, and 2 for 8-year terms. Two members of the state board of education shall be elected for 8-year terms at the general election in 1966 and in every general election thereafter.

HISTORY: Add. 1963, 2nd Ex. Ses., p. 15, Act 5, Imd. Eff. Dec. 27.

168.287 State board of education and boards of state universities; certificate of determination by board of state canvassers.

Sec. 287. The board of state canvassers shall determine which candidates for membership on the state board of education, the board of regents of the University of Michigan, the board of trustees of Michigan State University and the board of governors of Wayne State University have received the greatest number of votes and shall declare such candidates to be duly elected. The said board shall forthwith make and subscribe on its statement of returns a certificate of such determination and deliver the same to the secretary of state.

HISTORY: New 1954, p. 176, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 15, Act 5, Imd. Eff. Dec. 27.

168.288 State board of education and boards of state universities; certificate of election.

Sec. 288. The secretary of state shall file in his office and preserve the original statement and determination of the board of state canvassers of the result of the election and shall forthwith execute and cause to be delivered to the persons thereby declared to be elected to membership on the state board of education, the board of regents of the University of Michigan, the board of trustees of Michigan State University and the board of governors of Wayne State University a certificate of election, certified by him under the great seal of the state.

HISTORY: New 1954, p. 176, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 15, Act 5, Imd. Eff. Dec. 27.

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168.289 State board of education and boards of state universities; terms of office.

Sec. 289. Subject to section 286a, the term of office of members of the state board of education, the board of regents of the University of Michigan, the board of trustees of Michigan State University, and the board of governors of Wayne State University shall be 8 years and shall begin at 12 noon on January 1 next following their election. The terms of office of members of said boards shall continue until a successor is elected and qualified.

HISTORY: New 1954, p. 176, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 15, Act 5, Imd. Eff. Dec. 27.

168.290 State board of education and boards of state universities; oath of office, deposit.

Sec. 290. Every person elected to membership on the state board of education, the board of regents of the University of Michigan, the board of trustees of Michigan State University, or the board of governors of Wayne State University, before entering upon the duties of his office, shall take and subscribe to the oath as provided in section 1 of article 11 of the state constitution, and shall deposit said oath with the secretary of state.

HISTORY: New 1954, p. 176, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 15, Act 5, Imd. Eff. Dec. 27.

168.291 State board of education and boards of state universities; resignation, notice.

Sec. 291. Any person duly elected to membership on the state board of education, the board of regents of the University of Michigan, the board of trustees of Michigan State University or the board of governors of Wayne State University, who desires to resign shall file a written notice containing the effective date of such resignation with the governor and a copy with the secretary of state.

HISTORY: New 1954, p. 177, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 16, Act 5, Imd. Eff. Dec. 27.

168.292 State board of education and boards of state universities; vacancy, creation, notice to governor.

Sec. 292. There shall be a vacancy on the state board of education, the board of regents of the University of Michigan, the board of trustees of Michigan State University, or the board of governors of Wayne State University upon the happening of any of the following events: Death of the incumbent; his resignation; his removal from office for cause; his ceasing to be a resident of the state; his conviction of an infamous crime, or an offense involving the violation of his oath of office; the decision of a competent tribunal declaring his election or appointment void; or his neglect or refusal to take and subscribe to the constitutional oath of office and deposit the same in the manner and within the time prescribed by law. When a vacancy shall occur on any of the said boards, a notice of such vacancy and the reason why the same exists shall, within 10 days after such vacancy occurs, be given in writing to the governor. Such notice shall be given by the secretary of state.

HISTORY: New 1954, p. 177, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 16, Act 5, Imd. Eff. Dec. 27.

168.293 State board of education and boards of state universities; impeachment; removal from office, service of charges, hearing.

Sec. 293. Any member of said boards may be removed from office upon conviction in impeachment proceedings for the reasons and in the manner set forth in section 7 of article 11 of the state constitution. The governor shall have the power and it shall be his duty, except at such time as the legislature may be in session, to examine into the condition and administration of the said boards and the acts of the members enumerated herein and to remove from office for gross neglect of duty or for corrupt conduct in office, or any other misfeasance or malfeasance therein, and report the causes of such removal to the legislature at its next session. Such person shall be served with a

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written notice of the charges against him and be afforded an opportunity for a public hearing conducted personally by the governor.

HISTORY: New 1954, p. 177, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 16, Act 5, Imd. Eff. Dec. 27.

168.294 State board of education and boards of state universities; appointment, vacancy, oath of office.

Sec. 294. Whenever a vacancy shall occur on the state board of education, the board of regents of the University of Michigan, the board of trustees of Michigan State University, or the board of governors of Wayne State University, the governor shall appoint a successor to fill such vacancy, and the person so appointed shall take the oath of office and shall hold office for the remainder of the unexpired term and until his successor is elected and qualified. A candidate receiving the highest number of votes for membership on any of said boards and who has subscribed to the constitutional oath shall be deemed to be elected and qualified even though a vacancy occurs prior to the time he shall have entered upon the duties of his office.

HISTORY: New 1954, p. 177, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 16, Act 5, Imd. Eff. Dec. 27.

168.295 State board of education and boards of state universities; election, recount of votes.

Sec. 295. The votes cast for any candidate for membership on the state board of education, the board of regents of the University of Michigan, the board of trustees of Michigan State University and the board of governors of Wayne State University at any election shall be subject to recount as provided in chapter 33 of this act.

HISTORY: New 1954, p. 177, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 16, Act 5, Imd. Eff. Dec. 27.

168.296 State board of education and boards of state universities; recall.

Sec. 296. Any person elected to membership on the state board of education, the board of regents of the University of Michigan, the board of trustees of Michigan State University, or the board of governors of Wayne State University shall be subject to recall as provided in chapter 36 of this act.

HISTORY: New 1954, p. 177, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 16, Act 5, Imd. Eff. Dec. 27.

CHAPTER XIV.

SUPERINTENDENT OF PUBLIC INSTRUCTION AND STATE HIGHWAY COMMISSIONER

168.301-168.316 Repealed. 1963, 2nd Ex. Ses., p. 17, Act 6, Imd. Eff. Dec. 27.

Sections related to election, qualification, resignation, impeachment, vacancy, recount and recall of superintendent of public instruction and highway commissioner.

CHAPTER XV.

CITY OFFICES

168.321 City officers; charter provisions governing.

Sec. 321. The qualifications, nomination, election, appointment, term of office and removal from office of any city officer shall be in accordance with the charter provisions governing the respective cities throughout the state.

HISTORY: New 1954, p. 180, Act 116, Eff. Jun. 1, 1955.

168.322 Candidates for nomination; nominating petitions, signatures required, filing.

Sec. 322. To obtain the printing of the name of any candidate of any political party for a city office, including all ward offices, under the particular party heading on the official primary election ballots for use in such city, there shall be filed with the city clerk of such city not later than 4 p.m., eastern standard time, on the seventh Tuesday preceding the August primary, or not later than 4 p.m., eastern standard time, on the

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seventh Monday preceding the primary election provided to be held on the third Monday in February, nominating petitions signed by a number of qualified and registered electors of such political party who reside in such city or ward, equal to not less than 1% nor more than 4% of the number of votes that such political party cast in the said city or ward for secretary of state at the last preceding November election in which a secretary of state was elected. This provision shall not apply to any city the charter of which provides for a different method of nominating candidates for public office. The form of the petition shall be as provided in section 544c.

HISTORY: New 1954, p. 180, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 17, Act 7, Imd. Eff. Dec. 27;—Am. 1965, p. 593, Act 312, Eff. Jan. 1, 1966.

168.322a Candidates for nomination; withdrawal, notice.

Sec. 322a. After the filing of a nominating petition or filing fees by or in behalf of a proposed candidate for a city office, the candidate shall not be permitted to withdraw unless a written notice of withdrawal is served on the city clerk not later than 4 o'clock, eastern standard time, in the afternoon of the third day after the last day for filing the petition or filing fee as provided in this act or in local charters unless the third day falls on a Saturday, Sunday or legal holiday, in which case the withdrawal may be served on the city clerk up to 4 o'clock, eastern standard time, on the next secular day.

HISTORY: Add. 1959, p. 47, Act 44, Eff. Mar. 19, 1960.

168.323 City offices; preparation of ballots, canvass of returns, conduct of primaries and elections; provisions governing.

Sec. 323. It shall be the duty of the board of city election commissioners to prepare the primary ballots to be used by the electors. The returns shall be canvassed by the board of city canvassers and the results certified to the board of city election commissioners, who shall thereupon prepare and furnish ballots for the ensuing election. The printing and distribution of ballots, equipment and supplies, the conduct of the primary and election, the canvass and certification of the returns and all other particulars shall be in accordance, as nearly as may be, with the provisions of this act governing general primaries and elections.

HISTORY: New 1954, p. 180, Act 116, Eff. Jun. 1, 1955.

168.324 Additional justices of the peace; resolution of board of supervisors, appointment or election, jurisdiction and powers.

Sec. 324. In all justice courts created by any local or special acts, or by charter provision of any city, or by any general law of the state, which provides for 1 justice of the peace only who receives a salary paid by the county in lieu of fees, additional justices of the peace may be provided for in the manner following:

1. The board of supervisors of the county in which said justices exercise jurisdiction may, by resolution adopted by a majority vote of all the members-elect, provide for 1 or more additional justices of the peace as the said board shall deem proper. Such additional justices of the peace shall possess the same qualifications as is required by the law governing said justices of the peace. The board of supervisors may designate the amount of time such justices of the peace shall devote to the duties of their office, and shall fix the compensation to be paid said justices of the peace which shall be in lieu of all fees.

2. Such additional justices of the peace shall be subject to and be governed by all the provisions of the law under which said justice court is created. They shall be disqualified to hear any case in which they have advised or counseled any person connected with such case brought before said justice court.

3. Any appointment of an additional justice of the peace as provided for in this act shall be made in the manner provided by law for filling a vacancy in such justice court: Provided, however, That if such additional justice of the peace shall be pro-

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vided for within 90 days of the next general election to be held in the county or city affected, then such justice of the peace shall be nominated and elected in the manner provided by the law governing such justice court.

4. Any justice of the peace appointed or elected as herein provided shall exercise like jurisdiction and powers as is provided by the law governing said justice court.

HISTORY: New 1954, p. 181, Act 116, Eff. Jun. 1, 1955.

168.325 Municipal court of record judge; vacancy, appointment, election.

Sec. 325. Whenever a vacancy shall occur in the office of a judge of any municipal court of record, the governor shall appoint some qualified person to fill such vacancy and the person so appointed shall hold such office until 12 noon of January 1 next succeeding the general election at which a successor is elected and qualified. At the next fall primary or municipal primary election held at least 70 days after such vacancy shall occur candidates shall be nominated to fill the vacancy in the same manner as candidates are now nominated for the office. The vacancies shall be filled at the election next following the primary in the manner provided for the election of judges of the municipal court of record. The person elected shall hold such office for the remainder of the unexpired term.

HISTORY: New 1954, p. 181, Act 116, Eff. Jun. 1, 1955;—Am. 1957, p. 296, Act 236, Eff. Sep. 27;—Am. 1970, p. 22, Act 10, Imd. Eff. Mar. 31.

168.326 Candidate for city office; death, selection of new candidate; ballots.

Sec. 326. When any candidate of a political party for any city office, after having qualified as a candidate, shall die, after the last day for qualifying, leaving such party without a candidate for the office, a candidate to fill the vacancy thereby caused may be selected by the members of the city committee, and the name of the candidate so selected shall be transmitted to the city officials required by law to print and distribute ballots, and such city officials shall cause to be printed a sufficient number of gummed labels or stickers bearing the name of the candidate, which shall be distributed to the various voting precincts within their city, and the board of election inspectors of each such precinct shall cause 1 of such stickers to be placed on each ballot over the name of the candidate who has died before such ballot is handed to the elector.

HISTORY: New 1954, p. 181, Act 116, Eff. Jun. 1, 1955;—Am. 1966, p. 584, Act 322, Imd. Eff. Jul. 19.

168.327 City officers; removal from office, service of charges, hearing.

Sec. 327. The governor shall remove all city officers chosen by the electors of any city or any ward or voting district thereof, when he shall be satisfied from sufficient evidence submitted to him, as hereinafter provided, that such officer has been guilty of official misconduct, or of wilful neglect of duty, or of extortion, or habitual drunkenness, or has been convicted of being drunk, or whenever it shall appear by a certified copy of the judgment of a court of record of this state that such officer, after his election or appointment, shall have been convicted of a felony; but the governor shall take no action upon any such charges made to him against any such officer until the same shall have been exhibited to him in writing, verified by the affidavit of the party making them, that he believes the charges to be true. But no such officer shall be removed for such misconduct or neglect until charges thereof shall have been exhibited to the governor as above provided and a copy of the same served on such officer and an opportunity given him of being heard in his defense: Provided, That the service of such charges upon the person or persons complained against shall be made by handing to such person or persons a copy of such charges, together with all affidavits or exhibits which may be attached to the original petition if such person or persons can be found; and if not, by leaving a copy at the last place of residence of such person or

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persons, with some person of suitable age, if such person can be found; and if not, by posting it in some conspicuous place upon his last known place of residence. No officer who has been removed in accordance with the provisions of this section shall be eligible to election or appointment to any office for a period of 3 years from the date of such removal.

HISTORY: New 1954, p. 181, Act 116, Eff. Jun. 1, 1955.

CHAPTER XVI.

TOWNSHIP OFFICES

168.341 Elective township offices.

Sec. 341. Elective township offices shall consist of a supervisor, township clerk, township treasurer, not to exceed 4 constables, and not to exceed 4 trustees.

HISTORY: New 1954, p. 182, Act 116, Eff. Jun. 1, 1955;—Am. 1966, p. 68, Act 44, Imd. Eff. Jun. 2.

168.342 Township offices; eligibility.

Sec. 342. No person shall be eligible to a township office who is not a qualified elector of the township in which election is sought. No person shall be eligible for membership on the board of review unless, in addition to the foregoing qualifications, he shall be a landowner and taxpayer in such township.

HISTORY: New 1954, p. 182, Act 116, Eff. Jun. 1, 1955.

168.343 Repealed. 1965, p. 374, Act 212, Eff. Mar. 31, 1966.

Section related to township caucus, nominating procedure and certification of candidates.

168.343a Township political party committee; membership.

Sec. 343a. There shall be a township party committee for each political party in every organized township in this state. The party committee shall consist of the members of the county committee from the township. If the number of members of the county committee from the township exceeds 5, the county committee members from the township shall select 5 of their members to serve as the township committee.

HISTORY: Add. 1955, p. 611, Act 271, Imd. Eff. Jun. 30;—Am. 1965, p. 374, Act 212, Eff. Mar. 31, 1966;—Am. 1967, p. 99, Act 80, Eff. Nov. 2.

168.344 Repealed. 1965, p. 374, Act 212, Eff. Mar. 31, 1966.

Section authorized referendum to determine choice between township caucus and primary system.

168.345 Candidates for township offices; nomination at primary.

Sec. 345. A primary of all political parties shall be held in every organized township of this state on the Tuesday succeeding the first Monday in August preceding every general November election, at which time the qualified and registered electors of each political party may vote for party candidates for township offices.

HISTORY: New 1954, p. 183, Act 116, Eff. Jun. 1, 1955;—Am. 1965, p. 374, Act 212, Eff. Mar. 31, 1966.

168.346 Primaries; inspector of elections, appointment.

Sec. 346. The township board of election commissioners shall appoint 3 or more qualified and registered electors of such township for each precinct, who shall act as inspectors of election at such primary.

HISTORY: New 1954, p. 183, Act 116, Eff. Jun. 1, 1955.

168.347 Primaries; provisions governing; recounts; duties of township clerk.

Sec. 347. Except as herein otherwise provided, the laws governing nominating petitions, the conduct of general primary elections, the furnishing of ballots and the depositing, counting and canvassing of the same, shall, as near as may be, apply to primaries held under the provisions of this chapter. In case of recounts, said recounts shall be conducted by the township board of canvassers; and all duties which, under the parts

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of this act relating to general elections or primary elections, devolve upon the county clerk, shall be performed by the township clerk.

HISTORY: New 1954, p. 183, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 612, Act 271, Imd. Eff. Jun. 30.

168.348 Primaries; call; notice, publication, posting.

Sec. 348. The township board, not less than 40 days prior to the holding of the primary herein provided for, shall issue a call for such primary designating the time and place thereof and shall give notice of the same by publishing a copy of such call in some newspaper of general circulation in the township, and if deemed advisable by the township board by the posting of the number of notices that the board shall designate in conspicuous places. In townships having less than 200 registered voters, the township board may provide that for elections at which no township question is to be submitted notices of the election shall be by posting, as herein provided, in lieu of by publishing. The time of holding such primary in townships shall be on the third Monday in February preceding each biennial spring election.

HISTORY: New 1954, p. 183, Act 116, Eff. Jun. 1, 1955;—Am. 1963, p. 186, Act 133, Eff. Sep. 6.

168.349 Candidates for nomination; nominating petitions, signatures required, filing.

Sec. 349. To obtain the printing of the name of any person as a candidate for nomination by any political party for a township office under the particular party heading upon the official primary ballots, there shall be filed with the township clerk nominating petitions signed by a number of qualified and registered electors residing within said township, equal to not less than 1% nor more than 4% of the number of votes cast by such party in the township for secretary of state at the last general election in which a secretary of state was elected, but in no case less than 5 signatures. Such nominating petitions shall be in the form prescribed in section 544c. The township clerk shall receive such nominating petitions up to 4 p.m., eastern standard time, of the seventh Tuesday preceding the August primary.

Within 4 days following the last day for filing nominating petitions, the township clerk shall deliver to the county clerk a list setting forth the names, addresses and political affiliation and office sought of all candidates who have qualified for a position on the primary ballot.

HISTORY: New 1954, p. 184, Act 116, Eff. Jun. 1, 1955;—Am. 1965, p. 374, Act 212, Eff. Mar. 31, 1966;—Am. 1966, p. 81, Act 58, Imd. Eff. Jun. 7.

168.349a Repealed. 1966, p. 82, Act 58, Imd. Eff. Jun. 7.

Section related to qualification for printing of new parties on official ballot.

168.350 Repealed. 1966, p. 82, Act 58, Imd. Eff. Jun. 7.

Section required township clerk to certify nominees in absence of contest for office.

168.351 Candidates for nomination; withdrawal, notice.

Sec. 351. After the filing of a nominating petition by or in behalf of a proposed candidate for a township office, such candidate shall not be permitted to withdraw unless a written notice of withdrawal is served on the township clerk not later than 4 o'clock, eastern standard time, in the afternoon of the third day after the last day for filing such petitions as in this act provided, unless the third day falls on a Saturday, Sunday or legal holiday, in which case the notice of withdrawal may be served on the clerk up to 4 o'clock, eastern standard time, on the next secular day.

HISTORY: New 1954, p. 184, Act 116, Eff. Jun. 1, 1955;—Am. 1959, p. 247, Act 173, Eff. Mar. 19, 1960.

168.352 Candidates for township offices; death; selection of new candidates; ballots.

Sec. 352. When any candidate of a political party for any township office, after having qualified as a candidate, shall die, after the last day for qualifying, leaving such party without a candidate for a township office, a candidate to fill the vacancy thereby

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caused may be selected by the members of the township committee of such candidate's political party for the township, and the name of the candidate so selected shall be transmitted to the township officials required by law to print and distribute ballots, and such township officials shall cause to be printed a sufficient number of gummed labels or stickers bearing the name of the candidate, which shall be distributed to the various voting precincts within their respective township, and the board of election inspectors of each such precinct shall cause 1 of such stickers to be placed on each ballot, over the name of the candidate who has died, before such ballot is handed to the elector.

HISTORY: New 1954, p. 184, Act 116, Eff. Jun. 1, 1955;—Am. 1966, p. 584, Act 322, Imd. Eff. Jul. 19.

168.353 Primaries; absent voters, provisions applicable.

Sec. 353. The provisions of this act relative to absent voters shall apply to primaries held under the provisions of this chapter: Provided, That the duties of the county clerk relative to the furnishing and distribution of ballots shall be performed by the township clerk.

HISTORY: New 1954, p. 184, Act 116, Eff. Jun. 1, 1955.

168.354 Candidates for township offices; no candidate, write-in.

Sec. 354. If, for any reason, the number of candidates of a political party to a township office shall be equal to less than the total number to be nominated and elected, a sufficient number of blank spaces shall be provided on the official primary ballots which will afford every elector to said party an opportunity to vote for as many candidates as are to be nominated and elected by writing in the name or names of his or her selection or by the use of slips or pasters.

HISTORY: New 1954, p. 184, Act 116, Eff. Jun. 1, 1955.

168.355 Candidates for township offices; nominees, certification.

Sec. 355. The candidate or candidates of each political party to a township office receiving the greatest number of votes cast for candidates of said office, as set forth in the report of the township board of canvassers, based on the returns from the various election precincts, or as determined by the board of county canvassers as the result of a recount, shall be declared the nominee or nominees of that political party for said office at the next ensuing November election. The township board of canvassers shall certify such nomination or nominations to the township clerk within 48 hours after the closing of the polls.

Within 4 days following the primary, the township clerk shall deliver to the county clerk a list setting forth the names, addresses, political affiliation and office sought of all candidates nominated at the primary.

HISTORY: New 1954, p. 185, Act 116, Eff. Jun. 1, 1955;—Am. 1966, p. 82, Act 58, Imd. Eff. Jun. 7.

168.356 Repealed. 1965, p. 374, Act 212, Eff. Mar. 31, 1966.

Section authorized abandonment of primary system for nominating township candidates.

168.357 Candidates for township offices; death or disqualification; write-in.

Sec. 357. When any candidate of a political party, after having been nominated for a township office, shall die, remove from the township, or become disqualified for any reason, the township board of election commissioners shall provide a blank space or spaces on the official ballots which will afford every elector of said party an opportunity to vote for a candidate to fill the vacancy thereby caused, by writing in the name of his or her selection or by the use of a slip or paster.

HISTORY: New 1954, p. 185, Act 116, Eff. Jun. 1, 1955.

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168.358 Township officers; election; date; conduct.

Sec. 358. In every township there shall be a general November election in each even numbered year at which there shall be elected by ballot the following township officers: A supervisor, a clerk, a treasurer, 2 trustees, and at least 1 but not to exceed 4 constables. The order of offices on the township portion of the ballots shall be the same as the officers are here listed.

The number of constables to be elected shall be determined by the township board at least 6 months prior to the township election. If no determination as to the number of constables to be elected is made by the township board, 2 constables shall be elected.

In townships now or hereafter having a population of 5,000 or over, or now or hereafter having 3,000 or over qualified and registered electors, as shown by the registration records at the close of registration for the last preceding November election, there may be elected in such township 4 trustees. In other townships there shall be 2 trustees. No township shall elect 4 trustees unless the election of additional trustees is approved by the voters at a regular township election or by a majority of the voters attending at an annual meeting. The township board of any township hereafter having a population of 5,000 or over, or having 3,000 or over qualified and registered electors, shall cause the question of electing additional trustees to be voted on at the first township election following the township's qualifying for additional trustees. If a majority of the electors voting on such question vote in favor thereof, the township shall thereafter elect 4 trustees. If a majority of the electors voting on the question do not vote in favor thereof, the township board may resubmit the question at any subsequent township election or the question shall be submitted at the first township election held at least 49 days following the submission of a petition containing the signatures of at least 10% of the registered and qualified electors of the township as shown by the registration records at the close of registration for the last preceding November election asking that such question be submitted. At the first regular township election in any township held at least 4 months after the provisions of this section relative to additional trustees shall have been adopted, there shall be elected such number of trustees as is necessary to make a total of 4 trustees. Nothing in this section shall be construed to prohibit townships now electing 4 trustees from continuing to do so.

HISTORY: New 1954, p. 185, Act 116, Eff. Jun. 1, 1955;—Am. 1958, p. 225, Act 192, Eff. Sep. 13;—Am. 1966, p. 68, Act 44, Imd. Eff. Jun. 2;—Am. 1967, p. 312, Act 215, Imd. Eff. Nov. 2.

168.358a Township special elections; notice.

Sec. 358a. The township board of any township may call a special election to be held in such township for the purpose of submitting any proposition or propositions to the electors thereof. No such special election shall be held within 60 days prior or subsequent to any regular township or state primary or general election. Like notice of such special election shall be given as is now required of regular elections held under this act.

HISTORY: Add. 1956, p. 211, Act 104, Eff. Aug. 11.

168.359 Repealed. 1968, p. 108, Act 65, Eff. Jul. 1, (except in any county with a population of 400,000 or more it shall take effect on Jul. 1, 1970.)

Section required township board to make certificate of election and deliver same to clerk.

168.360 Township officers; certificate of election.

Sec. 360. The township clerk shall file in his office and preserve the original statement and determination of the township board of canvassers of the results of the election and shall forthwith execute and cause to be delivered to the persons thereby declared to be elected to township offices a certificate of election, certified by him.

HISTORY: New 1954, p. 185, Act 116, Eff. Jun. 1, 1955.

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168.361 Township electors; annual meeting; notice, publication, posting.

Sec. 361. There shall be an annual meeting of the electors of each township on the Saturday preceding the first Monday in April of each year between 1 p.m. and 8 p.m. The time and place of such meeting shall be determined by the township board. The township clerk shall give notice thereof by publication at least twice in some newspaper of general circulation in the township, the last publication to be not more than 20 nor less than 14 days before the meeting day and, if deemed advisable by the township board by the posting of the number of notices that the board shall designate in conspicuous places. In townships having less than 200 registered voters, the township board may provide that notices of the annual meeting shall be by posting, as herein provided, in lieu of by publishing. The electors meeting at the place designated shall transact such business as is usually transacted at township meetings by viva voce vote.

Abolition in townships having 5,000 or more inhabitants, referendum.

In all townships having 5,000 or more inhabitants the township board by resolution may, or on the filing of petitions signed by not less than 8% of the registered electors of the township shall, submit the question of the abolition of the annual township meeting to the electors at the next regular primary or election. Such resolution or petition shall be filed with the township clerk at least 30 days prior to such regular primary or election day. In case a majority of the electors of the township voting on the proposal shall vote for the abolition of the annual township meeting, the annual township meeting in such township shall be abolished.

HISTORY: New 1954, p. 186, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 742, Act 283, Imd. Eff. Jul. 19;—Am. 1956, p. 211, Act 104, Eff. Aug. 11;—Am. 1963, p. 186, Act 133, Eff. Sep. 6.

CITED IN OTHER SECTIONS: The above section is cited in §§ 41.8 and 41.95.

168.362 Township officers; terms of office.

Sec. 362. The term of office of township officers listed in section 358 shall be 2 years. The term of office of township trustees shall be 4 years. All township officers shall take office at 12 noon on November 20 next following their election and they shall qualify not later than that date. Each township officer shall hold office until his successor is elected and qualified. Justices of the peace heretofore elected and now in office shall continue to perform the duties of their offices, as provided by law, during the remainder of the term for which they were elected. The term of office of all justices of the peace ending at any time prior to December 31, 1968, is extended to December 31, 1968, unless sooner terminated by an act of the legislature. Only township officers who were elected by the people in a general election for 2 years in 1966 shall serve until November 20, 1970. Trustees elected in 1966 shall serve until November 20, 1970. Trustees elected in 1964 shall serve until November 20, 1968. Successors to trustees whose terms expire in 1968 shall be elected at the November election in 1968. Notwithstanding any provision of law to the contrary, all elective township officers, other than those listed in section 358, shall be elected at the November election immediately preceding the expiration of their term and shall take office on November 20 next following their election.

HISTORY: New 1954, p. 186, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 266, Act 175, Eff. Oct. 14;—Am. 1958, p. 225, Act 192, Eff. Sept. 13;—Am. 1965, p. 8, Act 4, Eff. Mar. 26;—Am. 1966, p. 68, Act 44, Imd. Eff. Jun. 2;—Am. 1967, p. 312, Act 215, Imd. Eff. Nov. 2;—Am. 1968, p. 243, Act 156, Imd. Eff. Jun. 17.

168.363 Township officers; oath of office.

Sec. 363. All township officers shall, before entering upon the duties of their offices, take and subscribe the oath as provided in section 1 of article 11 of the state constitution before the township clerk or other officer authorized to administer oaths, and file

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the same with the township clerk who shall record the same; and such oath shall be administered without reward and certified by the officer before whom the same was taken, with the date of taking the same.

HISTORY: New 1954, p. 186, Act 116, Eff. Jun. 1, 1955;—Am. 1967, p. 312, Act 215, Imd. Eff. Nov. 2.

168.364 Township treasurer; bond, approval, filing.

Sec. 364. Each township treasurer, within the time limited for filing his oath of office and before he shall enter upon the duties of his office, shall give a bond to the township in such sum and with such sureties as the supervisor shall require and approve and the supervisor shall endorse his approval thereon. It shall be the duty of such treasurer to file within the time above mentioned said bond with the township clerk of such township, who shall record the same in a book to be provided for that purpose. The township clerk shall, after recording same, deliver the bond to the supervisor who shall file it in his office.

HISTORY: New 1954, p. 186, Act 116, Eff. Jun. 1, 1955.

168.365 Constables; bond.

Sec. 365. Every person elected or appointed to the office of constable, before he enters upon the duties of his office and within the time prescribed by law for filing his official oath, shall execute, with sufficient sureties to be approved by the supervisor or clerk of his township, an instrument in writing by which said constable and his sureties shall jointly and severally agree to pay to each and every person who may be entitled thereto all such sums of money as the said constable may become liable to pay on account of any neglect or default of said constable in the service or return of any process that may be delivered to him for service or collection or on account of any misfeasance of the said constable in the discharge of, or failure of, said constable to faithfully perform any of the duties of his office.

HISTORY: New 1954, p. 186, Act 116, Eff. Jun. 1, 1955.

168.366 Justices of the peace; bond.

Sec. 366. Each justice of the peace, before he enters upon the duties of his office and within the time limited by law for filing his official oath, shall execute, in the presence of the supervisor of his township, or of the county clerk, with 1 or more sufficient sureties to be approved of by such supervisor or county clerk, an instrument in writing in the amount of $1,000.00, or such greater amount but not exceeding $3,000.00, as may be determined by the township board of the township from which said justice of the peace is elected or appointed, by which such justice and his sureties shall jointly and severally agree to pay to each and every person entitled thereto all such sums of money as such justice shall become liable to pay, for or on account of any money which may come into his hands as a justice of the peace, upon demand thereof made by such person, his agent or attorney, and such bond and his oath of office shall be filed with the county clerk.

HISTORY: New 1954, p. 186, Act 116, Eff. Jun. 1, 1955.

168.367 Township officers; resignation, filing.

Sec. 367. Resignation of any township officer shall be in writing, signed by the officer resigning, and addressed to the township board, and shall be delivered to and filed by the township clerk; and when a justice of the peace resigns, such clerk shall immediately transmit a copy of such resignation certified by him to the county clerk.

HISTORY: New 1954, p. 187, Act 116, Eff. Jun. 1, 1955.

168.368 Township offices; vacancy, creation.

Sec. 368. The township offices in any organized township shall become vacant upon the happening of any of the following events: Death of the incumbent; his resignation; his removal from office for cause; his ceasing to be a resident of the township where

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his office is located; his conviction of an infamous crime, or of an offense involving the violation of his oath of office; the decision of a competent tribunal declaring his election or appointment void; habitual drunkenness; his refusal or neglect to take and subscribe to the oath as provided in section 2 of article 16 of the state constitution and deposit the same in the manner and within the time prescribed by law; or his refusal or neglect to give bond in the amount and manner and within the time prescribed by law.

HISTORY: New 1954, p. 187, Act 116, Eff. Jun. 1, 1955.

168.369 Township officers; removal from office; service of charges, hearing.

Sec. 369. The governor shall remove all justices of the peace and all township officers chosen by the electors of any township, when he shall be satisfied from sufficient evidence submitted to him, as hereinafter provided, that such officer has been guilty of official misconduct, or of wilful neglect of duty, or of extortion, or habitual drunkenness, or has been convicted of being drunk, or whenever it shall appear by a certified copy of the judgment of a court of record of this state that such officer, after his election or appointment, shall have been convicted of a felony; but the governor shall take no action upon any such charges made to him against any such officer until the same shall have been exhibited to him in writing, verified by the affidavit of the party making them, that he believes the charges to be true. But no such officer shall be removed for such misconduct or neglect until charges thereof shall have been exhibited to the governor as above provided and a copy of the same served on such officer and an opportunity given him of being heard in his defense: Provided, That the service of such charges upon the person or persons complained against shall be made by handing to such person or persons a copy of such charges, together with all affidavits or exhibits which may be attached to the original petition if such person or persons can be found; and if not, by leaving a copy at the last place of residence of such person or persons, with some person of suitable age, if such person can be found; and if not, by posting it in some conspicuous place upon his last known place of residence. No officer who has been removed in accordance with the provisions of this section shall be eligible to election or appointment to any office for a period of 3 years from the date of such removal.

HISTORY: New 1954, p. 187, Act 116, Eff. Jun. 1, 1955.

168.370 Township officers; appointment to fill vacancy.

Sec. 370. Whenever a vacancy shall occur in any elective or appointive township office, except as hereinafter specified, it shall be filled by appointment by the township board of the township, and the person appointed shall hold the office for the remainder of the unexpired term. If a vacancy occurs in any elective township office and the vacancy is not filled by the township board within 45 days of the beginning of the vacancy, the county clerk of the county in which the township is located shall notify the governor of such fact and the governor shall call a special election to fill such vacancy. The governor shall provide for the date for the filing of the petitions, which date shall also be the last date to register for such special primary election. Notwithstanding the provisions of section 358a of this act, the special primary or special general election may be held within 60 days of a state primary or a state general election. Any special primary or election called by the governor under authority of this section shall not affect the rights of any qualified elector to register for any other election. Any person elected to fill such vacancy shall serve for the remainder of the unexpired term.

HISTORY: New 1954, p. 187, Act 116, Eff. Jun. 1, 1955;—Am. 1988, p. 65, Act 38, Imd. Eff. May 21.

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168.370a Township officers; vacancies, election of successor, term.

Sec. 370a. Notwithstanding the provisions of section 370, when a vacancy occurs in any elective or appointive township office and it is filled by appointment by the township board and the next general election is to be held more than 150 days after the vacancy occurs, and it is not the general election at which a successor in office would be elected if there had been no vacancy, the person appointed shall hold office only until a successor is elected at such general election, held more than 150 days after the vacancy occurs, in the manner provided by law and qualifies for office. Such successor shall hold the office for the remainder of the unexpired term.

HISTORY: Add. 1968, p. 243, Act 156, Imd. Eff. Jun. 17.

168.371 Township officers; primary election, recount of votes.

Sec. 371. The votes cast for any candidate to a township office at any primary or election shall be subject to recount as provided in chapter 33 of this act.

HISTORY: New 1954, p. 188, Act 116, Eff. Jun. 1, 1955.

168.372 Township officers; recall.

Sec. 372. Any person elected to a township office shall be subject to recall as provided in chapter 36 of this act.

HISTORY: New 1954, p. 188, Act 116, Eff. Jun. 1, 1955.

168.373 Township clerk; appointment of substitute to perform election law duties.

Sec. 373. If neither the township clerk nor any deputy township clerk shall be available to perform any necessary functions in connection with registrations, nominations or elections during the usual or required times for performing such functions, the township board shall appoint some qualified person who is a registered elector of the township to perform such functions until such time as the clerk or a deputy resume their duties. Any such person so appointed shall have all of the powers and authority of a deputy appointed by the clerk pertaining to registrations, nominations and elections.

HISTORY: Add. 1957, p. 281, Act 221, Eff. Sep. 27.

CHAPTER XVII.

VILLAGE OFFICES

168.381 Village officers; qualifications, nomination, election, appointment, terms, removal; charter provisions governing.

Sec. 381. The qualifications, nomination, election, appointment, term of office and removal from office of any village officer shall be in accordance with the charter provisions governing the respective villages throughout the state.

HISTORY: New 1954, p. 188, Act 116, Eff. Jun. 1, 1955.

168.382 Village officers; nomination and election, time.

Sec. 382. Notwithstanding any other provision of law to the contrary, any village, the charter of which does not specify the time, manner and means of nominating and electing its public officers, shall nominate and elect such officers in accordance with the provisions governing the selection of township officers, as provided in chapter 16 of this act, except that nomination by caucus or primary shall occur on the third Monday in February and village elections shall be held annually on the second Monday in March.

HISTORY: New 1954, p. 188, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 612, Act 271, Eff. Jun. 30;—Am. 1963, 2nd Ex. Sess., p. 18, Act 8, Imd. Eff. Dec. 27.

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168.383 Village officers; removal from office; service of charges, hearing, ineligibility.

Sec. 383. The governor shall remove all village officers chosen by the electors of any village when he shall be satisfied from sufficient evidence submitted to him, as hereinafter provided, that such officer has been guilty of official misconduct, or of wilful neglect of duty, or of extortion, or habitual drunkenness, or has been convicted of being drunk, or whenever it shall appear by a certified copy of the judgment of a court of record of this state that such officer, after his election or appointment, shall have been convicted of a felony; but the governor shall take no action upon any such charges made to him against any such officer until the same shall have been exhibited to him in writing, verified by the affidavit of the party making them, that he believes the charges to be true. But no such officer shall be removed for such misconduct or neglect until charges thereof shall have been exhibited to the governor as above provided and a copy of the same served on such officer and an opportunity given him of being heard in his defense: Provided, That the service of such charges upon the person or persons complained against shall be made by handing to such person or persons a copy of such charges, together with all affidavits or exhibits which may be attached to the original petition if such person or persons can be found; and if not, by leaving a copy at the last place of residence of such person or persons, with some person of suitable age, if such person can be found; and if not, by posting it in some conspicuous place upon his last known place of residence. No officer who has been removed in accordance with the provisions of this section shall be eligible to election or appointment to any office for a period of 3 years from the date of such removal.

HISTORY: New 1954, p. 188, Act 116, Eff. Jun. 1, 1955.

CHAPTER XVIII.

JUSTICES OF THE SUPREME COURT

168.391 Justices of supreme court; eligibility.

Sec. 391. No person shall be eligible to the office of justice of the supreme court who is not a qualified elector of this state, who is not licensed to practice law in this state and who at the time of election or appointment is 70 years of age or older.

HISTORY: New 1954, p. 188, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 612, Act 271, Imd. Eff. Jun. 30.

168.392 Candidates for justice of supreme court; nomination at fall state convention.

Sec. 392. At its fall state convention, each political party may nominate the number of candidates for the office of justice of the supreme court as are to be elected at the next ensuing general election.

HISTORY: New 1954, p. 188, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 90, Act 61, Imd. Eff. Dec. 27.

168.392a Candidates for justice of supreme court; incumbents, affidavit of candidacy for re-election.

Sec. 392a. Any incumbent justice of the supreme court may become a candidate for re-election as a justice of the supreme court by filing with the secretary of state an affidavit of candidacy not less than 180 days prior to the expiration of his term of office.

The affidavit of candidacy shall contain statements that the affiant is an incumbent supreme court justice, that he is domiciled within the state, that he will not have attained the age of 70 years prior to the date of election and a declaration that he is a candidate for election to the office of supreme court justice.

HISTORY: Add. 1963, 2nd Ex. Ses., p. 90, Act 61, Imd. Eff. Dec. 27.

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168.393 Candidates for justice of supreme court; certification of nomination.

Sec. 393. Not more than 24 hours after the conclusion of the fall state convention, the state central committee of each political party shall convene and canvass the proceedings of said convention and determine the nominee or nominees of said convention for the office or offices of justices of the supreme court. The chairman and secretary of said committee shall, within 24 hours after the conclusion of the state convention, forward by registered or certified mail to the secretary of state and to the board of election commissioners of each county, in care of the county clerk at the county seat, the typewritten or printed names, together with residence, including the street address if known, of the candidate or candidates nominated at said convention for said office or offices. The names of the persons so certified shall be printed upon a nonpartisan judicial ballot containing no party designation together with the names of any incumbent justices filing an affidavit pursuant to section 392a of this act.

HISTORY: New 1954, p. 189, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 612, Act 271, Imd. Eff. Jun. 30;—Am. 1956, p. 382, Act 190, Imd. Eff. Apr. 26;—Am. 1963, 2nd Ex. Ses., p. 90, Act 61, Imd. Eff. Dec. 27.

168.394 Candidates for justice of supreme court; withdrawal, notice.

Sec. 394. Any person who has been certified by the state central committee of any party as nominated for the office of justice of the supreme court or who filed an affidavit according to section 392a may withdraw by filing a written notice of withdrawal with the secretary of state or his duly authorized agent and a copy with the chairman and secretary of the state central committee of said party not later than 4 p.m., eastern standard time, of the third day following the convention.

HISTORY: New 1954, p. 189, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 90, Act 61, Imd. Eff. Dec. 27.

168.395 Candidates for justice of supreme court; death, withdrawal, disqualification; selection of new candidate, certification; ballots.

Sec. 395. Whenever a candidate of a political party, after having been nominated to the office of justice of the supreme court or having filed an affidavit according to section 392a, shall die, withdraw, remove from the state, or become disqualified for any reason, the state central committee of any party which is thereby left without a candidate nominated or indorsed by that party shall meet forthwith and, by a majority vote of the members thereof, shall select a candidate to fill the vacancy thereby caused. The name of the candidate so selected shall be immediately certified by the chairman and the secretary of said committee to the secretary of state and to the board of election commissioners for each county, whose duty it is to prepare the official ballots, and said board shall cause to be printed or placed upon said ballots, in the proper place, the name of the candidate so selected to fill the vacancy.

HISTORY: New 1954, p. 189, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 90, Act 61, Imd. Eff. Dec. 27.

168.396 Supreme court justices; election.

Sec. 396. Subject to section 6 of the schedule to the state constitution, 2 justices of the supreme court shall be elected at the general election in 1966 and at the general election every 2 years thereafter.

HISTORY: New 1954, p. 189, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 91, Act 61, Imd. Eff. Dec. 27.

168.397 Supreme court justices; certificate of determination by board of state canvassers.

Sec. 397. The board of state canvassers shall determine which candidates for justices of the supreme court have received the greatest number of votes and shall declare such candidates to be duly elected. The said board shall forthwith make and subscribe on its statement of returns a certificate of such determination and deliver the same to the secretary of state.

HISTORY: New 1954, p. 189, Act 116, Eff. Jun. 1, 1955.

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168.398 Supreme court justices; certificate of election.

Sec. 398. The secretary of state shall file in his office and preserve the original statement and determination of the board of state canvassers of the result of the election and shall forthwith execute and cause to be delivered to the persons thereby declared to be elected to the office of justice of the supreme court a certificate of election, certified by him under the great seal of the state.

HISTORY: New 1954, p. 189, Act 116, Eff. Jun. 1, 1955.

168.399 Supreme court justices; term of office.

Sec. 399. The term of office of justice of the supreme court shall be 8 years, beginning on the first day of January next following the election and shall continue until a successor is elected and qualified.

HISTORY: New 1954, p. 189, Act 116, Eff. Jun. 1, 1955.

168.400 Supreme court justices; oath of office, deposit.

Sec. 400. Every person elected to the office of justice of the supreme court, before entering upon the duties of his office, shall take and subscribe to the oath as provided in section 1 of article 11 of the state constitution, and shall deposit said oath with the secretary of state.

HISTORY: New 1954, p. 190, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 91, Act 61, Imd. Eff. Dec. 27.

168.401 Supreme court justices; resignation, notice.

Sec. 401. Any person duly elected to the office of justice of the supreme court who desires to resign shall file a written notice containing the effective date of such resignation with the court administrator and a copy with the governor and secretary of state.

HISTORY: New 1954, p. 190, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 91, Act 61, Imd. Eff. Dec. 27.

168.402 Supreme court justices; vacancy, creation.

Sec. 402. The office of justice of the supreme court shall become vacant upon the happening of any of the following events: Death of the incumbent; his resignation; his removal from office for cause; his ceasing to be a resident of the state; his conviction of an infamous crime, or an offense involving the violation of his oath of office; the decision of a competent tribunal declaring his election or appointment void; or his neglect or refusal to take and subscribe to the constitutional oath of office and deposit the same in the manner and within the time prescribed by law.

HISTORY: New 1954, p. 190, Act 116, Eff. Jun. 1, 1955.

168.403 Supreme court justices; impeachment; removal from office, service of charges, hearing.

Sec. 403. Any person holding the office of justice of the supreme court may be removed from office by impeachment for the reasons and in the manner set forth in section 7 of article 11 of the state constitution, or the governor shall remove any justice of the supreme court upon a concurrent resolution of 2/3 of the members elected to and serving in each house of the state legislature, and the cause for such removal shall be stated at length in such resolution, as provided in the constitution of this state. Such person shall be served with a written notice of the charges against him and be afforded an opportunity for a hearing thereon. When a vacancy shall occur in any of the said offices, a notice of such vacancy and the reason why the same exists shall, within 10 days after such vacancy occurs, be given in writing by the secretary of state to the court administrator with a copy to the governor.

HISTORY: New 1954, p. 190, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 91, Act 61, Imd. Eff. Dec. 27.

168.404 Supreme court justices; vacancy, appointment, election.

Sec. 404. Whenever a vacancy shall occur in the office of justice of the supreme court, the governor shall appoint a successor to fill the vacancy. The person appointed

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by the governor shall be considered an incumbent for purposes of this act and shall hold office until 12 noon of January 1 following the next general election at which a successor is elected and qualified. At the next general November election held at least 90 days after such vacancy shall occur, a person, nominated under section 392, shall be elected to fill such office, and the person so elected shall hold such office for the remainder of the unexpired term. A candidate receiving the highest number of votes for said office and who has subscribed to the oath as provided in section 1 of article 11 of the state constitution shall be deemed to be elected and qualified, even though a vacancy occurs prior to the time he shall have entered upon the duties of his office.

HISTORY: New 1954, p. 190, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 612, Act 271, Imd. Eff. Jun. 30;—Am. 1963, 2nd Ex. Ses., p. 91, Act 61, Imd. Eff. Dec. 27;—Am. 1970, p. 22, Act 10, Imd. Eff. Mar. 31.

168.405 Supreme court justices; election, recount of votes.

Sec. 405. The votes cast for any candidate for justice of the supreme court at any election shall be subject to recount as provided in chapter 33 of this act.

HISTORY: New 1954, p. 190, Act 116, Eff. Jun. 1, 1955.

168.406 Supreme court justices; not subject to recall.

Sec. 406. Judicial officers are not subject to recall as provided in section 8 of article 2 of the state constitution.

HISTORY: New 1954, p. 190, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 91, Act 61, Imd. Eff. Dec. 27.

CHAPTER XVIIIA.

JUDGES OF THE COURT OF APPEALS

168.409 Appeals court judges; eligibility.

Sec. 409. Any person shall be eligible for the office of judge of the court of appeals who is a qualified elector of the appellate court district in which election is sought, who is licensed to practice law in this state and who at the time of election or appointment has not attained the age of 70.

HISTORY: Add. 1963, 2nd Ex. Ses., p. 87, Act 60, Imd. Eff. Dec. 27.

168.409a Candidates for appeals court judge; nomination at general nonpartisan primary election; omission.

Sec. 409a. A general nonpartisan primary election shall be held in every appellate court district of this state on the Tuesday succeeding the first Monday in August preceding every general November election in which judges of the court of appeals are to be elected, at which time the qualified and registered electors may vote for nonpartisan candidates for the office of judge of the court of appeals: Provided, however, That if, upon expiration of the time for filing petitions for the primary election of said judge of the court of appeals in any appellate court district, it shall appear that there are not to exceed twice the number of candidates as there are persons to be elected, then the secretary of state shall certify to the county board or boards of election commissioners the names of such candidates for court of appeals judge whose nominating petitions, filing fee or affidavit of candidacy have been properly filed, and such candidates shall be the nominees for judge of the court of appeals and shall be so certified. As to such office there shall be no primary election and this office shall be omitted from the judicial primary ballot.

HISTORY: Add. 1963, 2nd Ex. Ses., p. 87, Act 60, Imd. Eff. Dec. 27.

168.409b Court of appeals judge; nominating petition; form, filing.

Sec. 409b. (1) To obtain the printing of the name of any qualified person other than an incumbent elected judge of the court of appeals as a candidate for nomination for the office of judge of the court of appeals upon the official nonpartisan primary ballots, there shall be filed with the secretary of state nominating petitions containing the signatures, addresses and dates of signing of a number of qualified and registered elec-

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tors residing in the appellate court district, equal to not less than ½ of 1% nor more than 2% of the total number of votes cast in that appellate court district for secretary of state at the last preceding general November election in which a secretary of state was elected. Such nominating petitions shall be in the form provided in sections 544 and 544a of this act, excepting that it shall contain no reference to any political party. The secretary of state shall receive such nominating petitions up to 4 p.m., eastern standard time, on the seventh Tuesday preceding the primary.

Incumbent judge; affidavit of candidacy.

(2) Any incumbent judge of the court of appeals may become a candidate in the primary election for the office of which he is the incumbent by filing with the secretary of state an affidavit of candidacy not less than 120 days prior to the date of the primary election. The affidavit of candidacy shall contain statements that the affiant is an incumbent judge of the court of appeals, that he is domiciled within the district, that he will not attain the age of 70 by the date of election and a declaration that he is a candidate for election to the office of judge of the court of appeals.

HISTORY: Add. 1963, 2nd Ex. Ses., p. 87, Act 60, Imd. Eff. Dec. 27;—Am. 1970, p. 22, Act 10, Imd. Eff. Mar. 31.

168.409c Candidates for nomination; withdrawal, notice.

Sec. 409c. After the filing of a nominating petition or affidavit of candidacy, by or on behalf of a proposed candidate for the office of judge of the court of appeals, such candidate shall not be permitted to withdraw unless a written notice of withdrawal is served on the secretary of state or his duly authorized agent not later than 3 days after the last day for filing such petition, unless the third day falls on a Saturday, Sunday or other legal holiday, in which case the notice of withdrawal may be served up to 4 p.m., eastern standard time, on the next secular day.

HISTORY: Add. 1963, 2nd Ex. Ses., p. 88, Act 60, Imd. Eff. Dec. 27.

168.409d Candidates for appeals court judge; nomination, certification.

Sec. 409d. In each appellate court district the candidates for office of judge of the court of appeals receiving the largest number of votes at any primary election, to a number equal to twice the number of persons to be elected as set forth in the report of the board of state canvassers, based on the returns from the various boards of county canvassers and election precincts, or as determined by said board as the result of a recount, shall be declared the nominees for said office at the next ensuing general November election. The board of state canvassers shall certify such nomination to the county election commission.

HISTORY: Add. 1963, 2nd Ex. Ses., p. 88, Act 60, Imd. Eff. Dec. 27.

168.409e Appeals court judges; election.

Sec. 409e. (1) A judge or judges of the court of appeals shall be elected in each appellate court district at the general November election in which such judges are to be elected as provided by law.

(2) Except as provided by law with respect to terms of judges of the court of appeals elected in 1964, the term of office for judge of the court of appeals shall be 6 years, commencing at 12 noon on January 1 next following his election and shall continue until a successor has been elected and qualified.

HISTORY: Add. 1963, 2nd Ex. Ses., p. 88, Act 60, Imd. Eff. Dec. 27.

168.409f Appeals court judges; certificate of determination by board of state canvassers.

Sec. 409f. The board of state canvassers shall determine which candidate or candidates for the office of judge of the court of appeals in each district received the greatest number of votes and shall declare such candidate or candidates duly elected. The

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board shall forthwith make and subscribe on its statement of returns a certificate of such determination and deliver it to the secretary of state.

HISTORY: Add. 1963, 2nd Ex. Ses., p. 88, Act 60, Imd. Eff. Dec. 27.

168.409g Appeals court judges; certificate of election.

Sec. 409g. The secretary of state shall file in his office and preserve the original statement and determination of the board of state canvassers of the result of the election and shall forthwith execute and cause to be delivered to the persons thereby declared to be elected to the office of judge of the court of appeals a certificate of election certified by him and under the great seal of the state.

HISTORY: Add. 1963, 2nd Ex. Ses., p. 88, Act 60, Imd. Eff. Dec. 27.

168.409h Appeals court judges; oath of office, filing.

Sec. 409h. Every person elected to the office of judge of the court of appeals before entering upon the duties of his office shall take and subscribe to the oath as provided in section 1 of article 11 of the state constitution, and file the same with the secretary of state and a copy with the court administrator.

HISTORY: Add. 1963, 2nd Ex. Ses., p. 88, Act 60, Imd. Eff. Dec. 27.

168.409i Appeals court judges; resignation, notice.

Sec. 409i. Any person duly elected to the office of judge of the court of appeals who desires to resign shall file a written notice containing the effective date of such resignation with the court administrator and a copy with the governor and the secretary of state.

HISTORY: Add. 1963, 2nd Ex. Ses., p. 88, Act 60, Imd. Eff. Dec. 27.

168.409j Appeals court judges; vacancy, creation.

Sec. 409j. The office of judge of the court of appeals shall become vacant upon the happening of any of the following events before the expiration of the term of office: the death of the incumbent; his resignation; his removal from office for cause; his ceasing to have his domicile in the district from which he was elected; his conviction of any infamous crime, or of any offense involving a violation of his oath of office; the decision of a competent tribunal declaring his election void; or his neglect or refusal to take and subscribe to the constitutional oath of office and deposit it in the manner and within the time prescribed by law.

HISTORY: Add. 1963, 2nd Ex. Ses., p. 88, Act 60, Imd. Eff. Dec. 27.

168.409k Appeals court judges; impeachment; removal from office, service of charges, hearing; vacancy, notice.

Sec. 409k. Any person holding the office of judge of the court of appeals may be removed from office upon conviction in impeachment proceedings for the reasons and in the manner set forth in section 7 of article 11 of the state constitution, or the governor shall remove any judge of the court of appeals upon a concurrent resolution of 2/3 of the members elected to and serving in each house of the state legislature, and the cause for such removal shall be stated at length in such resolution, as provided in section 25 of article 6 of said constitution. Such person shall be served with a written notice of the charges against him and be afforded an opportunity for a hearing thereon. When a vacancy occurs in any of the said offices, a notice of such vacancy and the reason why the same exists shall, within 10 days after such vacancy occurs, be given in writing by the secretary of state to the court administrator, with a copy to the governor.

HISTORY: Add. 1963, 2nd Ex. Ses., p. 89, Act 60, Imd. Eff. Dec. 27.

168.409l Court of appeals judge; vacancy, appointment, election.

Sec. 409l. When a vacancy occurs in the office of judge of the court of appeals, the governor shall appoint a successor to fill the vacancy. The person appointed by the

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governor shall be considered an incumbent for purposes of this act and shall hold office until 12 noon of January 1 following the next general election at which a successor is elected and qualified. Candidates shall be nominated at the next fall primary held at least 70 days after such vacancy occurs, to fill the vacancy in the manner provided in this chapter for the nomination of candidates for judge of the court of appeals. The vacancy shall be filled at the general election next following the primary in the manner provided in this chapter for the election of judges of the court of appeals. The person elected shall hold such office for the remainder of the unexpired term.

HISTORY: Add. 1963, 2nd Ex. Ses., p. 89, Act 60, Imd. Eff. Dec. 27;—Am. 1970, p. 22, Act 10, Imd. Eff. Mar. 31.

168.409m Appeals court judges; primary or election, recount of votes.

Sec. 409m. The votes cast for any candidate for judge of the court of appeals at any primary or election shall be subject to recount as provided in chapter 33 of this act.

HISTORY: Add. 1963, 2nd Ex. Ses., p. 89, Act 60, Imd. Eff. Dec. 27.

168.409n Appeals court judges; not subject to recall.

Sec. 409n. Judges of the court of appeals are not subject to recall as provided by section 8 of article 2 of the state constitution.

HISTORY: Add. 1964, p. 302, Act 228, Eff. Aug. 28.

CHAPTER XIX.

JUDGES OF THE CIRCUIT COURT

168.411 Judges of circuit court; eligibility.

Sec. 411. No person shall be eligible to the office of judge of the circuit court who is not a qualified elector of the judicial circuit in which election is sought, as provided in section 11 of article 6 of the state constitution, who is not licensed to practice law in this state and who at the time of election is 70 years of age or older.

HISTORY: New 1954, p. 190, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 612, Act 271, Imd. Eff. June 30;—Am. 1963, 2nd Ex. Ses., p. 84, Act 59, Eff. Mar. 24, 1964.

168.412 Candidates for circuit court judge; nomination at general nonpartisan primary election; omission.

Sec. 412. A general nonpartisan primary election shall be held in every county of this state on the Tuesday succeeding the first Monday in August prior to the general election at which judges of the circuit court are elected, at which time the qualified and registered electors may vote for nonpartisan candidates for the office of judge of the circuit court. If, upon the expiration of the time for filing petitions or incumbency affidavits of candidacy for the primary election of said judge of the circuit court in any judicial circuit, it shall appear that there are not to exceed twice the number of candidates as there are persons to be elected, then the secretary of state shall certify to the county board of election commissioners the name of such candidate for circuit court judge whose petitions or affidavits have been properly filed, and such candidate shall be the nominee for the judge of the circuit court and shall be so certified. As to such office, there shall be no primary election and this office shall be omitted from the judicial primary ballot.

HISTORY: New 1954, p. 191, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 84, Act 59, Eff. Mar. 24, 1964.

168.413 Candidates for nomination; nominating petitions, signatures required, filing.

Sec. 413. To obtain the printing of the name of any person as a candidate for nomination for the office of judge of the circuit court upon the official nonpartisan primary ballots, there shall be filed with the secretary of state nominating petitions containing the signatures, addresses and dates of signing of a number of qualified and registered electors residing in the judicial circuit, equal to not less than 1% nor more than 4% of the total number of votes cast in that judicial district for secretary of state at the last

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preceding general November election in which a secretary of state was elected or by the filing of an affidavit according to section 413a. In counties which now have or may have 1,000,000 inhabitants or more, the petitions shall contain not less than 5,000 and not more than 20,000 such signatures. The secretary of state shall receive such nominating petitions up to 4 p.m., E.S.T., in the afternoon of the seventh Tuesday preceding the primary. All the provisions of section 544a of the act shall be applicable.

HISTORY: New 1954, p. 191, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 613, Act 271, Imd. Eff. June 30;—Am. 1957, p. 426, Act 293, Eff. Sept. 27;—Am. 1963, 2nd Ex. Ses., p. 84, Act 59, Eff. Mar. 24, 1964.

168.413a Circuit judge; affidavit of candidacy.

Sec. 413a. Any incumbent circuit court judge may become a candidate in the primary election for the office of which he is an incumbent by filing with the secretary of state an affidavit of candidacy not less than 120 days prior to the date of the primary election.

The affidavit of candidacy shall contain statements that the affiant is an incumbent circuit court judge for the circuit in which election is sought, that he is domiciled within the circuit, that he will not attain the age of 70 by the date of election and a declaration that he is a candidate for election to the office of circuit court judge.

HISTORY: Add. 1963, 2nd Ex. Ses., p. 84, Act 59, Eff. Mar. 24, 1964;—Am. 1966, p. 62, Act 38, Imd. Eff. May 26;—Am. 1970, p. 23, Act 10, Imd. Eff. Mar. 31.

168.414 Candidates for nomination; withdrawal, notice.

Sec. 414. After the filing of a nominating petition or affidavit by or in behalf of a proposed candidate for the office of judge of the circuit court, such candidate shall not be permitted to withdraw unless a written notice of withdrawal is served on the secretary of state or his duly authorized agent not later than 3 days after the last day for filing such petitions, unless the third day falls on a Saturday, Sunday or legal holiday, in which case the notice of withdrawal may be served on the clerk up to 4 p.m., eastern standard time, on the next secular day.

HISTORY: New 1954, p. 191, Act 116, Eff. Jun. 1, 1955;—Am. 1959, p. 247, Act 173, Eff. Mar. 19, 1960;—Am. 1963, 2nd Ex. Ses., p. 84, Act 59, Eff. Mar. 24, 1964.

168.415 Candidates for circuit court judge, nomination, certification.

Sec. 415. The candidates for the office of judge of the circuit court receiving the largest number of votes at any primary election, to a number equal to twice the number of persons to be elected as set forth in the report of the board of state canvassers, based on the returns from the various county boards of canvassers and election precincts or as determined by said board as the result of a recount, shall be declared the nominees for said office at the next ensuing general election. The board of state canvassers shall certify such nomination to the county election commissions.

HISTORY: New 1954, p. 191, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 84, Act 59, Eff. Mar. 24, 1964.

168.416 Circuit court judges; election.

Sec. 416. A judge or judges of the circuit court shall be elected in each judicial circuit at the general election in which such judges are to be elected as provided by law.

HISTORY: New 1954, p. 191, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 85, Act 59, Eff. Mar. 24, 1964.

168.416a Circuit court judges; incumbents, expiration, extension of terms.

Sec. 416a. The terms of office of all elected circuit court judges serving as of December 31, 1965 expire at 12 noon, January 1, 1967, except those circuit court judges elected at the general election in November, 1964, pursuant to the provisions of Act No. 198, Act No. 262 and Act No. 264 of the Public Acts of 1964, and except that those circuit court judges elected at the general election in November, 1964, pursuant to the provisions of Act No. 172 of the Public Acts of 1963, shall expire at noon, January 1, 1973, and the terms of the judges elected pursuant to the provisions of Act No.

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32 and Act No. 179 of the Public Acts of 1963, as amended, shall expire at 12 noon, January 1, 1971.

HISTORY: Add. 1963, 2nd Ex. Ses., p. 85, Act 59, Eff. Mar. 24, 1964;—Am. 1965, p. 790, Act 393, Eff. Oct. 26;—Am. 1966, p. 62, Act 38, Imd. Eff. May 26.

168.416b Circuit court judges; 1966 election, terms.

Sec. 416b. (1) The first general election of judges of the circuit court shall be held in 1966. In that election only, the terms of office of the judges of the circuit court shall be as set forth below, and candidates shall run for a specific term which shall be identified on the ballot.

No. of Judges In a Circuit	Length of Term of Judges
1	6 years
2	1 judge 6 years; 1 judge 8 years
3	1 judge 6 years; 1 judge 8 years; 1 judge 10 years
4	2 judges 6 years; 1 judge 8 years; 1 judge 10 years
5	2 judges 6 years; 2 judges 8 years; 1 judge 10 years
6	2 judges 6 years; 2 judges 8 years; 2 judges 10 years
7	3 judges 6 years; 2 judges 8 years; 2 judges 10 years
8	3 judges 6 years; 3 judges 8 years; 2 judges 10 years
9	3 judges 6 years; 3 judges 8 years; 3 judges 10 years
10	4 judges 6 years; 3 judges 8 years; 3 judges 10 years
11	4 judges 6 years; 4 judges 8 years; 3 judges 10 years
12	4 judges 6 years; 4 judges 8 years; 4 judges 10 years
13	5 judges 6 years; 4 judges 8 years; 4 judges 10 years
14	5 judges 6 years; 5 judges 8 years; 4 judges 10 years
15	5 judges 6 years; 5 judges 8 years; 5 judges 10 years
16	6 judges 6 years; 5 judges 8 years; 5 judges 10 years
17	6 judges 6 years; 6 judges 8 years; 5 judges 10 years
18	6 judges 6 years 6 judges 8 years; 6 judges 10 years
19	7 judges 6 years; 6 judges 8 years; 6 judges 10 years
20	7 judges 6 years; 7 judges 8 years; 6 judges 10 years

Nominating petitions or affidavit of candidacy for 1 office.

(2) A candidate may file nominating petitions or an affidavit of candidacy for only 1 such office, and such office shall be designated on the nominating petitions or affidavit of candidacy.

Subsequent elections.

(3) Subsequent elections for circuit judges shall be held in November immediately prior to the expiration of the terms of office of circuit judges.

HISTORY: Add. 1963, 2nd Ex. Ses., p. 85, Act 59, Eff. Mar. 24, 1964.

168.416c Circuit court judges; 1966 election, terms in certain judicial circuits.

Sec. 416c. Notwithstanding the provisions of subsection (1) of section 416b, at the 1966 general election of circuit judges the judges in the following judicial circuits shall be elected for terms of office as follows:

(a) In the third judicial circuit 9 judges shall be elected for a term of 8 years, 9 judges for a term of 10 years, and 3 judges for a term of 6 years.

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(b) In the sixth judicial circuit 3 judges shall be elected for a term of 6 years, 2 judges for a term of 8 years and 2 judges for a term of 10 years.

(c) In the ninth judicial circuit 1 judge shall be elected for a term of 6 years and 1 judge for a term of 8 years.

(d) In the sixteenth judicial circuit 2 judges shall be elected for a term of 6 years, 2 judges for a term of 8 years and 2 judges for a term of 10 years.

(e) In the seventeenth judicial circuit 2 judges shall be elected for a term of 6 years, 1 judge for a term of 8 years, and 1 judge for a term of 10 years.

(f) In the twenty-second judicial circuit 1 judge shall be elected for a term of 6 years and 1 judge for a term of 8 years.

HISTORY: Add. 1965, p. 790, Act 393, Eff. Oct. 26;—Am. 1966, p. 62, Act 38, Imd. Eff. May 26.

168.416d Circuit court judges; 1965 special election, terms.

Sec. 416d. Notwithstanding the provisions of section 2 of Act No. 284 of the Public Acts of 1965, the 4 additional circuit judges for the third judicial circuit who are elected in a special election to be held on November 2, 1965, shall be elected for terms of office expiring at 12 noon, January 1, 1973.

HISTORY: Add. 1965, p. 790, Act 393, Imd. Eff. Oct. 26.

168.417 Circuit court judges; certificate of determination by board of state canvassers.

Sec. 417. The board of state canvassers shall determine which candidate or candidates for the office of judge of the circuit court received the greatest number of votes and shall declare such candidate or candidates duly elected. The said board shall forthwith make and subscribe on its statement of returns a certificate of such determination and deliver the same to the secretary of state.

HISTORY: New 1954, p. 191, Act 116, Eff. Jun. 1, 1955.

168.418 Circuit court judges; preservation of statement and determination; certificate of election.

Sec. 418. The secretary of state shall file in his office and preserve the original statement and determination of the board of state canvassers of the result of the election and shall forthwith execute and cause to be delivered to the person or persons thereby declared to be elected to the office of judge of the circuit court a certificate of election certified by him and under the great seal of the state.

HISTORY: New 1954, p. 191, Act 116, Eff. Jun. 1, 1955.

168.419 Circuit court judges; terms of office.

Sec. 419. With the exception of the terms of certain judges elected in 1966, the term of office for judge of the circuit court shall be 6 years, commencing at 12 noon on January 1 next following his election and shall continue until a successor shall have been elected and qualified.

HISTORY: New 1954, p. 192, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 85, Act 59, Eff. Mar. 24, 1964.

168.420 Circuit court judges; oath of office, filing.

Sec. 420. Every person elected to the office of judge of the circuit court, before entering upon the duties of his office, shall take and subscribe to the oath as provided in section 1 of article 11 of the state constitution, and file the same with the secretary of state and a copy with each county clerk in his circuit.

HISTORY: New 1954, p. 192, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 86, Act 59, Eff. Mar. 24, 1964.

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168.421 Circuit court judges; resignation, notice.

Sec. 421. Any person duly elected to the office of judge of the circuit court who desires to resign shall file a written notice containing the effective date of such resignation with the court administrator and a copy with the governor and secretary of state.

HISTORY: New 1954, p. 192, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 86, Act 59, Eff. Mar. 24, 1964.

168.422 Circuit court judges; vacancy, creation.

Sec. 422. The office of circuit judge shall become vacant upon the happening of any of the following events before the expiration of the term of office: The death of the incumbent; his resignation; his removal from office for cause; his ceasing to be an inhabitant of the circuit for which he shall have been elected or appointed or within which the duties of his office are required to be discharged; his conviction of any infamous crime, or of any offense involving a violation of his oath of office; the decision of a competent tribunal declaring his election or appointment void; or his neglect or refusal to take and subscribe to the constitutional oath of office and deposit the same in the manner and within the time prescribed by law.

HISTORY: New 1954, p. 192, Act 116, Eff. Jun. 1, 1955.

168.423 Circuit court judges; impeachment; removal from office, service of charges, hearing; vacancy, notice.

Sec. 423. Any person holding the office of circuit judge may be removed from office upon conviction in impeachment proceedings for the reasons and in the manner set forth in section 7 of article 11 of the state constitution, or the governor shall remove any circuit judge upon a concurrent resolution of 2/3 of the members elected to and serving in each house of the state legislature, and the cause for such removal shall be stated at length in such resolution, as provided in the constitution of this state. Such person shall be served with a written notice of the charges against him and be afforded an opportunity for a hearing thereon. When a vacancy shall occur in any of the said offices, a notice of such vacancy and the reason why the same exists shall, within 10 days after such vacancy occurs, be given in writing by the secretary of state to the supreme court, with a copy to the governor.

HISTORY: New 1954, p. 192, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 86, Act 59, Eff. Mar. 24, 1964.

168.424 Circuit court judge; vacancy, appointment, election.

Sec. 424. Whenever a vacancy shall occur in the office of circuit judge, the governor shall appoint a successor to fill the vacancy. The person appointed by the governor shall be considered an incumbent for purposes of this act and shall hold office until 12 noon of January 1 following the next general election at which a successor is elected and qualified. At the next fall primary election held at least 70 days after such vacancy shall occur, candidates shall be nominated to fill the vacancy in the manner provided in this chapter for the nomination of candidates for circuit judge. The vacancy shall be filled at the election next following the primary in the manner provided in this chapter for the election of circuit judges. The person elected shall hold such office for the remainder of the unexpired term.

HISTORY: New 1954, p. 192, Act 116, Eff. Jun. 1, 1955;—Am. 1957, p. 296, Act 236, Eff. Sep. 27;—Am. 1963, 2nd Ex. Ses., p. 86, Act 59, Eff. Mar. 24, 1964;—Am. 1970, p. 23, Act 10, Imd. Eff. Mar. 31.

168.425 Circuit court judges; primary or election, recount of votes.

Sec. 425. The votes cast for any candidate for circuit judge at any primary or election shall be subject to recount as provided in chapter 33 of this act.

HISTORY: New 1954, p. 192, Act 116, Eff. Jun. 1, 1955.

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168.426 Circuit court judges; not subject to recall.

Sec. 426. Judicial officers are not subject to recall as provided in section 8 of article 2 of the state constitution.

HISTORY: New 1954, p. 192, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 86, Act 59, Eff. Mar. 24, 1964.

CHAPTER XIXA

JUDGES OF MUNICIPAL COURTS OF RECORD

168.426a Judges of municipal courts of record; nomination and election.

Sec. 426a. In every city having a municipal court of record with state criminal jurisdiction above that cognizable by justices of the peace, and having a population of 1,000,000 or more, candidates for the office of a judge of such court shall be nominated at the August primary for state offices and elected at the general election in even years, beginning with the year 1966.

HISTORY: Add. 1965, p. 118, Act 85, Imd. Eff. Jun. 24.

168.426b Judges of municipal courts of record; eligibility.

Sec. 426b. No person shall be eligible to the office of judge of such a municipal court of record who is not a qualified elector of the municipality in which election is sought; who is not licensed to practice law in this state; and who, at the time of election, is 70 years or over.

HISTORY: Add. 1965, p. 118, Act 85, Imd. Eff. Jun. 24.

168.426c Candidates for municipal court judge; nomination at general nonpartisan primary election.

Sec. 426c. A general nonpartisan primary election shall be held in every municipality described in section 426a, on the Tuesday succeeding the first Monday in August preceding any general November election, at which judges of the municipal courts of record therein are to be elected; at which time the qualified and registered voters may vote for nonpartisan candidates for the office of judge of such municipal court of record. If, upon the expiration of the time for filing petitions, for the primary election of the municipal judge or judges in any municipality, there are not to exceed twice the number of candidates than persons to be elected, then the city clerk shall certify through the city board of canvassers the names of the candidates for judge of the municipal court of record whose petitions have been properly filed, who shall be the nominees for judges of the municipal court of record and shall be so certified, there shall be no primary election, for this office and it shall be omitted from the official primary ballot.

HISTORY: Add. 1965, p. 118, Act 85, Imd. Eff. Jun. 24.

168.426d Candidates for nomination; nominating petitions, signatures required, filing.

Sec. 426d. To obtain the printing of the name of any person on the ballot as a candidate for the office of judge of such municipal court of record, there shall be filed with the city clerk a filing fee of $100.00 or nominating petitions containing the signatures, addresses and dates of signing of a number of qualified and registered electors residing in said city equal to not less than 1/2 of 1% nor more than 2% of the votes cast in that municipality for secretary of state at the last preceding November election in which a secretary of state was elected. The city clerk shall receive such filing fee or nominating petitions up to 4 p.m. eastern standard time of the seventh Tuesday preceding the August primary. Petitions, as far as applicable, shall be in the form of and in accordance with all provisions of section 544 but shall contain no reference to any political party.

HISTORY: Add. 1965, p. 119, Act 85, Imd. Eff. Jun. 24.

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168.426e Candidates for nomination; affidavit as to eligibility and candidacy.

Sec. 426e. Any candidate for judge of a municipal court of record shall file an affidavit which contains statements that the affiant is domiciled within the municipality; and that he will not attain the age of 70 years by the date of election, and that he is a candidate for the office of municipal judge.

HISTORY: Add. 1965, p. 119, Act 85, Imd. Eff. Jun. 24.

168.426f Candidates for municipal court judge; nomination, certification.

Sec. 426f. The candidates for the office of judge of the municipal court of record receiving the largest number of votes at any primary election, to a number equal to twice the number of persons to be elected, as set forth in the report of the city canvassers, based on returns from the various local boards of canvassers and election precincts, shall be declared the nominees for the office at the next ensuing general election.

HISTORY: Add. 1965, p. 119, Act 85, Imd. Eff. Jun. 24.

168.426g Municipal court judges; first general election, terms of office.

Sec. 426g. The first general election of judges of the municipal court of record shall be held in the year 1966. In that election only, the terms of office of the judges shall be as set forth below; in each case beginning at 12 o'clock noon on January 1, 1967.

LENGTH OF TERM OF JUDGES

No. of Judges	Category A	Category B	Category C
1	6 years		
2	1 judge 6 years	1 judge 8 years	
3	1 judge 6 years	1 judge 8 years	1 judge 10 years
4	2 judges 6 years	1 judge 8 years	1 judge 10 years
5	2 judges 6 years	2 judges 8 years	1 judge 10 years
6	2 judges 6 years	2 judges 8 years	2 judges 10 years
7	3 judges 6 years	2 judges 8 years	2 judges 10 years
8	3 judges 6 years	3 judges 8 years	2 judges 10 years
9	3 judges 6 years	3 judges 8 years	3 judges 10 years
10	4 judges 6 years	3 judges 8 years	3 judges 10 years
11	4 judges 6 years	4 judges 8 years	3 judges 10 years
12	4 judges 6 years	4 judges 8 years	4 judges 10 years
13	5 judges 6 years	4 judges 8 years	4 judges 10 years
14	5 judges 6 years	5 judges 8 years	4 judges 10 years
15	5 judges 6 years	5 judges 8 years	5 judges 10 years

The length of term of each elected judge shall be based on the number of votes received by each, those highest on the list respectively filling the 10-year terms as specified in category C, the next highest below category C filling the 8-year terms under category B, and the remainder 6-year terms under category A.

HISTORY: Add. 1965, p. 119, Act 85, Imd. Eff. Jun. 24.

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168.426h Municipal court judges; 1966 general election, judges on separate judicial ballot, terms of office.

Sec. 426h. In any municipal court of record which has a separate traffic and ordinance division, the judges of which run separately on judicial ballot from the other judges of the court, the terms of office of such judges elected in 1966 only shall follow the same pattern, though under separate schedule to that set up in section 426g for the other judges of the municipal court of record.

HISTORY: Add. 1965, p. 120, Act 85, Imd. Eff. Jun. 24.

168.426i Municipal court judges; subsequent elections.

Sec. 426i. Subsequent elections for judges of the municipal court of record shall be held at the general election in November immediately prior to the expiration of the term of each judge.

HISTORY: Add. 1965, p. 120, Act 85, Imd. Eff. Jun. 24.

168.426j Municipal court judges; terms of office.

Sec. 426j. With the exception of the terms of the judges elected in 1966 to terms specified in categories C and B, the terms of office for judges of municipal courts of record shall be 6 years, commencing at noon on January 1 next following election and shall continue until successors shall have been elected and qualified.

HISTORY: Add. 1965, p. 120, Act 85, Imd. Eff. Jun. 24.

168.426k Municipal court of record judge; ballot, designation.

Sec. 426k. In any primary or regular election at which candidates are to be nominated or elected to the office of judge of the municipal court of record, any incumbent judge who is a candidate shall have printed upon the ballot under the name of such candidate the designation of that office.

HISTORY: Add. 1965, p. 120, Act 85, Imd. Eff. Jun. 24;—Am. 1970, p. 23, Act 10, Imd. Eff. Mar. 31.

168.426l Municipal court judges; certificate of determination by city board of assessors.

Sec. 426l. The city board of canvassers shall determine which candidates for judge of the municipal court of record received the highest number of votes and on that basis shall declare the candidates duly elected, specifying the terms to which each was elected. The board shall forthwith make and subscribe on its statements of returns a certificate of such determination and deliver it to the city clerk.

HISTORY: Add. 1965, p. 120, Act 85, Imd. Eff. Jun. 24.

168.426m Municipal court judges; certificate of election.

Sec. 426m. The city clerk shall file in his office and preserve the results of such election and cause to be delivered to the persons declared to be elected to the office of judge of the municipal court of record certificates of election certified by him.

HISTORY: Add. 1965, p. 120, Act 85, Imd. Eff. Jun. 24.

168.426n Municipal court judges; oath of office.

Sec. 426n. Every person elected to the office of judge of the municipal court of record, before entering upon the duties of such office, shall take and subscribe to the oath as provided in section 1 of article 11 of the state constitution and file same with the city clerk and a copy with the court administrator.

HISTORY: Add. 1965, p. 120, Act 85, Imd. Eff. Jun. 24.

CHAPTER XX.

JUDGE OF PROBATE

168.431 Judges of probate; eligibility.

Sec. 431. No person shall be eligible to the office of judge of probate who is not a qualified elector of the county in which election is sought, as provided in section 16 of

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article 6 of the state constitution, who is not licensed to practice law in this state except as provided in section 7 of the schedule and temporary provisions of the state constitution and who at the time of election is 70 years of age or older.

HISTORY: New 1954, p. 193, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 81, Act 58, Imd. Eff. Dec. 27.

168.432 Candidates for probate judge; nomination at general nonpartisan primary election; omission.

Sec. 432. A general nonpartisan primary election shall be held in every county of this state on the Tuesday succeeding the first Monday in August preceding every general November election at which judges of probate are to be elected, at which time the qualified and registered electors may vote for nonpartisan candidates for the office of judge of probate. If upon the expiration of the time for filing petitions or incumbency affidavits of candidacy for the primary election of said probate judges in any county it shall appear that there are not to exceed twice the number of candidates as there are persons to be elected, then the county clerk shall certify to the county board of election commissioners the name of such candidate for probate judge whose petitions have been properly filed and such candidate shall be the nominee for the judge of probate and shall be so certified. As to such office, there shall be no primary election and this office shall be omitted from the judicial primary ballot.

HISTORY: New 1954, p. 193, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 81, Act 58, Imd. Eff. Dec. 27.

168.433 Candidates for probate judge; nominating petitions, signatures required, filing.

Sec. 433. To obtain the printing of the name of any person as a candidate for nomination for the office of judge of probate upon the official nonpartisan primary ballots, there shall be filed with the county clerk of each county nominating petitions containing the signatures, addresses and dates of signing of a number of qualified and registered electors residing in said county, equal to not less than 1% nor more than 4% of the total number of votes cast in that county for secretary of state at the last preceding general November election in which a secretary of state was elected or by the filing of an affidavit according to section 433a. In counties which now have or may have 1,000,000 inhabitants or more the petitions shall contain not less than 5,000 and not more than 20,000 such signatures. The county clerk shall receive such nominating petitions up to 4 p.m., E.S.T., of the seventh Tuesday preceding the August primary. All the provisions of section 544 of the act shall be applicable except that the form of the petition shall contain no reference to a political party.

HISTORY: New 1954, p. 193, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 613, Act. 271, Imd. Eff. Jun. 30;—Am. 1957, p. 426, Act 293, Eff. Sept. 27.—Am. 1963, 2nd Ex. Ses., p. 81, Act 58, Imd. Eff. Dec. 27.

168.433a Probate judge; affidavit of candidacy.

Sec. 433a. Any incumbent probate court judge may become a candidate in the primary election for the office of which he is an incumbent by filing with the county clerk, or in case of a probate district with the secretary of state, an affidavit of candidacy not less than 120 days prior to the date of the primary election.

The affidavit of candidacy shall contain statements that the affiant is an incumbent probate court judge of the county or district of which election is sought, that he is domiciled within the county or district, that he will not attain the age of 70 years by the date of election and a declaration that he is a candidate for election to the office of probate court judge.

HISTORY: Add. 1963, 2nd Ex. Ses., p. 81, Act 58, Imd. Eff. Dec. 27;—Am. 1970, p. 23, Act 10, Imd. Eff. Mar. 31.

168.434 Candidates for nomination; withdrawal, notice.

Sec. 434. After the filing of a nominating petition or affidavit by or in behalf of a proposed candidate for the office of judge of probate, such candidate shall not be permitted to withdraw unless a written notice of withdrawal is served on the county clerk

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or his duly authorized agent not later than 3 days after the last day for filing such petition.

HISTORY: New 1954, p. 193, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 82, Act 58, Imd. Eff. Dec. 27.

168.435 Candidates for probate judge; nominees, certification.

Sec. 435. The candidates for the office of judge of probate receiving the largest number of votes at any primary election, to a number equal to twice the number of places to be filled as set forth in the report of the board of county canvassers based on the returns from the various election precincts or as determined by said board as the result of a recount, shall be declared the nominees for said office at the next ensuing November election. The board of county canvassers shall certify such nominations to the county election commission.

HISTORY: New 1954, p. 193, Act 116, Eff. Jun. 1, 1955.

168.436 Probate judges; election.

Sec. 436. A judge or judges of probate shall be elected in each county at the general November election in which such judges are to be elected as provided by law. In counties having more than 1,000,000 inhabitants, there shall be 6 judges of probate.

HISTORY: New 1954, p. 193, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 82, Act 58, Imd. Eff. Dec. 27.

168.436a Probate judges; election in single-judge counties, term.

Sec. 436a. In single-judge counties 1 judge of probate shall be elected in the 1964 general election and each sixth year thereafter.

HISTORY: Add. 1963, 2nd Ex. Ses., p. 82, Act 58, Imd. Eff. Dec. 27.

168.436b Probate judges; election in two-judge counties, terms, nominating petitions.

Sec. 436b. In counties having 2 judges of probate whose terms expire at the same time, 1 judge shall be elected for a term of 6 years and 1 judge shall be elected for a term of 8 years in the general election in 1964.

A candidate may file nominating petitions or an affidavit of candidacy for only 1 such office, and such office shall be designated on the nominating petitions or affidavit of candidacy, and on the ballot.

HISTORY: Add. 1963, 2nd Ex. Ses., p. 82, Act 58, Imd. Eff. Dec. 27.

168.436c Probate judges; election in multi-judge counties with staggered terms.

Sec. 436c. In multi-judge counties where terms of probate judges are already staggered, probate judges shall be elected for 6-year terms at the November election immediately preceding the expiration of the present terms.

HISTORY: Add. 1963, 2nd Ex. Ses., p. 82, Act 58, Imd. Eff. Dec. 27.

168.436d Probate judges; time of election.

Sec. 436d. Elections for judges of probate shall be held in November immediately prior to the expiration of the terms of office of probate judges.

HISTORY: Add. 1963, 2nd Ex. Ses., p. 82, Act 58, Imd. Eff. Dec. 27.

168.437 Probate judges; certificate of election by board of county canvassers.

Sec. 437. The board of county canvassers shall determine which candidate or candidates for the office of judge of probate received the greatest number of votes and shall declare such candidate or candidates duly elected. The said board shall forthwith make and subscribe on its statement of returns a certificate of such determination and deliver the same to the county clerk.

HISTORY: New 1954, p. 193, Act 116, Eff. Jun. 1, 1955.

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168.438 Probate judges; certificate of election.

Sec. 438. The county clerk shall file in his office and preserve the original statement and determination of the board of county canvassers of the results of the election and shall forthwith execute and cause to be delivered to the person or persons thereby declared to be elected to the office of probate judge a certificate of election, certified by him and under the seal of the county.

HISTORY: New 1954, p. 194, Act 116, Eff. Jun. 1, 1955.

168.439 Probate judges; term of office.

Sec. 439. With the exception of certain judges elected in 1964, the term of office for judge of probate shall be 6 years commencing at 12 noon January 1 next following his election, and shall continue until a successor shall have been elected and qualified.

HISTORY: New 1954, p. 194, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 82, Act 58, Imd. Eff. Dec. 27.

168.440 Probate judges; oath of office.

Sec. 440. Every person elected to the office of judge of probate, before entering upon the duties of his office, shall take and subscribe to the oath as provided in section 1 of article 11 of the state constitution, and file the same with the county clerk.

HISTORY: New 1954, p. 194, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 82, Act 58, Imd. Eff. Dec. 27.

168.441 Probate judges; resignation, notice.

Sec. 441. Any person duly elected to the office of judge of probate who desires to resign shall file a written notice containing the effective date of such resignation with the court administrator and a copy with the governor and secretary of state.

HISTORY: New 1954, p. 194, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 82, Act 58, Imd. Eff. Dec. 27.

168.442 Probate judges; vacancy, creation.

Sec. 442. The office of probate judge shall become vacant upon the happening of any of the following events before the expiration of the term of office: The death of the incumbent; his resignation; his removal from office; his ceasing to be an inhabitant of the county for which he shall have been elected or appointed, or within which the duties of his office are required to be discharged; his conviction of any infamous crime, or of any offense involving a violation of his oath of office; the decision of a competent tribunal declaring his election or appointment void; or his neglect or refusal to take and subscribe to the constitutional oath of office and deposit the same in the manner and within the time prescribed by law.

HISTORY: New 1954, p. 194, Act 116, Eff. Jun. 1, 1955.

168.443 Probate judges; impeachment; removal from office, service of charges, hearing; notice of vacancy.

Sec. 443. Any person holding the office of judge of probate may be removed from office upon conviction in impeachment proceedings for the reasons and in the manner set forth in section 7 of article 11 of the state constitution, or the governor shall remove any judge of probate upon a concurrent resolution of 2/3 of the members elected to and serving in each house of the state legislature, and the cause for such removal shall be stated at length in such resolution, as provided in the constitution of this state. Such person shall be served with a written notice of the charges against him and be afforded an opportunity for a hearing thereon. When a vacancy shall occur in any of the said offices, a notice of such vacancy and the reason why the same exists shall, within 10 days after such vacancy occurs, be given in writing by the secretary of state to the court administrator with a copy to the governor.

HISTORY: New 1954, p. 194, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 82, Act 58, Imd. Eff. Dec. 27.

168.444 Probate judge; vacancy, appointment, election.

Sec. 444. Whenever a vacancy shall occur in the office of judge of probate, the governor shall appoint a successor to fill the vacancy. The person appointed by the gover-

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nor shall be considered an incumbent for purposes of this act and shall hold office until 12 noon of January 1 following the next general election at which a successor is elected and qualified. At the next general primary election held at least 70 days after such vacancy shall occur, candidates shall be nominated to fill the vacancy in the manner provided in this chapter for the nomination of candidates for judge of probate. The vacancies shall be filled at the general election next following the primary in the manner provided in this chapter for the election of judges of probate. The person elected shall hold such office for the remainder of the unexpired term.

HISTORY: New 1954, p. 194, Act 116, Eff. Jun. 1, 1955;—Am. 1957, p. 297, Act 236, Eff. Sept. 27;—Am. 1963, 2nd Ex. Ses., p. 83, Act 58, Imd. Eff. Dec. 27;—Am. 1970, p. 23, Act 10, Imd. Eff. Mar. 31.

168.445 Probate judges; primary or election, recount of votes.

Sec. 445. The votes cast for any candidate for judge of probate at any primary or election shall be subject to recount as provided in chapter 33 of this act.

HISTORY: New 1954, p. 195, Act 116, Eff. Jun. 1, 1955.

168.446 Probate judges; not subject to recall.

Sec. 446. Judicial officers are not subject to recall as provided in section 8 of article 2 of the state constitution.

HISTORY: New 1954, p. 195, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 83, Act 58, Imd. Eff. Dec. 27.

CHAPTER XXI.

CIRCUIT COURT COMMISSIONER

168.451-168.458 Repealed. 1967, p. 55, Act 35, Eff. Nov. 2.

Sections related to circuit court commissioner, eligibility, election, nomination, certification, number and term.

168.459 Repealed. 1960, p. 59, Act 69, Eff. Aug. 17;—1967, p. 55, Act 35, Eff. Nov. 2.

Section established circuit court commissioner term of office.

168.460-168.466 Repealed. 1967, p. 55, Act 35, Eff. Nov. 2.

Sections related to circuit court commissioner; oath, resignation, causes for vacancy, impeachment, recount and recall.

CHAPTER XXIA

JUDGES OF THE DISTRICT COURT

168.467 Judge of district court; eligibility.

Sec. 467. Any person shall be eligible for the office of judge of the district court who is a qualified elector of the judicial district and election division in which election is sought, who is licensed to practice law in this state, and who at the time of election or appointment has not attained the age of 70.

HISTORY: Add. 1968, p. 239, Act 155, Imd. Eff. Jun. 17.

CITED IN OTHER SECTIONS: Sections 168.467 to 168.467m are cited in § 600.9930.

168.467a Candidates for district court judge; nomination at general nonpartisan primary election; certification of candidates.

Sec. 467a. A general nonpartisan primary election shall be held in every district and election division of this state on the Tuesday succeeding the first Monday in August prior to the general election at which judges of the district court are elected, at which time the qualified and registered electors may vote for nonpartisan candidates for judge of the district court. If upon the expiration of the time for filing petitions of candidacy for the primary election of the judge of the district court in any district or election division, it appears that there are not to exceed twice the number of candidates as there are persons to be elected, the secretary of state shall certify to the county board of election commissioners the name of such candidates for district court judge whose petitions or affidavits of candidacy have been properly filed and such candidates shall be the nominees for the judge of the district court and shall be so certified. As to such

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office, there shall be no primary election and this office shall be omitted from the judicial primary ballot.

HISTORY: Add. 1968, p. 240, Act 155, Imd. Eff. Jun. 17.

168.467b Candidates for nomination; nominating petitions, signatures required, filing; filing fee.

Sec. 467b. To obtain the printing of the name of any person as a candidate for nomination for the office of judge of the district court upon the official nonpartisan primary ballots, there shall be filed with the secretary of state nominating petitions containing the signatures, addresses and dates of signing of a number of qualified and registered electors residing in the judicial district or division, equal to not less than 1/2% nor more than 2% of the total number of votes cast in that judicial district or division for secretary of state at the last preceding general November election in which a secretary of state was elected. Elected incumbent district court judges may also become candidates by the filing of an affidavit in lieu of petitions according to section 467c. The secretary of state shall receive such nominating petition up to 4 p.m. eastern standard time on the seventh Tuesday preceding the primary. All the provisions of section 544a shall be applicable. The provisions of this section shall apply to the primary election held in 1968 except that any candidate for the office of district court judge may qualify for the primary election held in 1968 by filing nominating petitions or a filing fee of $100.00 not later than 4 p.m. eastern standard time on July 2, 1968.

HISTORY: Add. 1968, p. 240, Act 155, Imd. Eff. Jun. 17.

168.467c District judge; affidavit of candidacy; ballot designation.

Sec. 467c. (1) Any incumbent district court judge may become a candidate in the primary election for the office of which he is an incumbent by filing with the secretary of state an affidavit of candidacy in lieu of nominating petitions not less than 120 days prior to the date of the primary election. The affidavit of candidacy shall contain statements that the affiant is an incumbent district court judge for the district or election division in which election is sought, that he is domiciled within the district or election division, that he will not attain the age of 70 by the date of election and a declaration that he is a candidate for election to the office of district court judge.

(2) There shall be printed upon the ballot under the name of each incumbent district judge who is a candidate for nomination or election to the same office the designation of that office.

HISTORY: Add. 1968, p. 240, Act 155, Imd. Eff. Jun. 17;—Am. 1970, p. 24, Act 10, Imd. Eff. Mar. 31.

168.467d Candidates for nomination; withdrawal, notice.

Sec. 467d. After the filing of an affidavit of candidacy by or after the filing of a nominating petition by or on behalf of a proposed candidate for the office of judge of the district court, the candidate shall not be permitted to withdraw unless a written notice of withdrawal is served on the secretary of state or his duly authorized agent not later than 4 p.m. on the third day after the last day for filing petitions, unless the third day falls on a Saturday, Sunday or legal holiday, in which case the notice of withdrawal may be served up to 4 p.m. eastern standard time, on the next secular day.

HISTORY: Add. 1968, p. 240, Act 155, Imd. Eff. Jun. 17.

168.467e Candidates for district court judge; nominees, certification.

Sec. 467e. The candidates for the office of judge of the district court receiving the largest number of votes at any primary election, to a number equal to twice the number of persons to be elected as set forth in the report of the board of state canvassers,

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based on the returns from the various county boards of canvassers and election precincts or as determined by the board as the result of a recount, shall be declared the nominees for the office at the next ensuing general November election. The board of state canvassers shall certify the nomination to the county election commissions.

HISTORY: Add. 1968, p. 241, Act 155, Imd. Eff. Jun. 17.

168.467f District court judges; election.

Sec. 467f. Judges of the district court shall be elected in each judicial district and election division thereof at the general election to fill all vacancies in office as of the following January 1.

HISTORY: Add. 1968, p. 241, Act 155, Imd. Eff. Jun. 17.

168.467g District court judges; certificate of determination by board of state canvassers.

Sec. 467g. The board of state canvassers shall determine which candidate or candidates for the office of judge of the district court received the greatest number of votes and shall declare such candidate or candidates duly elected. The board shall forthwith make and subscribe on its statement of returns a certificate of such determination and deliver it to the secretary of state.

HISTORY: Add. 1968, p. 241, Act 155, Imd. Eff. Jun. 17.

168.467h District court judges; certificate of election.

Sec. 467h. The secretary of state shall file in his office and preserve the original statement and determination of the board of state canvassers of the result of the election and shall forthwith execute and deliver to the persons thereby declared to be elected to the office of judge of the district court a certificate of election certified by him and under the great seal of the state.

HISTORY: Add. 1968, p. 241, Act 155, Imd. Eff. Jun. 17.

168.467i District court judges; term of office.

Sec. 467i. With the exception of the terms of certain judges elected in 1968, the term of office for judge of the district court shall be 6 years, commencing at 12 noon on January 1 next following his election and shall continue for 6 years thereafter.

HISTORY: Add. 1968, p. 241, Act 155, Imd. Eff. Jun. 17.

168.467j District court judges; oath of office.

Sec. 467j. Every person elected to the office of judge of the district court, before entering upon the duties of his office, shall take and subscribe to the oath as provided in section 1 of article 11 of the state constitution, and file the same with the secretary of state and a copy with each county clerk in his district.

HISTORY: Add. 1968, p. 241, Act 155, Imd. Eff. Jun. 17.

168.467k District court judges; resignation.

Sec. 467k. Any person duly elected to the office of judge of the district court who desires to resign shall file a written notice containing the effective date of such resignation with the court administrator and a copy with the governor and secretary of state.

HISTORY: Add. 1968, p. 241, Act 155, Imd. Eff. Jun. 17.

168.467l District court judges; impeachment; removal from office, service of charges, hearing; notice of vacancy.

Sec. 467l. Any person holding the office of district judge may be removed from office upon conviction in impeachment proceedings for the reasons and in the manner set forth in section 7 of article 11 of the state constitution, or the governor shall remove any district judge upon a concurrent resolution of 2/3 of the members elected to and serving in each house of the legislature, and the cause for such removal shall be stated at length in such resolution, as provided in the state constitution. Such person

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shall be served with a written notice of the charges against him and be afforded an opportunity for a hearing thereon. When a vacancy occurs in any of the offices, a notice of such vacancy and the reason why the same exists shall, within 10 days after such vacancy occurs, be given in writing by the secretary of state with a copy to the governor and the supreme court.

HISTORY: Add. 1968, p. 241, Act 155, Imd. Eff. Jun. 17.

168.467m District court judge; vacancy, appointment, election.

Sec. 467m. Whenever a vacancy shall occur in the office of district judge, the governor shall appoint a successor to fill the vacancy. The person appointed by the governor shall be considered an incumbent for purposes of this act and shall hold office until 12 noon of January 1 following the next general election at which a successor is elected and qualified. Candidates shall be nominated at the next fall primary held at least 70 days after such vacancy occurs, to fill the vacancy in the manner provided in this chapter for the nomination of candidates for district court judge. The vacancy shall be filled at the general election next following the primary in the manner provided in this chapter for the election of district court judges.

HISTORY: Add. 1968, p. 242, Act 155, Imd. Eff. Jun. 17;—Am. 1970, p. 24, Act 10, Imd. Eff. Mar. 31.

CHAPTER XXII.

INITIATIVE AND REFERENDUM

168.471 Petitions proposing constitutional amendments; filing.

Sec. 471. Petitions of qualified and registered electors proposing an amendment to the constitution shall be filed with the secretary of state at least 120 days before the election at which such proposed amendment is to be voted upon.

HISTORY: New 1954, p. 197, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 18, Act 9, Imd. Eff. Dec. 27.

168.472 Initiative petitions; filing.

Sec. 472. Petitions to initiate legislation shall be filed with the secretary of state not less than 10 days before the beginning of a session of the legislature.

HISTORY: New 1954, p. 197, Act 116, Eff. Jun. 1, 1955.

168.473 Referendum petitions; filing.

Sec. 473. Referendum petitions shall be presented to and filed with the secretary of state within 90 days after the final adjournment of the legislature.

HISTORY: New 1954, p. 197, Act 116, Eff. Jun. 1, 1955.

168.474 Board of state canvassers; duties; statement of purpose of proposed constitutional amendment.

Sec. 474. Wherever the phrases "the state officer authorized by law" or "the person authorized by law", are used in section 9 of article 2 or section 2 of article 12 of the constitution of this state, such phrases shall mean and have reference to the board of state canvassers and such board shall exercise the duties prescribed in such constitutional provisions. The preparing of a statement of the purpose of any such proposed amendment or question to be designated on the ballots for submission to the electors in not more than 100 words, exclusive of the caption, which said statement shall consist of a true and impartial statement of the purpose of the amendment or question in such language as shall create no prejudice for or against such proposal shall be the duty of the director of elections with the approval of the board of state canvassers.

HISTORY: New 1954, p. 197, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 19, Act 9, Imd. Eff. Dec. 27.

168.475 Petitions; notice of filing to board of state canvassers, meeting.

Sec. 475. Upon the filing of any such petition, it shall be the duty of the secretary of state to immediately notify said board of the filing of any such petition and to call a

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meeting of said board on a day certain within 10 days from the filing of any such petition and notify the members thereof of the meeting called to consider said petitions.

HISTORY: New 1954, p. 197, Act 116, Eff. Jun. 1, 1955.

168.476 Petitions; canvass by board of state canvassers, hearing upon complaint, investigations, completion date.

Sec. 476. Upon receipt of said petitions, said board shall canvass the same to ascertain if such petitions have been signed by the requisite number of qualified and registered electors, and for the purpose of determining the validity thereof, may cause any doubtful signatures to be checked against the registration records by the clerk of any political subdivision in which said petitions were circulated for properly determining the authenticity of such signatures. It shall be the duty of the clerk of any political subdivision to cooperate fully with said board in any request made to said clerks by said board in determining the validity of doubtful signatures by rechecking the same against registration records, and said clerk shall make the requested rechecks in an expeditious and proper manner. Said board may hold hearings upon any complaints filed or for any purpose deemed necessary by said board to conduct investigations of said petitions, and to conduct said hearings said board shall have the power to issue subpoenas and to administer oaths. Said board may also adjourn from time to time awaiting receipt of returns from investigations that are being made or for other necessary purposes, but shall complete said canvass at least 2 months prior to the election at which such proposals are to be submitted.

HISTORY: New 1954, p. 198, Act 116, Eff. Jun. 1, 1955.

168.477 Petitions; official declaration of sufficiency or insufficiency by board of state canvassers; publication of statement of purpose, expense.

Sec. 477. An official declaration of the sufficiency or insufficiency of any such petition shall be made by the said board at least 2 months prior to the election at which such proposals are to be submitted. In case it shall be declared that such petition is sufficient, the secretary of state shall send copies of the statement of purpose of such proposal as approved by the board referred to in section 474 of this chapter to the several daily and weekly newspapers published in the state of Michigan, with the request that said papers give as wide publicity as possible to said proposed amendment or other question. Publication of any matter by any paper under the provisions of this section shall be without expense or cost to the state of Michigan.

HISTORY: New 1954, p. 198, Act 116, Eff. Jun. 1, 1955.

168.478 Petitions; notice of approval or rejection by board of state canvassers to persons filing.

Sec. 478. At the time of filing any such petition, the person or persons filing the same may request a notice of the approval or rejection of said petitions to be forwarded by said board to such person or persons or any other persons so designated at the time of the filing of such petitions. In any case where such a request is made at the time of filing of the petitions, it shall be the duty of the secretary of state, immediately upon the determination thereof, to transmit by registered or certified mail to said person or persons an official notice of the sufficiency or insufficiency of said petitions.

HISTORY: New 1954, p. 198, Act 116, Eff. Jun. 1, 1955;—Am. 1956, p. 363, Act 190, Imd. Eff. April 26.

168.479 Review of determination; mandamus, certiorari or other remedy.

Sec. 479. Any person or persons, feeling themselves aggrieved by any determination made by said board, may have such determination reviewed by mandamus, certiorari, or other appropriate remedy in the supreme court.

HISTORY: New 1954, p. 198, Act 116, Eff. Jun. 1, 1955.

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168.480 Proposed constitutional amendment or question; certification; copies to voting precincts, posting.

Sec. 480. Whenever a proposed constitutional amendment or other special question is to be submitted to the electors of the state for a popular vote, the secretary of state shall, not less than 49 days before the election, certify the same to the clerk of each county in the state, together with the form in which such amendment or other special questions shall be submitted. The secretary of state shall also furnish the several county clerks in the state 2 copies of the text of each amendment or question and 2 copies of each said statement for each voting precinct in their respective counties. The county clerk shall furnish the said copies of such statement to the several township and city clerks in his county at the time other supplies for the election are furnished; and each such township or city clerk shall, before the opening of the polls on election day, deliver the copies of such text and statement to which each voting precinct in his township or city is entitled to the board of election inspectors of said precinct, who shall post the same in conspicuous places in the room where such election is held.

HISTORY: New 1954, p. 198, Act 116, Eff. Jun. 1, 1955.

168.481 Proposed constitutional amendment or question; form.

Sec. 481. Whenever any proposed constitutional amendment or other question is to be submitted to the electors, the board of election commissioners of each county shall cause such proposed constitutional amendment or other special question to be printed in accordance with the form submitted by the secretary of state.

HISTORY: New 1954, p. 199, Act 116, Eff. Jun. 1, 1955.

168.482 Petitions; form, contents.

Sec. 482. The size of all petitions mentioned in this section shall be 8 ½ inches by 13 inches. If the measure to be submitted proposes a constitutional amendment, initiation of legislation, or referendum of legislation, the heading of each part of the petition shall be prepared in the following form and printed in capital letters in 14-point bold face type:

INITIATIVE PETITION
AMENDMENT TO THE CONSTITUTION
OR
INITIATION OF LEGISLATION
OR
REFERENDUM OF LEGISLATION
PROPOSED BY INITIATIVE PETITION

The full text of the amendment so proposed shall follow, printed in 8-point type. If the proposal would alter or abrogate any existing provision of the constitution, the petition should so state and the provisions to be altered or abrogated shall be inserted, preceded by the words:

"Provisions of existing constitution altered or abrogated by such proposal if adopted."

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Immediately above the place for signatures, on each part of the petition shall be printed in 12-point type the following warning:

WARNING

Whoever knowingly signs this petition more than once, signs a name other than his own, signs when not a qualified and registered elector, or sets opposite his signature on a petition, a date other than the actual date such signature was affixed, is violating the provisions of this act. The remainder of the petition form shall be as provided following the warning in section 544c.

HISTORY: New 1954, p. 199, Act 116, Eff. Jun. 1, 1955;—Am. 1965, p. 594, Act 312, Eff. Jan. 1, 1966.

168.483, 168.484 Repealed. 1965, p. 597, Act 312, Eff. Jan. 1, 1966.

Sections required circulator of petition to affix address below his signature, prohibited circulation in more than one city or township and prescribed penalty for fictitious signing.

168.485 Questions submitted to electors; form.

Sec. 485. Any question submitted to the electors of this state or the electors of any subdivision of this state shall, to the extent that it will not confuse the electorate, be worded in the following manner: A "yes" vote will be a vote in favor of the subject matter of the proposal or issue, and a "no" vote will be a vote against the subject matter of the proposal or issue. Questions shall be worded so as to apprise the voters of the subject matter of the proposal or issue, but need not be legally precise. The language used shall create no prejudice for or against the issue or proposal.

HISTORY: Add. 1969, p. 301, Act 152, Eff. Mar. 20, 1970.

CHAPTER XXIII.

REGISTRATION OF ELECTORS

168.491 Registration of electors; requirement.

Sec. 491. The inspectors of election at any election or primary election in this state, or in any district, county, township, city or village thereof, shall not receive the vote of any person whose name is not registered in the registration book of the township, ward or precinct in which he offers to vote.

HISTORY: New 1954, p. 201, Act 116, Eff. Jun. 1, 1955.

168.492 Electors; qualifications.

Sec. 492. Every person who has the following qualifications of an elector, or who will have such qualifications at the next ensuing election or primary election, shall be entitled to be registered as an elector in the township, ward or precinct in which he or she resides: Such person must be a citizen of the United States; at least 21 years of age; a resident of the state of Michigan for at least 6 months; and be a resident of the city, township or village on or before the fifth Friday prior to the next ensuing regular or special election or primary election.

HISTORY: New 1954, p. 201, Act 116, Eff. Jun. 1, 1955;—Am. 1967, p. 249, Act 188, Eff. Jul. 1.

168.493 Registration of electors; registration cards, contents.

Sec. 493. The clerk of each township, city and village in this state shall provide blank forms printed on cards (hereinafter termed "registration cards"), to be used in the registration of electors. Such registration cards shall contain the following: (a) Affidavit to be executed by the registrant, (hereinafter termed "registration affidavit"); (b) spaces in which to note any change of address; (c) spaces in which to write or stamp the date of each election at which registrant shall vote; (d) the ward and precinct, if any, in which the registrant resides; (e) spaces in which to note the cancellation of the

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elector's registration, together with the cause and date thereof and the signature of the clerk cancelling such registration; and (f) blanks for any other information which shall facilitate registration and holding of elections.

HISTORY: New 1954, p. 201, Act 116, Eff. Jun. 1, 1955.

168.494 Registration cards; file; definitions.

Sec. 494. The term "registration cards", as used in this chapter, shall be construed as meaning either cards or loose leaf sheets, and either may be used in the discretion of the township, city or village clerk, as the case may be. The term "file", as used in this chapter, shall be construed as meaning either a file or loose leaf book.

HISTORY: New 1954, p. 201, Act 116, Eff. Jun. 1, 1955.

168.495 Registration of electors; registration affidavit, contents.

Sec. 495. The registration affidavit shall state the name, residence address, street and number, if any, and birthplace and birthdate of the elector. The affidavit shall also state that the person signing it is a citizen of the United States and is or will be, on a specified date between the date of registration and the date of the next regular or special election or primary election, at least 21 years of age; that he has or will have on the specified date lived in the state 6 months or more; that he has or will have established his residence in the township, city or village in which he is applying for registration on or before the fifth Friday preceding the next regular or special election or primary election and that he is or will be on the specified date a qualified elector of the township, city or village. The affidavit shall also contain a space in which an elector shall state the place of his last registration.

HISTORY: New 1954, p. 201, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 614, Act 271, Imd. Eff. June 30;—Am. 1966, p. 124, Act 102, Imd. Eff. Jun. 16;—Am. 1967, p. 249, Act 188, Eff. Jul. 1.

168.496 Registration of electors; duties of secretary of state.

Sec. 496. It shall be the duty of the secretary of state to make the proper forms for use in the registration of electors, in recommending the use of the same to the several clerks of the townships, cities and villages of this state, and in instructing the several township, city and village clerks in this state as to the requirements of this act.

HISTORY: New 1954, p. 201, Act 116, Eff. Jun. 1, 1955.

168.497 Application for registration; acceptance by township, city and village clerks; time and place; registration after closing.

Sec. 497. Any person not already registered who possesses the qualifications of an elector as set forth in section 492, may make application for registration to the clerk of the township, city or village in which he resides on any day other than Sunday, a legal holiday, the day of any regular, primary, school or special election. Any registrations taken on the days intervening between the fifth Friday preceding any such election and the day of such election, unless such fifth Friday shall fall on a legal holiday, in which event registration shall be accepted during the following day shall not be valid for such election but shall be valid for any subsequent regular, primary, school or special election held at a time so that at least 5 Fridays intervene between the date of registering and the date of the election. Except as provided in section 504, no application for registration shall be executed at any place other than the office of the township, city or village clerk or a public place or places designated by him for receiving registrations pursuant to the provisions of this act, but such clerk may in his discretion receive such application wherever he may be. In case any township, city or village clerk does not regularly keep his office open daily during certain hours, he shall not be required to be at his office for the purpose of receiving applications for registration on any particular day nor during any specific hours of any day, except as provided in section 498. Any registrations taken after the time of closing registrations prior to an election need not be processed until a date immediately following that election. No such

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registration shall be placed in a precinct registration file until a date immediately following that election. Any time a person registers at a time registrations are closed for an election, the person shall be given a notice, signed by the clerk, on a form established by the state director of elections, informing him that he is not eligible to vote in the election and indicating the first date on which he is eligible to vote. Any provisions of law to the contrary notwithstanding the provisions of this section relating to registration shall apply.

HISTORY: New 1954, p. 202, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 19, Act 10, Imd. Eff. Dec. 27;—Am. 1967, p. 249, Act 188, Eff. Jul. 1;—Am. 1968, p. 85, Act 46, Imd. Eff. May 24.

168.498 Application for registration; township, city and village clerks, office hours; notice, posting and publication.

Sec. 498. In every township, city and village the clerk thereof shall be at his office or in some other convenient place therein, which place shall be designated by the township, city or village clerk between the hours of 8 a.m. and 8 p.m. on the fifth Friday preceding any election or primary election in such township, city or village, unless such fifth Friday shall fall on a legal holiday, in which event registration shall be accepted during the same hours on the following day. In any township, city or village in which the clerk does not maintain regular daily office hours, the township board or the legislative body of such city or village may require that the clerk of such township, city or village shall be at his office or other designated place for the purpose of receiving applications for registration on such other days as it shall designate prior to the last day for registration, not exceeding 5 days in all. Before a fall primary or November general election the clerk shall be at his office or other designated place for the purpose of receiving registrations between the hours of 8 a.m. and 5 p.m. on the first Saturday preceding the close of registration which is not a legal holiday. The clerk of each township, city and village shall give public notice of the days and hours thereof that he will be at his office or other designated place for the purpose of receiving registrations prior to any election or primary election by publication thereof at least twice in a newspaper published or of general circulation in such township, city or village and, if deemed advisable by the township, city or village clerk, by posting written or printed notices in at least 2 of the most conspicuous places in each election precinct, said first publication or said posting to be made not less than 10 days prior to the last day for receiving registrations.

HISTORY: New 1954, p. 202, Act 116, Eff. Jun. 1, 1955;—Am. 1967, p. 250, Act 188, Eff. Jul. 1;—Am. 1969, p. 783, Act 345, Imd. Eff. Jan. 5, 1970.

168.499 Registration of electors; registration affidavit, execution, oath; interpreter; falsification, penalty; acceptance of registration; fees prohibited; voter identification card, issuance.

Sec. 499. Any elector entitled to registration in any election precinct may become registered therein by applying in person and executing in duplicate the registration affidavit and swearing to and signing the same before the clerk or assistant clerk of the township, city or village in which said precinct is located. Every clerk and assistant clerk of the several townships, cities and villages in this state shall have power and it shall be their duty to require any applicant for registration to answer under oath any question touching his qualification as an elector, and for the performance of their duties under this act shall have power to administer oaths and to swear persons as to the truth of statements contained in affidavits. They may also for the more perfect examination of the applicant employ and swear an interpreter to interpret all questions put to applicants and the answers thereto. If the applicant shall, in his answers to any questions or in his registration affidavit, make any material statement which is false, he shall upon conviction thereof be adjudged guilty of a misdemeanor. After said registration affidavit has been executed in duplicate by the applicant, then if he is entitled to

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registration the clerk or assistant clerk shall sign in his own hand and note on the card the acceptance of such registration. If such registration is refused, the clerk shall destroy the card of the applicant. Registration cards accepted prior to January 15, 1964, on which the signature of the clerk or assistant clerk is typewritten or stamped are valid as to such signatures. All cards validated by this section shall be designated as prescribed by the secretary of state. The clerk shall accept no fee from any applicant applying for registration, either for the registering of the elector or for the taking of the acknowledgment thereon. Any person accepting a fee, upon conviction shall be deemed guilty of a misdemeanor. The clerk shall, forthwith after receiving the registration of any elector, prepare a voter identification card for such voter. The clerk shall forward by first class mail the identification card to the elector at his registration address. If any such identification card is returned to the clerk by the post office, the clerk shall accept this as information that the elector has moved and he shall thereupon proceed in conformity with section 513 of this act.

HISTORY: New 1954, p. 202, Act 116, Eff. Jun. 1, 1955;—Am. 1957, p. 284, Act 224, Eff. Sep. 27;—Am. 1961, p. 247, Act 171, Eff. Sep. 8;—Am. 1964, p. 22, Act 18, Imd. Eff. Apr. 14.

168.500 Registration of electors; procedure for applicant unable to write.

Sec. 500. If the applicant for registration is unable to write, then he shall execute the registration affidavit by making his mark and there shall be noted upon the registration card the month, day and year of his birth and any other identifying information which shall be used in identifying said person at the time he makes application for voting as hereinafter more specifically provided.

HISTORY: New 1954, p. 203, Act 116, Eff. Jun. 1, 1955.

168.501 Registration cards; precinct and master files.

Sec. 501. The original registration cards shall be filed by precincts arranged either alphabetically or according to the numerical order of the houses located on each street, said file to be hereinafter termed the "precinct file". The duplicate registration cards shall be filed alphabetically without regard to wards or precincts, said file to be hereinafter termed the "master file": Provided, That in townships, cities and villages having not more than 1 voting precinct the duplicate "master" registrations may be dispensed with.

HISTORY: New 1954, p. 203, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 614, Act 271, Imd. Eff. Jun. 30.

168.502 Registration cards; township, city or village clerk; custody of files.

Sec. 502. The master file and the precinct files shall at all times remain in the custody of the township, city or village clerk, as the case may be, except that the precinct files shall be delivered on election day to the inspectors of election in the several precincts who shall have custody of the same during any election or primary election and who shall return such files to the clerk immediately thereafter.

HISTORY: New 1954, p. 203, Act 116, Eff. Jun. 1, 1955.

168.503 Registration records; loss or destruction of registration card, execution of new registration affidavit; loss or destruction of files, re-registration of electors; noncompliance, correction or re-registration, expense.

Sec. 503. If either the original or duplicate registration card, or both, of any elector shall be lost, destroyed or mutilated, the clerk of the township, city or village shall require the execution of a new registration affidavit by such elector. If any such elector shall refuse or neglect to execute such affidavit within 60 days after the mailing of a letter to such elector at the last address from which he has registered, then the registration of such elector may be cancelled. If either the original or duplicate registration cards, or both, of any township, city, village, or any ward or precinct thereof, shall be lost or destroyed, the township board or the legislative body of the city or village shall

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require a re-registration of the electors in such township, city, village, ward or precinct. If upon an examination of the registration records of any city, township or village, the secretary of state determines that the registration records fail to comply with the requirements of this act, the secretary of state may order the clerk of the city, township or village to make the corrections in the records necessary to comply with the provisions of this act or, if he finds that it is impractical to correct the registration records, he may apply to the circuit court of the circuit in which the city, township or village is located for an order for re-registration of the qualified electors in the city, township or village. Upon a proper showing of need, the court shall issue the order. In case the secretary of state directs the corrections to be made or the circuit court orders a re-registration to be taken, the secretary of state shall prescribe in all particulars the time and manner in which the corrections shall be made or the re-registration shall be taken and the disposition of the old registration records. The cost of the corrections or re-registration shall be borne by the city, township or village involved.

HISTORY: New 1954, p. 203, Act 116, Eff. Jun. 1, 1955;—Am. 1957, p. 283, Act 223, Imd. Eff. Jun. 6.

168.504 Registration of electors; procedure for applicant unable to make personal application.

Sec. 504. Any elector who is unable to make personal application for registration because of physical disability or absence from the township, city or village in which his legal residence is located may be registered prior to the close of registration before any election or primary election by securing from the clerk of the township, city or village in which is located his legal residence duplicate registration cards, and executing in duplicate the registration affidavit before a notary public or other officer legally authorized to administer oaths, and returning such registration cards to the clerk of the township, city or village before the close of office hours on the last day of registration prior to any election or primary election. The notary public or other officer administering the oath shall sign his name on the line for the signature of the registration officer and designate his title.

HISTORY: New 1954, p. 203, Act 116, Eff. Jun. 1, 1955.

168.505 Cancellation of previous registration; form, mailing.

Sec. 505. At the time any elector is applying for registration, the registration officer shall ascertain if such elector is already registered in another township, city or village within the state. If the elector is previously registered, the clerk shall cause such elector to sign an authorization to cancel the previous registration on a form substantially as follows:

"I hereby authorize the cancellation of my previous registration in the city of ..... or township of ..... or village of ....., ... county, Michigan, my last registration address therein being ..... .

Signature .....

Present address ..... ."

The clerk shall cause all such authorizations to be mailed to the proper registration officer not later than 5 days after the close of registration. Upon receipt of such notice the clerk shall forthwith cancel the previous registration.

HISTORY: New 1954, p. 203, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 614, Act 271, Imd. Eff. Jun. 30;—Am. 1967, p. 70, Act 52, Eff. Nov. 2.

168.506 Change of residence within township, city or village; transfer of registration by clerk.

Sec. 506. Any registered elector may, upon change of residence within the township, city or village, cause his registration to be transferred to his new address by sending to the clerk a signed request stating his present address, the date he moved thereto and the address from which he was last registered, or by applying in person for a trans-

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fer. The clerk shall strike through the last address, ward and precinct number and record the new address, ward and precinct number on the original and duplicate registration cards, and shall place the original registration card in the proper precinct file. Such transfers shall not be made after the fifth Friday next preceding any regular or special election or primary election, unless such fifth Friday shall fall on a legal holiday, in which event registration transfers shall be accepted during the following day.

HISTORY: New 1954, p. 204, Act 116, Eff. Jun. 1, 1955;—Am. 1967, p. 250, Act 188, Eff. Jul. 1.

168.507 Change of residence within township, city or village; transfer of registration by precinct election board.

Sec. 507. Any registered elector who has removed from 1 election precinct of a township, city or village to another election precinct of the same township, city or village and has not recorded such removal with the local clerk shall execute a transfer of registration request, listing the new residence address thereon over his signature, with the election board in the precinct in which he is registered at the next ensuing primary or election.

The inspector of election in charge of the registration records shall compare the signature thereon with the signature upon the applicant's registration record and, if the signatures correspond, then the inspector shall certify such fact by affixing his initials upon said request. The applicant for transfer, after having signed an application to vote as provided in section 523 of this act, shall then be permitted to vote in such precinct for that primary or election only. The application for transfer shall be filed with the township, city or village clerk who shall transfer such elector's registration in accordance with the application. When the name of any street or resident house number in any township, city or village has been changed, it shall be the duty of the township, city or village clerk to make the change to show the proper name of the street or resident house number in the registration records, and it shall not be necessary for the elector to change his registration with respect thereto in order to be eligible to vote.

HISTORY: New 1954, p. 204, Act 116, Eff. Jun. 1, 1955;—Am. 1963, p. 399, Act 235, Eff. Sep. 6.

168.507a Removal to another city or township after fifth Friday prior to primary or election; voting; affidavit, contents; cancellation of registration.

Sec. 507a. Any registered and qualified elector of this state who has moved from the city or township in which registered to another city or township within the state after the fifth Friday prior to any election or primary election, shall be permitted to vote in such election or primary election at the place of last registration upon the signing of a form containing an affidavit stating that he has so removed. Such form shall be approved by the state director of elections and shall state that the voter has so removed and shall authorize the clerk of the city or township to cancel such voter's registration. Any voter coming under the provision of this section shall be permitted to vote either in person or by absentee ballot.

HISTORY: Add. 1956, p. 44, Act 37, Imd. Eff. Mar. 28;—Am. 1967, p. 250, Act 188, Eff. Jul. 1.

168.508 Transfer of registration; notice to elector.

Sec. 508. The clerk shall transfer the registration of any elector upon the receipt of reliable information that such elector has changed his residence, but in such cases he shall mail to the elector a form notice of the transfer as a means of avoiding errors and informing the elector that he is duly registered from the new address.

HISTORY: New 1954, p. 204, Act 116, Eff. Jun. 1, 1955.

168.509 Registration records; annual review; notice of suspension of registration, form, contents; cancellation, reinstatement.

Sec. 509. During the month of December in each year, the clerk shall examine the registration records and shall suspend the registration for all electors who have not voted, continued their registration, reinstated their registration, or recorded a change

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of address on their registration within a period of 2 years. Each such elector shall be sent a notice through the mails substantially as follows:

NOTICE OF SUSPENSION OF REGISTRATION

You are hereby notified that your registration as a qualified elector will be canceled according to state law, for having failed to vote, to continue or reinstate your registration or to record a change of address within the past 2 years unless you apply for a continuation within 30 days from this date. You may continue your registration by signing the statement below and returning it to this office or by applying in person.

APPLICATION FOR CONTINUATION OF REGISTRATION

I hereby certify that I reside at the address given below and apply for continuation of my registration as a voter. My mother's maiden name was ..... .
..... .

Signature of elector .....

Present residence address .....

After the expiration of 30 days, the clerk shall cancel the registrations of all electors thus notified who have not applied for continuations. A proper entry shall be made on the registration card of each elector whose registration is canceled. Any elector whose registration has been canceled may have his registration reinstated under the same qualifications required at the time of the initial registration, in which case the clerk shall note the reinstatement date on the applicant's former registration card, affix his signature thereto and replace both the precinct and master cards in the active files, or a new set of cards may be executed in connection with such reinstatement. A reinstated registration shall be valid for the same period as a new registration.

HISTORY: New 1954, p. 204, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 614, Act 271, Imd. Eff. Jun. 30;—Am. 1957, p. 119, Act 98, Eff. Sept. 27;—Am. 1963, p. 97, Act 85, Eff. Sep. 6.

168.509a Members of armed forces on active duty; non-cancellation of registration.

Sec. 509a. Notwithstanding the provisions of section 509, the clerk shall not cancel the registration of any member of the armed forces on active duty during his term of active duty and for 90 days after his discharge or release from active duty, if the member of the armed forces, his parent, guardian or spouse so notifies the clerk in writing.

HISTORY: Add. 1966, p. 141, Act 121, Imd. Eff. Jun. 23.

168.510 Deceased electors; cancellation of registration.

Sec. 510. At least once a month, the county clerk shall forward a list of the last known address and birthdate of all persons over 21 years of age who have died within the county to the clerk of each city or township within the county. The city or township clerk shall compare this list with the registration records and cancel the registration of all deceased electors.

HISTORY: New 1954, p. 205, Act 116, Eff. Jun. 1, 1955;—Am. 1963, p. 347, Act 224, Eff. Sep. 6.

168.511 Cancellation of registration; authorization from elector.

Sec. 511. Upon the receipt of an authorization of cancellation of registration from the elector, the clerk shall cancel said registration.

HISTORY: New 1954, p. 205, Act 116, Eff. Jun. 1, 1955.

168.512 Challenge of elector; affidavit, contents; answering affidavit; cancellation of registration; indiscriminate challenge, penalty.

Sec. 512. Any elector of the municipality may challenge the registration of any registered elector by submitting to the clerk of that municipality a written affidavit that such elector is not qualified to vote, which affidavit shall specify the grounds upon which the challenged elector is disqualified. Upon receipt of such affidavit, the clerk

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shall forthwith send by registered or certified mail to the challenged elector at his registered or last known address a notification of the challenge, which shall include the grounds for such challenge as stated in the affidavit. The challenged elector may within 30 days appear before the clerk and answer the questions and take the oath required of persons challenged on the same grounds at election, or in lieu of appearing in person the challenged elector, within a like period of time, may elect to file with the clerk an affidavit setting forth specifically his qualifications as an elector of the municipality and answering the grounds of the challenge. If within the 30-day period the person challenged shall fail to appear and be sworn or to file an affidavit, or if his statements do not show him to be a qualified elector of the municipality, the clerk shall forthwith cancel his registration. The 30-day period referred to in this section shall be the 30 days immediately following the date of mailing the notice to the challenged elector.

Any person who shall challenge under the provisions of this section, indiscriminately and without good cause or for the purpose of harassment, shall be guilty of a misdemeanor.

HISTORY: New 1954, p. 205, Act 116, Eff. Jun. 1, 1955;—Am. 1959, p. 51, Act 48, Eff. Mar. 19.

168.513 Removal from municipality; notice to elector, cancellation of registration.

Sec. 513. Upon receipt of reliable information that a registered elector has moved away from the municipality, the clerk shall notify such elector through the mail at his registered address, stating the source of the information, and if the elector does not apply for continuation of registration within 30 days, his registration shall be cancelled.

HISTORY: New 1954, p. 205, Act 116, Eff. Jun. 1, 1955.

168.514 Cancellation of registration; cancelled registration cards, entries, filing, destruction.

Sec. 514. When the registration of any elector is cancelled, the clerk shall cause to be made a proper entry on the original and duplicate registration cards, indicating the date and the cause for cancellation, and shall affix his signature thereto. All copies of the cancelled registration cards shall be filed in the office of the clerk. All duplicates of the original registration cards so cancelled may be destroyed 2 years after the registrations were cancelled. The clerk may also destroy the original registration cards of any elector 10 years after the date of cancellation of the elector's registration, if the registration has not been reinstated within that period. The clerk may also destroy any cancelled original registration cards 2 years after the date of cancellation if the cancelled registration cards have been reproduced on film and the film is on file in the office of the clerk. The film may be destroyed after the statutory retention date of all records recorded thereon has expired. The destruction of all such registration records shall be by burning.

HISTORY: New 1954, p. 206, Act 116, Eff. Jun. 1, 1955;—Am. 1957, p. 226, Act 183, Eff. Sep. 27.

168.515 Registration records; verification by house-to-house canvass.

Sec. 515. The several township, city and village clerks may conduct a house-to-house canvass or use such other means of checking the correctness of registration records as may seem expedient.

HISTORY: New 1954, p. 206, Act 116, Eff. Jun. 1, 1955.

168.516 Registration records; public inspection.

Sec. 516. The registration record shall be open for public inspection under rules and regulations prescribed by the clerk.

HISTORY: New 1954, p. 206, Act 116, Eff. Jun. 1, 1955.

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168.517 Division of ward or precinct; transfer of registration cards, notations, notice to electors.

Sec. 517. Whenever any ward or precinct of any township, city or village shall be divided or changed pursuant to law, then the clerk of such township, city or village shall transfer the precinct cards accordingly and shall make the proper notations upon the cards in both the master and precinct files and notify the registrant of such change.

HISTORY: New 1954, p. 206, Act 116, Eff. Jun. 1, 1955.

168.518 Organization of new township; first registration of electors, records, notice; incorporation of new city, registration records.

Sec. 518. Whenever a new township shall be organized, the persons designated to act as inspectors for the first election to be held therein shall constitute a board of registration for the purpose of making the first registration of qualified electors therein. Said board shall be authorized to procure the necessary books or files and forms to conduct such registration in accordance with the provisions of this act. Subsequent to the election, the records shall be delivered to the persons elected to the office of clerk of the township. At least 10 days' public notice shall be given of the time and place for holding the registration. Such notice shall be given by posting written or printed notices in at least 5 of the most conspicuous places in said township, city or village, or by publication in a newspaper of general circulation therein. Whenever a new city is incorporated from the territory of a township, the registration records of the portion of the township incorporated as a city shall constitute the registration records of the newly incorporated city. Township registration records shall be available and used in connection with the election on the adoption of the charter of any new city or village and for the first election of such city's or village's officers.

Annexation to city; transfer of township registration records.

Whenever any territory of a township is annexed to a city, the clerk of the township from which the territory was detached shall, not less than 5 days prior to the effective date of the annexation, forward to the clerk of the city to which the territory was annexed all of the current registration records of the registered electors residing in the annexed territory. Such records shall thereafter be a part of the registration records of such city and the electors whose registration records were so transferred shall be registered electors of such city.

Statement by township clerk.

All such transfers of registration shall be accompanied by a statement signed by the township clerk certifying that all of the current registrations of persons residing within the annexed or incorporated area according to his records are included therein.

HISTORY: New 1954, p. 206, Act 116, Eff. Jun. 1, 1955;—Am. 1956, p. 231, Act 123, Imd. Eff. Apr. 13;—Am. 1959, p. 222, Act 160, Eff. Mar. 19, 1960.

168.519 Illegal or fraudulent registration; penalty.

Sec. 519. No township, city or village clerk or assistant clerk shall register any person whom such clerk shall know or have good reason to believe not to be a resident and so qualified, nor shall any person knowingly or having good reason to believe himself not to be such a resident and so qualified, cause himself to be registered as an elector. Every person so offending, or who shall aid or abet another in so offending, shall upon conviction be adjudged guilty of a misdemeanor.

HISTORY: New 1954, p. 206, Act 116, Eff. Jun. 1, 1955.

168.520 Illegal or fraudulent registration; township, city or village clerk, powers and duties; assistance by police or sheriff; assistant examiners, appointment, expenses.

Sec. 520. Whenever it shall come to the knowledge of any township, city or village clerk that there is probable illegal or fraudulent registration in his township, city or vil-

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lage, or in any ward or precinct thereof, he shall have power and it shall be his duty to make full investigation of the facts concerning such registration and to ascertain whether any names have been illegally or fraudulently registered. To this end, such clerk is hereby authorized and empowered to call upon the police department of the city or the sheriff of his county, or both, to assist in making such investigation, and said police department and said sheriff are hereby required to render such assistance whenever such clerk shall make request therefor, and to furnish such clerk at his request with all available men to assist in making such investigation. Any such clerk is hereby further authorized and empowered whenever he deems it necessary or advisable to appoint assistant examiners for the purpose of such investigation. Bills for the services of such examiner shall be approved by such clerk and shall be audited and paid by the township board or legislative body of the city or village, as the case may be, in the same manner as the expenses of conducting elections are paid.

HISTORY: New 1954, p. 206, Act 116, Eff. Jun. 1, 1955.

168.521 Illegal or fraudulent registration; removal of names, notice; reinstatement; review by mandamus; challenge.

Sec. 521. Whenever any township, city or village clerk shall determine that any name has been illegally or fraudulently entered upon the registration records of any precinct in his township, city or village, he shall remove such name from the registration records and shall notify the person whose name is removed of such removal by registered or certified mail directed to him at the address given on the registration records, and any person representing himself to be the person whose name is so removed shall not be permitted to vote unless he shall show to such clerk that his name was wrongfully removed from the registration records, in which case his name shall be reinstated: Provided, however, That any person aggrieved by such action of any such clerk may review such action and seek the reinstatement of his name by mandamus and the proceedings and judgment of the court in such case shall be subject to review in the supreme court, or if such clerk has good reason to believe that any name has been illegally or fraudulently entered upon said registration records and he shall not remove such name as herein provided, he shall write the word "challenged" upon the registration card of such person and shall lay before the prosecuting attorney of the county all the facts touching such registration. If any person whose registration card has been so marked shall offer to vote at any election, the inspectors of election shall at such time examine him under oath as to his qualifications as an elector in such ward or precinct, the same in all respects and with like effect as though he had been challenged at the election by a challenger thereof.

HISTORY: New 1954, p. 207, Act 116, Eff. Jun. 1, 1955;—Am. 1956, p. 363, Act 190, Imd. Eff. Apr. 26.

168.522 Lists of registered electors; preparation, certification by township, city or village clerk; cost.

Sec. 522. Any township, city or village clerk shall make, certify and deliver to any person a true copy of the names and addresses of the registered electors of any ward or precinct upon the payment to such clerk of the cost thereof.

HISTORY: New 1954, p. 207, Act 116, Eff. Jun. 1, 1955.

168.523 Application to vote; identification of elector; challenge, procedure; approval of application; records, notations.

Sec. 523. At every election, each registered elector offering to vote shall, before being given a ballot, identify himself by executing an application showing his signature and address of residence in the presence of an election official. The election official in charge of the precinct registration file shall compare the signature upon such application with the signature upon the registration card, and if the same do not correspond the vote of such person shall be challenged and the same procedure shall be followed

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as provided in the election law for the challenging of electors. If the person offering to vote has signed the registration card by making a mark, then such person shall identify himself by giving the date of his birth, which shall be compared with the birthdate stated upon the registration card, or he shall identify himself by such other means as may be referred to upon the registration card. If, upon a comparison of the signature or other identification, it is found that the applicant is entitled to vote, then the election officer having charge of the registration list shall approve the application and write his initials thereon, after which the number on the ballot or ballots issued shall be noted on the application. The application shall then be filed and carefully preserved. Such applications shall serve as 1 of the 2 poll lists required to be kept as a record of the persons who have voted and it shall be filed with the township, city or village clerk. There shall be noted by 1 of the election officials upon the precinct registration card of each elector voting at any election the date of such election.

Increase of ad valorem tax rate; issuance of bonds, expenditure of public money; certificate of property ownership.

When questions involving the increase of the ad valorem tax rate limitation for a period of more than 5 years or the issuance of bonds are submitted, the application for ballots shall also contain a certificate to be subscribed to by persons entitled to vote on such questions as provided in section 6 of article 2 of the state constitution. Said certificate shall state that, in addition to having the qualifications of an elector, the elector or the husband or wife of the elector has property assessed for taxes in the district or territory to be affected by the result of such election, and voting on such questions shall be restricted to persons so qualified. If a question relating to the expenditure of public money or the issuance of bonds is submitted at a primary or election at which candidates are to be voted for or other propositions submitted, each elector entitled to vote on such questions shall execute a certificate as hereinbefore provided which shall be separate and distinct from the certificate required in connection with the issuance of other ballots. Such certificate may either appear in a separate division of the regular application for ballots or may be printed on a separate application.

HISTORY: New 1954, p. 207, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 615, Act 271, Imd. Eff. Jun. 30;—Am. 1961, p. 56, Act 57, Eff. Sep. 8;—Am. 1963, 2nd Ex. Ses., p. 20, Act 10, Imd. Eff. Dec. 27;—Am. 1964, p. 440, Act 267, Eff. Aug. 28.

168.524 Number of eligible voters; reports by township, village and city clerks to county clerks after registration closing.

Sec. 524. Within 15 days after the close of registration prior to all primary and general elections, each township, village and city clerk shall report to his county clerk the total number of persons eligible to vote in the respective primary or general election.

HISTORY: Add. 1967, p. 234, Act 170, Eff. Nov. 2.

CHAPTER XXIV.

PRIMARY ELECTIONS

168.531 Primary elections; nomination of candidates by direct vote.

Sec. 531. Whenever any primary election shall be held in this state or in any city, county or district in this state, the nomination of candidates shall be made by direct vote of the qualified and registered electors of each political party participating therein as hereinafter prescribed.

HISTORY: New 1954, p. 208, Act 116, Eff. Jun. 1, 1955.

168.532 Parties not receiving 5% of total vote; nomination of candidates by caucuses or conventions; principal candidate, definition.

Sec. 532. Any political party whose principal candidate received less than 5% of the total vote cast for all candidates for the office of secretary of state in the last preceding state election, either in the state or in any political subdivision affected, shall not make

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its nominations by the direct primary method. The nomination of candidates of such parties shall be made by means of caucuses or conventions. The term "principal candidate" of any party shall be construed to mean the candidate whose name shall appear nearest the top of the party column.

HISTORY: New 1954, p. 208, Act 116, Eff. Jun. 1, 1955.

168.533 Applicability of act.

Sec. 533. The provisions of this act relative to the conduct of elections shall be applicable as near as may be in all particulars to all regular and special primary elections except as the contrary is indicated.

HISTORY: New 1954, p. 208, Act 116, Eff. Jun. 1, 1955.

168.534 General primary; time, nominations to be made.

Sec. 534. A general primary of all political parties except as otherwise provided in section 532 of this act shall be held in every election precinct in this state on the Tuesday succeeding the first Monday in August preceding every general November election, at which time the qualified and registered voters of each political party may vote for party candidates for the office of governor, United States senator, representative in congress, state senator, representative in the legislature, prosecuting attorney, sheriff, county clerk, county treasurer, register of deeds, county auditor, drain commissioner, coroners, county road commissioner, county mine inspector, surveyor and candidates for office in townships operating under section 344 of this act. No nomination for any office shall be made unless such official is to be elected at the next succeeding general November election.

HISTORY: New 1954, p. 208, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 616, Act 271, Imd. Eff. Jun. 30;—Am. 1963, 2nd Ex. Ses., p. 79, Act 57, Imd. Eff. Dec. 27.

168.535 General primary; nomination of nonpartisan candidates.

Sec. 535. A general primary shall be held in every election precinct in this state on the Tuesday succeeding the first Monday in August preceding every general November election, at which time the qualified and registered voters may vote for nonpartisan candidates for the office of judge of the court of appeals, judge of the circuit court, judge of probate and for circuit court commissioner in the years in which such officers are to be elected.

HISTORY: New 1954, p. 208, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 616, Act 271, Imd. Eff. Jun. 30;—Am. 1963, 2nd Ex. Ses., p. 79, Act 57, Imd. Eff. Dec. 27.

168.536, 168.537 Repealed. 1963, 2nd Ex. Ses., p. 80, Act 57, Imd. Eff. Dec. 27.

Sections provided for nomination in primary elections for certain local government offices.

168.538 Primary elections; notice, posting and publication.

Sec. 538. Primary notices shall be published and posted in the same manner as nearly as may be as provided in section 653 of this act for elections.

HISTORY: New 1954, p. 209, Act 116, Eff. Jun. 1, 1955.

168.539 City and county primary elections; not held when no opposition; certification of candidates; notice to city and township clerks, public notice.

Sec. 539. If, upon the expiration of the time for filing petitions in any primary for city or county, it appears that there is no opposition to any candidate for any office upon any ticket, then the city or county clerk, as the case may be, shall certify to the board of election commissioners the names of all persons whose petitions have been properly filed and the office for which such petitions were filed, and such persons shall be declared by such board of election commissioners nominees for the respective offices, and such county clerk shall forthwith notify the several clerks of the townships and cities interested, if any, and give notice that the primary will not be held as contemplated, giving the reasons therefor, and a public notice shall be given of such de-

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termination by a brief notice published by such clerk in a newspaper circulated in such county.

HISTORY: New 1954, p. 209, Act 116, Eff. Jun. 1, 1955.

168.540 Nonpartisan primary elections; when not held; certification of candidates.

Sec. 540. If, upon the expiration of the time for filing petitions for any nonpartisan primary election, it shall appear that as to any office on any nonpartisan ticket there are not to exceed twice the number of candidates as there are persons to be elected, then the officer with whom such petitions are filed shall certify to the proper board of election commissioners the names of such candidates whose petitions have been properly filed and such candidates shall be the nominees for such offices and shall be so certified. As to such offices, there shall be no primary election and such offices shall be omitted from the primary ballot.

HISTORY: New 1954, p. 209, Act 116, Eff. Jun. 1, 1955.

168.541 District primary elections; not held when no opposition; certification of candidates; notice to city and township clerks.

Sec. 541. If upon the expiration of the time for filing petitions in any primary, the secretary of state shall find within a given district that there is no opposition for any office upon any ticket, he shall forthwith give notice to the clerk of the several counties embraced, at the same time certifying the names of the candidates and the office to which they aspire to the state board of canvassers, who shall declare them the nominees for the respective offices, and shall give notice to the clerk of the several counties embraced in such district, and if the clerk shall find that there is no opposition for any office upon any ticket for a county office, then it shall be the duty of such clerk to forthwith give notice to the several city and township clerks interested that a primary will not be held as contemplated, but in no event shall a primary election be abandoned in any township, city, county or district wherein there shall be opposition for any office upon any ticket.

HISTORY: New 1954, p. 209, Act 116, Eff. Jun. 1, 1955.

PREPARATION AND FILING OF NOMINATING PETITIONS; FEES

168.542 Nominating petitions; provisions governing.

Sec. 542. The printing of the name of any person as a candidate for nomination by any political party for any office except a city or village under the particular party heading upon the official ballots for any primary election held in this state shall be obtained by following the provisions as set forth in the chapters of this act relative to the respective offices.

HISTORY: New 1954, p. 210, Act 116, Eff. Jun. 1, 1955.

168.543, 168.544 Repealed. 1965, p. 597, Act 312, Eff. Jan. 1, 1966.

Sections prescribed requirements for primary election nominating petitions.

168.544a Nonpartisan nominating petitions; size, form, contents.

Sec. 544a. The form, size and contents of all nonpartisan nominating petitions shall be the same as is provided in section 544c for partisan nominating petitions, except that under the heading "nominating petition" shall be printed in 12-point type the word "nonpartisan". The petition shall contain no reference to any political party.

HISTORY: Add. 1960, p. 20, Act 23, Eff. Aug. 17;—Am. 1965, p. 594, Act 312, Eff. Jan. 1, 1966.

168.544b Candidates for judicial office; affidavit of qualifications to be filed with nominating petitions.

Sec. 544b. (1) Except as provided in subsection (2), no person shall be a candidate for any judicial office of this state without filing an affidavit with his nominating peti-

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tions on a form prescribed by the secretary of state stating that he possesses the constitutional qualifications set forth in section 19 of article 6 of the state constitution.

(2) In cases where candidates for judicial office are nominated at political party conventions, the chairman and secretary of the party shall file the affidavit with the secretary of state within 48 hours after the close of the convention.

HISTORY: Add. 1963, 2nd Ex. Ses., p. 79, Act 57, Imd. Eff. Dec. 27.

168.544c Nominating petitions; size, form, contents; circulator of petitions, eligibility, affidavit; circulation, restrictions; illegal signatures; applicability of section.

Sec. 544c. The size of all nominating petitions shall be 8½ inches by 13 inches and shall be printed in the following size type: The words "nominating petition" shall be in 24-point bold face type; "we, the undersigned, et cetera" shall be printed in 8-point type; "warning" and language contained therein shall be in 12-point bold face type and the balance of petition shall be in 8-point type. The name of the candidate, his address, party affiliation and office for which petitions are signed may be in type not larger than 24-point. The petition shall be in the following form:

NOMINATING PETITION
(PARTISAN)

We, the undersigned, registered and qualified voters of the city or township of
(strike 1)
....., in the county of ..... and state of Michigan,
hereby nominate ....., ...
(Name of Candidate) (Street Address or
....., ...,
Rural Route) (Post Office)
as a candidate of the ..... party for the office of ....., ...,
(District, if any)
to be voted for at the primary election to be held on the ..... day of .....,
19 .....

WARNING

Whoever knowingly signs more petitions for the same office than there are persons to be elected to the office or signs a name other than his own is violating the provisions of the Michigan election law.

Name	Street Address or Rural Route	Post Office	Date of Signing Mo.	Day	Year
1.					
2.					
3.					

4. 20 numbered lines as above

CERTIFICATE OF CIRCULATOR

The undersigned circulator of the above petition asserts that he is qualified to circulate this petition, that each signature on the petition was signed in his presence, that to his best knowledge and belief each signature is the genuine signature of the person

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purporting to sign the same and that the person was at the time of signing a qualified registered elector of the city or township listed in the heading of the petition and that such elector was qualified to sign the petition.

. . . . . .
(Signature of Circulator)

. . . . . .
(Street Number or Rural Route)

. . . . . .
(City or Township)

. . . . . .
(Date)

Warning—Any circulator knowingly making a false statement in the above certificate or any person not a circulator who signs as such or any person who signs a name other than his own as circulator is guilty of a misdemeanor.

The circulator of any petition shall be a qualified and registered elector of the state, except in the case of nominating petitions only, a person between the ages of 18 and 21 years, who has resided in the state for at least 6 months, and in the same city or township for at least 30 days, shall also be qualified to circulate such petitions. If any petitions have been circulated by qualified circulators between the ages of 18 and 21, there shall be filed with the officer with whom the petitions are filed, prior to or at the time of the filing of the petition, on a form prescribed by the state director of elections, an affidavit signed by the circulator stating the name and address of the circulator and that he has the qualifications to circulate the petitions.

No petition sheet shall be circulated in more than 1 city or township and all the signers of that petition sheet shall be registered electors of city or township indicated in the heading thereof. The invalidity of any one or more signatures on a petition shall not affect the validity of the remainder of the signatures on the petition.

It shall be unlawful for any person to sign more nominating petitions for the same offices than there are persons to be elected to the office.

Any person who shall sign a petition with a name other than his own shall be guilty of a misdemeanor.

Any person knowingly making a false statement in a certificate on any petition or any person not a circulator who signs as such or any person who signs a name as circulator other than his own shall be guilty of a misdemeanor.

Any person who shall aid or abet another in any of the above listed acts shall be deemed to have committed the act.

The provisions of this section except as otherwise expressly provided shall apply to all petitions circulated under authority of the election law.

HISTORY: Add. 1965, p. 594, Act 312, Eff. Jan. 1, 1966.

168.545 Nominating petitions; combination of two offices.

Sec. 545. In those instances in which the duties of 2 offices are combined, all nominating petitions shall include and name the 2 offices.

HISTORY: New 1954, p. 211, Act 116, Eff. Jun. 1, 1955.

168.546 Nominating petitions; supply by county and city clerks; printing by candidate.

Sec. 546. The various county clerks and city clerks shall prepare and keep on hand blank forms of nominating petitions for use of the electors and candidates in said city or county. Nothing herein contained shall be construed to prohibit any candidate from

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having his own nominating petitions printed, but they must comply substantially with the above form.

HISTORY: New 1954, p. 212, Act 116, Eff. Jun. 1, 1955.

168.547 Repealed. 1965, p. 597, Act 312, Eff. Jan. 1, 1966.

Section made it unlawful for voter to sign more than one nominating petition for the same office.

168.547a Nominating petitions; signatures by voters, number, counting.

Sec. 547a. If a qualified and registered voter signs nominating petitions for a greater number of candidates for public office than the number of persons to be elected thereto, his signatures, if they bear the same date, shall not be counted upon any petition, and if they bear different dates shall be counted in the order of their priority of date for only so many candidates as there are persons to be elected.

HISTORY: Add. 1959, p. 48, Act 44, Eff. Mar. 19, 1960.

168.548 Nominating petitions; maximum number of signatures.

Sec. 548. It shall be unlawful for any candidate to wilfully and intentionally procure more names upon nominating petitions than the maximum number prescribed in this act.

HISTORY: New 1954, p. 212, Act 116, Eff. Jun. 1, 1955.

168.549 Nominating petitions; excess signatures, counting.

Sec. 549. If any nominating petitions contain more than the necessary percentage of names, the excess over 1% shall neither be considered nor counted.

HISTORY: New 1954, p. 212, Act 116, Eff. Jun. 1, 1955.

168.550 Candidates for nomination; qualification upon compliance with act.

Sec. 550. No candidate shall have his name printed upon any official primary election ballot of any political party in any voting precinct in this state unless he shall have filed nominating petitions according to the provisions of this act, and all other requirements of this act have been complied with in his behalf, except in those counties qualifying candidates upon the payment of fees.

HISTORY: New 1954, p. 212, Act 116, Eff. Jun. 1, 1955.

168.551 Nominating petitions; filing fees; deadline for filing.

Sec. 551. The secretary of state and the various county, township and city clerks shall receive nominating petitions or filing fees filed in accordance with the provisions of this act up to 4 p.m., eastern standard time, of the seventh Tuesday preceding the August primary. The provisions of this section shall not apply to any city which does not nominate its officers under the provisions of this act.

HISTORY: New 1954, p. 212, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 617, Act 271, Imd. Eff. Jun. 30;—Am. 1963, 2nd Ex. Ses., p. 80, Act 57, Imd. Eff. Dec. 27.

168.551a Repealed. 1956, p. 46, Act 37, Imd. Eff. Mar. 28.

Section provided for contents and filing of nominating petitions at any nonpartisan judicial primary.

168.552 Nominating petitions; certification of nominees; complaint as to validity of signatures on nominating petition; official declaration of sufficiency or insufficiency; review of determination by mandamus, certiorari or other remedy.

Sec. 552. The county or city clerk shall forthwith, after the last day named herein for receiving and filing nominating petitions, certify to the proper board or boards of election commissioners in such city, county, district or in the state, the names and post office addresses of all party candidates whose petitions meet the requirements of this act, together with the name of the political party and the offices for which they are candidates. Whenever the county clerk receives a sworn complaint, in writing, questioning the validity of the registration or genuineness of the signature of the circulator

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or of any person signing a petition filed with the county clerk for any office, the county clerk shall commence an investigation and shall cause such petition as he deems necessary to be forwarded to the proper city clerk or township clerk to compare the signatures appearing on the petition with the signatures appearing on the registration record, or in some other proper manner determine whether the signatures appearing on the petition are valid and genuine. Whenever the request has been made by the county clerk, the city clerk or township clerk shall complete the investigation and report his findings to the county clerk within 7 days after such request. The investigation shall include the validity of such signatures and the genuineness of petitions as are specified in the sworn complaint and may include any other doubtful signatures or petitions filed on behalf of the candidate against whose petitions the sworn complaint is directed, as the county clerk may deem necessary. No complaints respecting the validity and genuineness of signatures on a petition shall be acted upon unless the complaint sets forth the specific signatures claimed to be invalid and the specific petitions wherein the complaint questions the validity and genuineness of the signature or registration of the circulator, and further unless received by the county clerk within but not later than 7 days after the statutory date for the filing of the nominating petitions. In addition to the foregoing provision for the examination of petitions, the county clerk, on his own initiative, on receipt of the nominating petitions, shall have the right to examine same and if after examination he is in doubt as to the validity of the registration or genuineness of the signature of the circulator or persons signing or purporting to sign the petitions, the county clerk shall commence an investigation and shall cause such petitions as he deems necessary to be forwarded to the proper city clerk or township clerk to compare the signatures appearing on the petition with the signatures appearing on the registration records, or in some other proper manner to determine whether the signatures appearing on the petition are valid and genuine. The clerk of any political subdivision shall cooperate fully with the county clerk in any request made to the clerk by the county clerk in determining the validity of doubtful signatures by checking the same against registration records and the clerk shall do the requested checking in an expeditious and proper manner. Upon the completion of the investigation or examination, the county clerk shall forthwith make an official declaration of the sufficiency or insufficiency of any nominating petitions for which a sworn complaint has been received or of the sufficiency or insufficiency of any nominating petitions which he has examined or investigated on his own initiative. Any person feeling himself aggrieved by any determination made by the county clerk, may have the determination reviewed by the secretary of state if written request is filed with the secretary of state within 3 days after the official declaration of the county clerk, unless such third day falls on a Saturday, Sunday or legal holiday, in which case appeal may be filed not later than 4 p.m. on the next secular day, or by mandamus, certiorari or other appropriate remedy in the circuit court; and, any person having filed a nominating petition, feeling himself aggrieved by the determination of the secretary of state, may then have that determination reviewed by mandamus, certiorari or other appropriate remedy in the circuit court. City clerks with whom nominating petitions are filed shall have the right to examine the petitions and investigate as to the validity and genuineness of signatures appearing thereon by checking same against registration records. The city clerk shall make a determination as to the sufficiency or insufficiency of the petitions upon the completion of such examination or investigation and make an official declaration of his findings. Any party feeling himself aggrieved by such determination shall have the same rights of review as in case of a determination by the county clerk.

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Secretary of state, duties as to petitions, canvass, complaints, investigation.

The secretary of state shall forthwith, after the last day named herein for receiving and filing nomination petitions, report the filing of such petitions to a board to canvass nomination petitions filed with the secretary of state, composed of the state officers comprising the board of state canvassers and the attorney general. Upon the filing of nomination petitions with the secretary of state, within 3 days after the last day for filing of said petitions, the said secretary of state shall notify said board and call a meeting of said board within 5 days after the last day for filing of said petitions, and notify the members thereof of the meeting called to consider said petitions. Upon the receipt of said nomination petitions, said board shall canvass the same to ascertain if such petitions have been signed by the requisite number of qualified and registered electors, and for the purpose of determining the validity thereof may cause any doubtful signatures to be checked against the registration records by the clerk of any political subdivision in which said petitions were circulated for properly determining the authenticity of such signatures. It shall be the duty of the clerk of any political subdivision to cooperate fully with said board in any request made to said clerks by said board in determining the validity of doubtful signatures by rechecking the same against registration records and said clerk shall make the requested rechecks in an expeditious and proper manner. Said board may hold hearings upon any complaints filed or for any purpose deemed necessary by said board to conduct investigations of said petitions, and to conduct said hearings said board shall have the power to issue subpoenas and to administer oaths. Said board may also adjourn from time to time awaiting receipt of returns from investigations that are being made or for other necessary purposes but shall complete said canvass at least 5 weeks prior to the primary election at which candidates are to be nominated.

Declaration as to sufficiency of nominating petitions, review, certification of nominees.

An official declaration of the sufficiency or insufficiency of any such nomination petition shall be made by the said board at least 5 weeks prior to the primary election at which candidates are to be nominated. At the time of filing any said nomination petition with the secretary of state, the person filing the same may request a notice of the approval or rejection of said petition. In any case where such a request is made at the time of filing of the petition, it shall be the duty of the secretary of state, immediately upon the determination thereof, to transmit by registered or certified mail to said person or persons an official notice of the sufficiency or insufficiency of said petitions. Any person, having filed a nomination petition with the secretary of state, feeling himself aggrieved by any determination made by said board, may have such determination reviewed by mandamus, certiorari, or other appropriate remedy in the supreme court. At least 5 weeks prior to the primary election at which candidates are to be nominated, the secretary of state shall certify to the proper boards of election commissioners in the various counties in the state, the names and post office addresses of all party or nonpartisan candidates whose petitions have been filed with the secretary of state and meet the requirements of this act, together with the name of the political party, if any, and the offices for which they are candidates.

HISTORY: New 1954, p. 213, Act 116, Eff. Jun. 1, 1955;—Am. 1956, p. 232, Act 125, Imd. Eff. Apr. 13;—Am. 1958, p. 27, Act 25, Imd. Eff. Apr. 3;—Am. 1963, p. 282, Act 193, Eff. Sep. 6.

CITED IN OTHER SECTIONS: The above section is cited in §§ 200.51 and 211.205d.

168.553 Nominating petitions; insufficiency, notice to candidate.

Sec. 553. In case it is determined that the nominating petitions of any candidate do not comply with the requirements of this act, or if for any other cause such candidate is not entitled to have his name printed upon the official primary ballots, it shall be the

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duty of the secretary of state or county or city clerk to immediately notify such candidate of such fact, together with a statement of the reasons why his name was not certified to the respective boards of election commissioners.

HISTORY: New 1954, p. 213, Act 116, Eff. Jun. 1, 1955.

168.554 List of candidates; posting.

Sec. 554. The secretary of state or county or city clerk shall forthwith prepare and publicly expose in his office a list of the candidates who have filed nominating petitions or filing fees in his office, as near as may be, as they will appear upon the official primary election ballots.

HISTORY: New 1954, p. 214, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 618, Act 271, Imd. Eff. Jun. 30.

168.554a Filing fee; deadline for filing.

Sec. 554a. Any candidate who files a filing fee under the provisions of this act, shall file such fee at least 72 hours before the filing deadline for petitions.

HISTORY: Add. 1965, p. 736, Act 373, Eff. Mar. 31, 1966.

168.555 Nominating petitions and filing fees; public record, contents; public inspection.

Sec. 555. The various officers named herein shall keep a public record of the nominating petitions and filing fees filed in a book for that purpose, which record shall indicate the names of the candidates, the offices sought, and the dates when such nominating petitions or filing fees were filed. All such nominating petitions shall be open to public inspection and subject to examination after being filed in the office of the secretary of state, county clerk or city clerk, in accordance with such reasonable rules and regulations as may be prescribed by such officers.

HISTORY: New 1954, p. 214, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 618, Act 271, Imd. Eff. Jun. 30.

168.556 Nominating petitions; final disposition, record.

Sec. 556. All nominating petitions filed under the provisions of this act shall be preserved by the secretary of state, county, city, village or township clerk, as the case may be, until the first day of January following the primary election for which the same were filed. At the expiration of that period, the secretary of state, county, city, village or township clerk may destroy all nominating petitions, the return of which has not been requested. In the record of nominating petitions, the various officers keeping such record shall cause entries to be made, stating the final disposition of each candidate's petition.

HISTORY: New 1954, p. 214, Act 116, Eff. Jun. 1, 1955.

168.557 Nominating petitions; affidavit as to change of name; falsification, penalty; inapplicability of section.

Sec. 557. No nominating petitions shall be received for filing by the secretary of state or the various county clerks or the clerks of cities, villages or townships by or in behalf of any candidate, unless such candidate also files with the secretary of state, county, city, village or township clerk, as the case may be, within the time limited for filing such petitions, an affidavit in such form and containing such information as the secretary of state may prescribe relative to any change which may at any time have been made in the name of such candidate. In the event that such affidavit or any birth certificate or record of such person discloses that the name of such candidate as used in such nominating petition is other than the one with which he was named at birth, such nominating petition shall not be received for filing unless such petition states, in such form as the secretary of state shall prescribe, both names of such candidate. Both such names shall also be printed in such form as the secretary of state may prescribe upon any primary or election ballot upon which the name of such candidate shall be printed: Provided, That neither the using of abbreviations or initials instead of the full

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name, nor the use or failure to use any one of his names, except the surname, nor change in spelling of any name, so long as both names may be sounded alike without doing violence to the power of the letters contained in the respective names, shall be held to constitute the use of another or different name. Any person who shall wilfully swear to any false statement in making such affidavit shall, upon conviction thereof, be deemed guilty of perjury and suffer the punishment prescribed therefor by law: Provided, however, That this section shall not apply to persons who have changed their names pursuant to the provisions of Act No. 314 of the Public Acts of 1915, as amended, being sections 600.1 through 681.3, inclusive, of the Compiled Laws of 1948 or pursuant to the provisions of Act No. 288 of the Public Acts of 1939, as amended, being sections 701.1 through 713.6 of the Compiled Laws of 1948, inclusive, at least 12 years prior to filing a nominating petition under this act: And provided further, That this section shall not apply to any person who has had a change of name included in his certificate of naturalization issued by the federal district court at the time such person became a naturalized citizen of the United States and who has resided in the state of Michigan for at least 10 years subsequent to his naturalization.

HISTORY: New 1954, p. 214, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 321, Act 215, Eff. Oct. 14.

168.558 Nominating petitions; filing fees; affidavit as to identity, contents; noncompliance.

Sec. 558. Any candidate filing nominating petitions or filing fee for any county, state or national office in any primary election, at the time of filing such nominating petitions or filing fee, shall file with the county clerk or deputy county clerk in the county in which he is registered or with the secretary of state, 2 copies of an affidavit, or such other information as satisfies the county clerk or deputy county clerk or the secretary of state, that he or she is the person filing petitions or filing fee for any such office. Such affidavit shall contain the candidate's name, address, ward and precinct where registered, if qualified to vote at such primary election, number of years of residence in the state and county and such other information as shall be required to satisfy said officer as to the identity of any candidate. If a candidate filing an affidavit for a county, state or national office files said affidavit before a county clerk, said county clerk shall immediately forward to the secretary of state 1 copy of said affidavit by registered or certified mail. Said officer shall not certify to the board of election commissioners the name of any candidate who shall fail to comply with the provisions of this section.

Petitions or filing fees for incompatible offices, election.

If petitions or filing fees are filed by or in behalf of a candidate for more than 1 office, either national, state, county, city, village or township, the terms of which run concurrently or overlap, the candidate so filing, or in behalf of whom petitions were so filed, shall select the 1 office to which his candidacy must be restricted within 3 days after the last day for the filing of petitions or filing fees unless for 2 offices that shall have been combined or for offices that are not incompatible. Failure to make such selection shall disqualify any such candidate with respect to any such office for which petitions were so filed and the name of such candidate shall not be printed upon the ballot for such office, and any votes cast for such candidate at the primary election ensuing shall not be counted and shall be void.

HISTORY: New 1954, p. 214, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 618, Act 271, Imd. Eff. June 30;—Am. 1956, p. 363, Act 190, Imd. Eff. Apr. 26;—Am. 1964, p. 261, Act 190, Imd. Eff. May 20.

PREPARATION AND DISTRIBUTION OF BALLOTS

168.559 Official primary election ballots; preparation, distribution.

Sec. 559. It shall be the duty of the board of election commissioners of each county in this state to prepare and furnish the necessary official primary election ballots, ex-

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cept for city offices, which may be required for use by the electors of any political party at the August primary.

HISTORY: New 1954, p. 215, Act 116, Eff. Jun. 1, 1955.

168.560 Official ballots; contents; exclusive use; size.

Sec. 560. Such ballots shall contain the instructions as to the method of voting. Ballots other than those furnished by the board of election commissioners, according to the provisions of this act, shall not be used, cast or counted in any election precinct at any such primary election. The size of all official ballots shall be such as the board of election commissioners shall prescribe.

HISTORY: New 1954, p. 215, Act 116, Eff. Jun. 1, 1955.

168.561 Official ballots; names of candidates to be printed; similar surnames, appeal; married women.

Sec. 561. The ballots so prepared by the board of election commissioners in each county for use by the electors of any political party at a primary election shall include the names of all candidates of the political party for the office of governor, United States senator, and district offices, and, in each county, the names of all candidates of the political party for county offices, and in each township the names of all candidates of the political party for township offices.

If 2 or more candidates, including candidates for nonpartisan offices, for the same office have the same or similar surnames, the board of election commissioners, upon the request of any such candidate filed in writing not later than 3 days after the last day for filing nominating petitions shall determine, within 3 days after filing of the request, in the case of an alleged similarity whether similarity exists, and shall notify the requester and the other candidate affected of its determination by registered mail sent not later than the final date for such determination. A candidate who is dissatisfied with the determination by the board may file an appeal in the circuit court of the county where the board is located within 7 days after the final date for determination by the board and the court shall hear the matter de novo. In case of the same surnames or a final determination by the board, or by the court before the latest date on which the board can arrange for printing of the ballots, of the existence of similarity, the board shall print the occupation or residence of each of such candidates on the ballot or ballot labels under their respective names. The term "occupation" shall be construed to include political office, even though it is not the candidate's principal occupation.

The name of any candidate shall be printed showing the given name or abbreviation or initials of the given name of the candidate, and, in the case of a married woman, shall not be printed showing the husband's given name.

HISTORY: New 1954, p. 215, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 618, Act 271, Imd. Eff. Jun. 30;—Am. 1966, p. 591, Act 328, Imd. Eff. Jul. 19;—Am. 1967, p. 55, Act 36, Eff. Nov. 2.

168.561a Official ballots; designation of candidate with same given and surname as incumbent.

Sec. 561a. In any primary election whenever any candidate for public office has the same given and surname as the name of the person last elected to such office, when the person last elected is not seeking renomination, below the name of said candidate on the ballot shall appear the words "not the present ....." and in said space shall be printed the title of the office sought. The size of type used in any other designation on the ballot shall not be reduced in size from the size of type normally used.

HISTORY: Add. 1960, p. 84, Act 88, Imd. Eff. Apr. 25.

168.562 Official ballots; delegates to county convention.

Sec. 562. The said ballots shall also contain as many lines as there are delegates to be elected to the county convention by the particular political party. Such lines shall

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be printed under the title "Delegates to county convention", and no ballot for a delegate to a county convention of any political party shall be counted unless prepared and voted under authority of this act.

HISTORY: New 1954, p. 215, Act 116, Eff. Jun. 1, 1955.

168.563 Primary election ballots; printing; number; arrangement; color.

Sec. 563. The number of ballots to be printed for the use of the electors at any primary election in any election precinct shall be not less than 25% more than the total number of ballots cast therein at the corresponding primary election held 4 years previous. The ballot at any partisan primary election shall consist of 1 sheet of 70-pound white book paper, machine finished, or the equivalent, with 1 of the political party tickets printed on each side thereof. Should 3 or more parties be represented at a partisan primary, the ballots shall be arranged with a foldover extension or the election commission may provide that the parties shall appear on 1 side of the ballot only. If the ballots are printed on 1 side only the order of the parties on the ballot shall be the same as they will appear on the general election ballot. The parties shall be separated by a heavy black line. If ballots are printed on 2 sides or with a foldover extension the various party tickets shall be printed, as near as may be, in the manner hereinbefore set forth and shall be rotated so that each party ticket will appear face up on alternate ballots. The election commission may provide for the printing of the ballots on colored paper as follows: State and county ballots, white paper; nonpartisan ballots, blue tinted paper; constitutional amendments and state propositions, red tinted paper; county propositions, green tinted paper; local propositions, buff paper; local candidates, white paper. If the election commission prints ballots on colored paper, all instruction ballots shall be printed on any color paper not used for official ballots.

HISTORY: New 1954, p. 216, Act 116, Eff. Jun. 1, 1955;—Am. 1958, p. 226, Act 192, Eff. Sep. 13;—Am. 1970, p. 88, Act 34, Imd. Eff. Jan. 16.

168.564 Official ballots; failure of party to file required petitions, party ballot not printed.

Sec. 564. If in the case of any political party it shall appear that no person has filed the necessary number of nominating petitions, as required by this act, for nomination as a candidate of said party for any office, then no ballot for the use of said political party at the primary shall be printed.

HISTORY: New 1954, p. 216, Act 116, Eff. Jun. 1, 1955.

168.565 Official ballots; proof copies to secretary of state and candidates; corrections.

Sec. 565. Proof copies of the ballots so prepared shall be placed on file in the office of the county clerk at least 10 days prior to the primary election, and at the time of filing, 1 proof copy of such ballot shall be sent by registered or certified mail with return receipt demanded to the secretary of state and 1 to each candidate whose name appears upon such ballots, at his last known address: Provided, That said candidate shall, if he desires to correct said ballot, forward the same to said county clerk within 48 hours of the receipt of same, with such corrections noted thereon.

HISTORY: New 1954, p. 216, Act 116, Eff. Jun. 1, 1955;—Am. 1956, p. 364, Act 190, Imd. Eff. Apr. 26.

168.566 Official primary ballots; posting for public inspection.

Sec. 566. The official primary ballots shall be posted in a conspicuous place at the office of the county, city, village or township clerk, as the case may be, for public inspection at least 3 days prior to distribution for use at the primary election.

HISTORY: New 1954, p. 216, Act 116, Eff. Jun. 1, 1955.

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168.567 Official primary ballots; errors, correction by board of election commissioners.

Sec. 567. The boards of election commissioners shall correct such errors as may be found in said ballots, and a copy of such corrected ballots shall be sent to the secretary of state by the county clerk.

HISTORY: New 1954, p. 216, Act 116, Eff. Jun. 1, 1955.

168.568 Official primary ballots; form, contents.

Sec. 568. The official primary election ballots shall be prepared in the following form: At the top of each ballot shall be printed in large type, "Official primary election ballot". Underneath such heading shall be printed the date of the election at which the ballot is to be used, together with a designation of the political subdivision, as county, district, city, ward, et cetera, in which it is to be used. Then shall follow, in bold-faced type, the name of the political party and vignette, below which shall appear the following instructions to electors: "Make a cross in the square to the left of not more than the number of names for each office as may be indicated under the title of such office." Under this heading shall appear the names of the candidates seeking nomination for various offices on the ticket of the political party. The order of the offices on the ballot shall be the same, as near as may be, as is required by law in making up the ballot used at general elections. The title of the office shall be immediately above the names of the candidate or candidates for the nomination of such office, and under such title the words "Vote for not more than," followed by the word "one" or "two" or such other word as will designate the number of candidates for the nomination to such office that may be voted for. The names of the different candidates shall be separated from each other by a light-faced rule with a square at the left of each name. The spaces devoted to the candidates for nomination to different offices shall be separated by a black-faced rule so as to separate each office division distinctly: Provided, That the board of election commissioners in any county or city may, if deemed desirable, arrange the ballots with an identification numeral to be placed in the same space with the name of each of said candidates, the said identification numeral to be rotated with the name of the candidate when rotated, regardless of where said name may appear upon the ballot.

HISTORY: New 1954, p. 216, Act 116, Eff. Jun. 1, 1955.

168.569 Official primary ballots; numbering; separation of columns.

Sec. 569. The ballots for each election district shall be numbered consecutively in the manner provided for the preparation of ballots for general election. Said ballot may be in 1 or more columns as may be determined by the board of election commissioners preparing the same. If 2 or more columns are used on the ballots, the columns shall be separated by a heavy black line.

HISTORY: New 1954, p. 217, Act 116, Eff. Jun. 1, 1955.

168.570 Official primary ballots; candidates, order of listing; numbering of ballots, identification, distribution; sample form; applicability of section to nonpartisan and municipal elections.

Sec. 570. The names under the heading designating each official position, where there are more names than there are candidates to be nominated for such office, shall be printed on the ballot in the following manner: The forms shall be set up with the incumbent's name at the head of the list and the other candidates arranged alphabetically according to surnames. If 2 or more incumbents of the same party are candidates for the same office, the names of the incumbents shall be listed on the ballot alphabetically according to surnames and be followed by the names of the other candidates. Thereupon, the ballots shall be numbered consecutively and identified by use of the words "official primary ballot" on the upper right hand corner upon the front of the

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ballot with a perforated line across said corner and underneath said number and identification so that said corner with the number and identification thereon may be torn off. The detachable corner stub shall serve for the several party tickets and the ballot number shall be printed upon said stub on 1 side only. No political party designation shall appear upon the ballot corner so numbered and identified. After the ballots shall be trimmed and wrapped in sealed packages, they shall be distributed for use at the primary election in the same manner as is now provided by law for the distribution of ballots to be used at general elections. Ballots shall be prepared in substantially the following form:

OFFICIAL PRIMARY BALLOT

No. .....

OFFICIAL PRIMARY ELECTION BALLOT

Primary election to be held ..... 19..... in the county of ..... .

..... party.
(Vignette)

You cannot split your ticket. If you vote for candidates on more than 1 party ticket, your ballot will be rejected.

Make a cross in the square to the left of not more than the number of names for each office as may be indicated under the title of each office.

State.	Legislative.
Governor. Vote for not more than one.	State Senator. ..... District. Vote for not more than one.
☐ 1 John Doe	☐ 7 John Doe
☐ 2 Richard Roe	☐ 8 Richard Roe
☐	☐
Congressional.	Representative in State Legislature. ..... District. Vote for not more than one.
United States Senator. Vote for not more than one.	☐ 9 John Doe
☐ 3 John Doe	☐10 Richard Roe
☐ 4 Richard Roe	☐
☐	
Representative in Congress. ..... District. Vote for not more than one.	County. Prosecuting Attorney. Vote for not more than one.
☐ 5 John Doe	☐11 John Doe
☐ 6 Richard Roe	☐12 Richard Roe
☐	☐

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The provisions as to the order in which the names of candidates appear on a partisan ballot shall apply to the order in which the names of nonpartisan candidates appear on a ballot in both primary and general elections.

The provisions as to the order in which names appear on ballots shall also apply to municipal elections, notwithstanding provisions of law or charter to the contrary.

HISTORY: New 1954, p. 217, Act 116, Eff. Jun. 1, 1955;—Am. 1967, p. 132, Act 108, Eff. Nov. 2;—Am. 1968, p. 85, Act 46, Imd. Eff. May 24.

168.570a Official primary ballots; candidates for township offices, order of listing, party qualification; references to February primary and April election, definition.

Sec. 570a. The official primary ballot shall include candidates for township offices. Township offices and candidates shall follow state and county offices and candidates. Parties qualified to appear on the primary ballot for state and county offices and no others are qualified to appear and have the names of their candidates printed on the township portion of the primary ballot. Parties qualified to nominate candidates for state and county offices under the provisions of section 685 and no others are qualified to nominate candidates for township offices at the county caucuses provided in section 686a.

All references in the election law to a February primary shall be deemed to be references to the primary provided by the election law to be held in August prior to the general November election and all references to an April election shall be deemed to be references to the general November election.

HISTORY: Add. 1966, p. 82, Act 58, Imd. Eff. Jun. 7.

168.571 Repealed. 1963, 2nd Ex. Ses., p. 80, Act 57, Imd. Eff. Dec. 27.

Section provided that provisions relative to primary election ballots should apply to February primary.

168.572 Official primary ballots; provision for write-in votes.

Sec. 572. The ballots shall be prepared in such manner that the electors of each political party may write, print or paste the name of a candidate thereon.

HISTORY: New 1954, p. 218, Act 116, Eff. Jun. 1, 1955.

168.573 Official primary ballots; packaging, seal, certification.

Sec. 573. The ballots of each kind for each election precinct shall be wrapped and secured in 2 separate packages. Each package shall be securely sealed with a red paper seal furnished by the secretary of state and shall bear on its wrapper the name and number of the precinct and a certificate signed by the county clerk or some member of the board of county election commissioners, or his or its duly authorized agent, setting forth the number and kind of ballots in such package and that such ballots were counted, packaged and sealed by himself personally, or by his duly authorized agent.

HISTORY: New 1954, p. 218, Act 116, Eff. Jun. 1, 1955.

CONDUCT OF PRIMARY ELECTIONS

168.574 Primary election; board of primary election inspectors, membership.

Sec. 574. Each primary election shall be presided over by a board of primary election inspectors, which board shall be composed of the members of the board of election inspectors as provided in section 674 of this act.

HISTORY: New 1954, p. 218, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 619, Act 271, Imd. Eff. Jun. 30.

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168.575 Primary elections; furnishing ballots to electors.

Sec. 575. After the polls are opened at a primary election, any elector who is legally registered and qualified shall, before entering the booth or voting compartment, be furnished a party ballot, together with any other ballot or ballots to be voted at that primary election.

HISTORY: New 1954, p. 219, Act 116, Eff. Jun. 1, 1955.

168.576 Primary elections; electors, marking; voting more than 1 ticket.

Sec. 576. Each elector, after having received his ballot or ballots, shall enter a booth or voting compartment and, while there concealed from view, shall vote such ballot or ballots by making a cross in the square at the left of the names of those candidates for whom he desires to vote, but in no case for more candidates for any office than is indicated under the title of such office. He may, however, vote for any person whose name is not printed on the ticket by inserting such name in such manner as shall make it a substitute for any name which is printed thereon or where no candidate's name appears upon such ticket. The elector shall indicate his choice of candidates on 1 party ticket only and, after marking his ticket, the elector shall fold it for deposit in accordance with the provisions of this act. Any ballot voted upon more than 1 party ticket shall be void.

HISTORY: New 1954, p. 219, Act 116, Eff. Jun. 1, 1955.

168.576a Primary elections; electors, number of votes.

Sec. 576a. In all partisan and nonpartisan primary elections, the voter shall be entitled to vote for a number of candidates for each office equal to the number of persons to be elected for that office.

HISTORY: Add. 1969, p. 513, Act 275, Imd. Eff. Aug. 11.

168.577 Primary elections; electors, folding and delivery of ballots.

Sec. 577. The elector shall then fold the ballot so that the perforated corner bearing the number and identification shall be on the outside, and shall present it to the proper member of the board of inspectors, who shall tear off the corner bearing the number and shall deposit the ballot in the ballot box.

HISTORY: New 1954, p. 219, Act 116, Eff. Jun. 1, 1955.

168.578 Primary elections; poll list, comparison of ballot number.

Sec. 578. When a duly registered and qualified elector shall ask for a ballot as before provided, the inspector shall enter his name upon the poll list, and the number of the ballot given to the elector. The inspector receiving the ballot after the same has been voted shall, before depositing it in the box, ascertain by comparison with such list whether the ballot given to him is the same ballot furnished to the elector, and if it is not the same ballot, he shall reject it and the elector shall not be allowed to vote at such primary election.

HISTORY: New 1954, p. 219, Act 116, Eff. Jun. 1, 1955.

168.579 Primary elections; electors, exposure of ballot, rejection.

Sec. 579. If any elector shall, after marking his ballot, so expose it to any person as to reveal the name of any candidate for whom he voted, the ballot shall be rejected by the board of election inspectors and the elector shall forfeit the right to vote at the pri-

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mary. A note of such occurrence shall be made upon the poll list opposite the name of the elector.

HISTORY: New 1954, p. 219, Act 116, Eff. Jun. 1, 1955.

168.580 Primary elections; candidates deemed voted for.

Sec. 580. In counting the ballots after the closing of the polls, only those candidates having crosses marked in the squares to the left of their names shall be deemed to have received votes, and any ballot upon which more votes have been recorded for candidates for any office than may, by law, be elected to such office shall be rejected as to all names appearing on the ballot for that office only.

HISTORY: New 1954, p. 219, Act 116, Eff. Jun. 1, 1955.

CANVASSING OF PRIMARY RETURNS

168.581 Primary elections; canvass of returns and declaration of results.

Sec. 581. The returns of said primary election shall be canvassed and the results declared in the same manner and within the same time after the primary election and by the same officers as provided for general elections, except that in the case of a primary election for the nomination of a candidate for the office of United States senator, or governor or for the nomination of candidates for district offices in districts comprising more than 1 county, the county clerk of each county affected shall transmit to the secretary of state, within 14 days after the primary election, a certified statement of the number of votes received by each person for nomination as a candidate of any political party for any of the said offices. The secretary of state shall call a meeting of the board of state canvassers at his office not later than 20 days after the primary election, which date he shall forthwith certify to the chairman and secretary of the state central committee of each political party, for the purpose of canvassing the returns and declaring the results of the primary election for the nomination of the candidates for such offices. The said board shall proceed in the same manner in canvassing the returns and in certifying, recording and determining results of a primary election for the nomination of candidates for United States senator and governor as is done in canvassing the returns in the case of the election of state officials. In canvassing the returns of a primary election for the nomination of candidates for the offices of representative in congress, state senator and representatives in the legislature, in districts composed of more than 1 county, said board shall proceed in like manner as is done in canvassing the returns in case of the election of representatives in congress.

HISTORY: New 1954, p. 219, Act 116, Eff. Jun. 1, 1955;—Am. 1959, p. 247, Act 173, Eff. Mar. 19, 1960;—Am. 1963, 2nd Ex. Sess., p. 80, Act 57, Imd. Eff. Dec. 27.

168.582 Primary elections; nomination of write-in candidate, vote required.

Sec. 582. No person who is voted for on any party ballot for any state, district, township, county, city or ward office, whose name is not printed on such ballot and who has not filed a nominating petition for the office voted for, shall be deemed nominated as the candidate of such party for such office, nor be certified as a nominee unless he shall receive not less than 10 votes for such office and a total vote equal to 15% of the greatest number of votes cast by such party for any office at such primary in the state, district, township, county, city or ward, as the case may be, for any candidate or for all candidates for nomination for any office for which only 1 person is to be nominated: Provided, That for any office to which more than 1 candidate is to be elected, the said 15% shall be based upon the greatest number of votes cast at such primary for any candidate for the same office.

HISTORY: New 1954, p. 220, Act 116, Eff. Jun. 1, 1955;—Am. 1957, p. 285, Act 226, Eff. Sept. 27.

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168.583 Primary election day; service of civil process on electors prohibited.

Sec. 583. During the day on which any primary election shall be held, pursuant to the provisions of law, no civil process shall be served on any elector entitled to vote at such primary election.

HISTORY: New 1954, p. 220, Act 116, Eff. Jun. 1, 1955.

VOTING MACHINES AT PRIMARIES

168.584 Primary elections; use of voting machines permitted; separate booths for paper ballots.

Sec. 584. At all state, county, city, village and township primaries, ballots or votes may be cast, registered, recorded or counted by means of voting machines as hereinafter provided. In any primary election in any precinct where both voting machines and paper ballots are used, separate booths shall be provided for marking paper ballots.

HISTORY: New 1954, p. 220, Act 116, Eff. Jun. 1, 1955;—Am. 1965, p. 782, Act 386, Eff. Mar. 31, 1966.

168.585 Primary elections; use of voting machines; supplementary ballots.

Sec. 585. Any voting machine which is by law authorized to be used at a general election may, by the order of the board of supervisors of any county, the legislative body of any city, the township board of any township, or the village council of any village, be purchased and used therein at primary elections in like manner and to the same extent that such machines may be used at general elections, and in case there are more candidates than can have their names placed on any such machines so to be used, or in case such machine is so constructed that an elector cannot vote for candidates of more than 1 political party, then it shall be the duty of the proper election commission to designate what names shall be voted for on the machines, and to print the remaining names upon proper ballots in such manner as nearly as may be that the political party or parties polling the largest vote in such county for secretary of state at the last preceding election shall be placed upon the machine, and the candidates of smaller parties shall be placed upon ballots, but all the candidates of any party shall either be upon the machine or upon a ballot.

HISTORY: New 1954, p. 220, Act 116, Eff. Jun. 1, 1955.

168.586 Primary elections; use of voting machines, provisions governing; candidates, order of listing.

Sec. 586. The provisions relative to the use of voting machines at general elections shall apply, as near as may be, to the use of voting machines at primary elections. In primary elections the names under the heading designating each official position shall be printed in the same order as the names are required to be listed on paper ballots in such elections. The names of all candidates of each political party, where feasible, shall appear on a single row of the voting machine assigned to such party. When not feasible because of limitations of space the names of such candidates may appear on the next succeeding row or rows. Before providing that the names of candidates shall appear on a succeeding row, all available spaces on the row assigned to such party shall be used. The determination of the feasibility shall be made by the election commission of the political entity setting up the arrangement of the face of the machine. In determining feasibility the same consideration shall be given to nonpartisan and local candidates as is given to state and county candidates.

HISTORY: New 1954, p. 220, Act 116, Eff. Jun. 1, 1955;—Am. 1961, p. 50, Act 50, Eff. Sep. 8;—Am. 1968, p. 87, Act 46, Imd. Eff. May 24.

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168.587 Primary elections; voting machines, straight ticket and excess voting prevented.

Sec. 587. Whenever a voting machine is used in a primary election, the party levers or bars, if any, shall be locked against voting so as to prevent straight ticket voting, and the machine shall be properly arranged so that the elector may vote for as many candidates for each office as there are candidates to be nominated to that office and no more.

HISTORY: New 1954, p. 221, Act 116, Eff. Jun. 1, 1955.

168.588 Primary elections; voting machines, number in precinct.

Sec. 588. More than 1 voting machine may be used in a precinct.

HISTORY: New 1954, p. 221, Act 116, Eff. Jun. 1, 1955.

CHAPTER XXV.

DELEGATES, CONVENTIONS AND PARTY COMMITTEES

168.591 State conventions in even years; time and place, issuance of calls.

Sec. 591. The state convention of all political parties for the nomination of candidates for state offices in the even numbered years shall be held not less than 66 days before the general November election. The particular day and the hour and place of meeting shall be designated by the state central committees of the various political parties in the calls for said state conventions, which calls shall be issued at least 60 days prior to the August primaries.

HISTORY: New 1954, p. 221, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 619, Act 271, Imd. Eff. Jun. 30.

168.592 County conventions in even years; time and place, issuance of calls, election of delegates to state convention; congressional district conventions, committee, temporary chairman, election of delegates, certification.

Sec. 592. The county conventions of all political parties for the election of delegates to a state convention for the nomination of state officers in the even numbered years shall be held not less than 8 days nor more than 19 days after the August primaries. All such county conventions of any one political party shall be held on the same day throughout the state, which day shall be designated by the state central committee of such political party in its call for the state convention. The place and hour of meeting of any such county convention shall be designated in the call issued therefor by the county committee of such political party in such county, which call shall be issued not less than 45 days before the August primaries. The number of delegates to the state convention to which such political party in such county is entitled shall be chosen at such county convention: Provided, That in all counties having or which may hereafter have 2 or more congressional districts or parts of congressional districts within the boundaries of the county, such congressional districts or a part of any congressional district within said counties shall each be considered a county within the provisions of this section for the holding of the county conventions provided for in this section, and shall be in lieu of said county convention. The nominee for congress of the congressional district in the preceding primary election, the county chairman and the county secretary of the several political parties shall constitute a committee in each congressional district to name the temporary chairman of the first district convention held under this act. Thereafter, the district chairman shall act as temporary chairman. The said convention shall then proceed to organize the same as county conventions and

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shall proceed to the election of delegates to the state convention. The chairman and secretary of any such convention shall certify to the state central committee the names and addresses of the delegates so elected, and when so certified they shall become the delegates from said district to the state convention.

HISTORY: New 1954, p. 221, Act 116, Eff. Jun. 1, 1955;—Am. 1956, p. 170, Act 82, Imd. Eff. Apr. 5.

168.593 State conventions in odd years; time, issuance of calls; apportionment of delegates among counties.

Sec. 593. A state convention of all political parties shall be held not less than 37 days before the first Monday of April in every odd numbered year. The state central committee of each political party shall cause to be forwarded by mail to the chairman of the county committee of such political party in each county a copy of the call for said state convention of such political party, showing the number of delegates to which each county shall be entitled in the state convention of such political party; and the said state central committee shall apportion such delegates to the several counties in proportion and according to the number of votes cast for the candidate of such party for secretary of state in each of said counties, respectively, at the last preceding November election. The particular day and the hour and place of meeting shall be designated by the state central committees of the various political parties in the call issued therefor by the respective state central committees of the several political parties. A certified copy of such call shall be immediately filed with the secretary of state.

HISTORY: New 1954, p. 222, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 21, Act 11, Imd. Eff. Dec. 27.

168.594 County convention in odd years; time and place, issuance of call; election of delegates to state convention; congressional district conventions, committee, temporary chairman, election of delegates, certification.

Sec. 594. The county conventions of all political parties for the election of delegates to a state convention in the odd numbered years shall be held not less than 7 days before said state convention. All such county conventions of any one political party shall be held on the same day throughout the state, which day shall be designated by the state central committee of such political party in its call for the state convention provided for in section 593 of this act. The place and hour of meeting of any such county convention shall be designated in the call issued therefor by the county committee of such political party in the county, which call shall be issued not less than 15 days before such county convention. The number of delegates to the state convention to which such political party in such county is entitled shall be chosen at such county convention. In all counties having or which may hereafter have 2 or more congressional districts or parts of congressional districts within the boundaries of the county, such congressional districts or a part of any congressional district within said counties shall each be considered a county within the provisions of this section for the holding of county conventions provided for in this section, and shall be in lieu of said county conventions. The nominee for congress of the congressional district in the preceding primary election, the county chairman and the county secretary of the several political parties shall constitute a committee in each congressional district to name the temporary chairman of the first district convention held under this act. Thereafter, the district chairman shall act as temporary chairman. The said convention shall then proceed to organize the same as county conventions and shall proceed to the election of delegates to the state convention. The chairman and secretary of any such convention shall certify to the state central committee the names and addresses of the delegates so elected, and when so certified they shall become the delegates from said district to the state convention.

HISTORY: New 1954, p. 222, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 21, Act 11, Imd. Eff. Dec. 27.

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168.595 Delegates to state conventions; apportionment to wards, precincts, townships or districts; basis.

Sec. 595. At the time of issuing the call for the county convention of any political party for the election of delegates to a state convention, the county committee of each political party shall apportion to the various wards (or to the precincts, in case delegates to the county convention are elected by precincts) and townships of such county the delegates to the ensuing state convention to which such county is entitled upon the basis provided for in this act for the apportioning of such delegates to the several counties. Any township may be joined with 1 or more other contiguous townships or any ward of a city may be joined with 1 or more other wards of the same city (or, in case delegates to the county convention are elected by precincts, then any precinct may be joined with 1 or more precincts of the same city), in the formation of a district for the choosing of 1 delegate. The delegates to the county convention from each ward, precinct, township or district, as the case may be, shall choose the number of delegates to the state convention that have been apportioned to such ward, precinct, township or district. The number of delegates so apportioned to the several wards, precincts, townships and districts shall approximate, as nearly as may be, the number of delegates to which said county may be entitled. If any ward, precinct, township or district shall be without representation in the county convention, or if such ward, precinct, township or district shall not choose the delegate or delegates to which such ward, precinct, township or district is entitled, or if the apportionment has not been completed or followed in the selection of delegates, the convention shall choose the delegate or delegates to which such ward, precinct, township or district may be entitled.

HISTORY: New 1954, p. 222, Act 116, Eff. Jun. 1, 1955.

168.595a Delegates to state convention; legislators as delegates at large, alternates, vote.

Sec. 595a. In addition to the delegates to the state convention of any political party as provided by section 595, all incumbent members of the state legislature shall be entitled to attend the convention of their political party as delegates at large of the county in which they maintain their legal residence. Such delegates shall not have alternates. He may attend the convention of the county, counties, or portions of counties which he represents in the state legislature and may choose to vote in any or all said county or district caucuses, but having only 1 vote on the floor at the state convention.

HISTORY: Add. 1967, p. 303, Act 209, Eff. Nov. 2.

168.596 Fall conventions and spring conventions; definition.

Sec. 596. The state convention held for the purpose of nominating candidates for state offices to be voted for at the November election shall be known as the "fall" state convention and the county convention held for the purpose of electing delegates to the fall state convention shall be known as the "fall" county convention. The state convention held not less than 37 days before the first Monday of April in every odd numbered year shall be known as the "spring" state convention, and the county convention held for the purpose of electing delegates to the spring state convention shall be known as the "spring" county convention.

HISTORY: New 1954, p. 223, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 21, Act 11, Imd. Eff. Dec. 27.

168.597 State central committee; members, officers, term of service.

Sec. 597. At its spring state convention in each odd numbered year, each political party shall select a state central committee as herein provided, which committee shall consist of 2 men and 2 women from each congressional district. The state convention shall select a chairman and 2 vice chairmen of the state central committee and such chairman and vice chairmen shall have the right to vote on all questions arising in the

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committee. The state central committee so constituted shall appoint a secretary and a treasurer and such other officers as in its judgment may be proper and shall have the power to fill any vacancy that may occur in its membership or any of its offices. The term of service of a state central committee shall continue until the election of its successor.

HISTORY: New 1954, p. 223, Act 116, Eff. Jun. 1, 1955;—Am. 1965, p. 729, Act 369, Imd. Eff. Jul. 23.

168.598 State central committee; issuance of call for fall state convention, apportionment of delegates, additional delegates.

Sec. 598. The state central committee of each political party shall, at least 60 days before the August primary herein provided for, cause to be forwarded by mail to the chairman of each county committee of such political party a copy of the call for the fall state convention of such political party, showing the number of delegates to which each county shall be entitled in the state convention of such political party, and the said state central committee shall apportion such delegates to the several counties in proportion to the number of votes cast for the candidate of such party for secretary of state in each of said counties, respectively, at the last preceding November election. In addition to the proportionate number of delegates allocated to each county, the state central committees shall allocate an additional number of delegates equal to the number of incumbent legislators nominated by their party and residing in such county.

HISTORY: New 1954, p. 223, Act 116, Eff. Jun. 1, 1955;—Am. 1967, p. 303, Act 209, Eff. Nov. 2.

168.599 Fall county convention; convening, selection of party county executive committee, appointments, vacancies.

Sec. 599. In the year 1966 and every second year thereafter, the delegates to the fall county convention of each political party in each county in this state having a population of less than 1,000,000, shall convene at the call of the county chairman within 20 days following the November election to select a number of persons equal to the number of county offices and state legislative offices for which candidates were nominated at the last 2 preceding fall primary elections, who, together with the persons most recently nominated by the party for each of such offices shall constitute the executive committee of their party for that county. When a new nomination is made for an office, the nominee for which is entitled to serve as a member of the executive committee, the new nominee shall replace the former nominee as a member of the executive committee. If any vacancy occurs in the position of delegate appointed member of the executive committee, the remaining deledgate [sic] appointed members shall fill the vacancy. Except as hereinafter provided in this section the executive committee may appoint such officers as it deems proper to carry out the purposes of the committee, and may fill a vacancy in any of its offices.

Certification, notice to members.

Immediately following the selection of members of the executive committee, including the filling of vacancies, the secretary of the county committee shall certify the names and addresses of the persons so chosen to the county clerk who shall forthwith notify each person so chosen.

Officers, selection; proxy.

Within 30 days following the convening of the fall county convention the executive committee, acting without the officers of the county committee who are not otherwise members of the executive committee, shall meet and select officers of the executive committee and thereafter shall select the officers of the county committee for the 2 years commencing on January 1 next. The officers shall be a chairman, a vice-chairman who shall be of the opposite sex to the chairman, a secretary and a treasurer. Candidates for legislative offices consisting of more than 1 county may give a written proxy to any other members of the executive committee.

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County committees.

After the officers of the county committee have taken office and within 30 days the executive committee shall select a county committee for the party, which committee shall consist of not less than 2 members from each township and 2 members from each ward of each city in the county, or shall consist of at least 2 members from each election precinct in the county, as the executive committee may determine. The committee shall have the right to appoint such officers as in its judgment may be proper to carry out the purposes of the committee, and shall have power to fill any vacancy which may occur in the membership of said committee or in any of its offices. Between meetings of the county committee such executive committee shall have all of the powers and perform all of the duties of the county committee, including the filling of vacancies in nominations as prescribed by law. The term of service of a county committee shall continue for a period of 2 years and until the selection of its successor.

Nominees as delegates at large.

Persons nominated as candidates of any political party for county office shall be delegates at large to the fall county convention held in the year of their nomination and to all county conventions held during the term of office for which a candidate was nominated. Persons nominated as candidates of any political party for state legislative office shall be delegates at large to the fall county convention held in the year of their nomination in each county or part of a county contained in the legislative district and to all county conventions held during the term of office for which he was nominated as a candidate. The number of delegates at large shall be in addition to the number of delegates specified in the call for the fall county convention. If any person is elected both a delegate at large and a delegate of an election district, a vacancy shall exist in the district delegation and shall be filled as provided in section 609.

HISTORY: New 1954, p. 223, Act 116, Eff. Jun. 1, 1955;—Am. 1956, p. 345, Act 186, Imd. Eff. Apr. 24;—Am. 1963, p. 435, Act 245, Eff. Sep. 6;—Am. 1966, p. 310, Act 233, Imd. Eff. Jul. 11;—Am. 1967, p. 251, Act 189, Eff. Nov. 2;—Am. 1969, p. 480, Act 248, Imd. Eff. Aug. 11.

168.600 Congressional district conventions; election of congressional district officers, terms.

Sec. 600. At the 1964 fall congressional district convention provided for in this act for congressional districts, the majority of the electors of which, reside in counties having a population of over 1,000,000, and at a caucus of each other congressional district held at the time of the 1964 fall state convention, there shall also be elected for each political party a congressional district chairman, vice chairman of opposite sex from the chairman, secretary, treasurer and committee of 15 members to serve for 2-year terms or until their successors are duly elected and qualified. Thereafter beginning in 1967 such elections shall be held at the spring congressional district conventions and the caucuses held at the time of the spring state convention in every odd-numbered year.

HISTORY: New 1954, p. 224, Act 116, Eff. Jun. 1, 1955;—Am. 1964, p. 522, Act 279, Imd. Eff. Jun. 11.

168.600a Congressional district officers; residence requirement, exception.

Sec. 600a. No person shall vote or hold any office or position in any congressional district committee or organization unless he is at that time a resident of that congressional district, except members of the state legislature whose districts are located in whole or in part in the congressional district.

HISTORY: Add. 1968, p. 64, Act 35, Imd. Eff. May 21.

168.601 County comprising single congressional or judicial district; county committee.

Sec. 601. In a county comprising a single representative, senatorial or judicial district, the county committee of each political party of each such county shall constitute

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the representative, senatorial or judicial committee of said political party for such representative, senatorial or judicial district, as the case may be.

HISTORY: New 1954, p. 224, Act 116, Eff. Jun. 1, 1955.

168.602 County comprising more than one congressional district; county committee.

Sec. 602. In a county comprising more than 1 representative or senatorial district, the members of the county committee of each political party residing in each such representative or senatorial district of such county shall constitute a committee of said political party for such representative or senatorial district, as the case may be, and such committee shall elect its chairman and other officers. The chairman shall have the right to vote on all questions arising in said committee.

HISTORY: New 1954, p. 224, Act 116, Eff. Jun. 1, 1955.

168.603 Repealed. 1967, p. 252, Act 189, Eff. Nov. 2.

Section provided for district committee membership at party convention.

168.603a Counties over 400,000; legislators as members of congressional district committee and delegates at large.

Sec. 603a. In counties having a population of more than 400,000 persons, all members of the state legislature shall be members of the congressional district committee of their party in each congressional district which encompasses their legislative district in whole or part, and shall serve in addition to the committee of 15 members prescribed in section 600 of this act. Such legislators shall also be seated as delegates-at-large to all congressional district conventions of their party held during their term of office in congressional districts which encompass their legislative district in whole or part. As congressional district committee members and as delegates-at-large, they shall have a voice and vote.

HISTORY: Add. 1966, p. 372, Act 264, Imd. Eff. Jul. 12.

168.604 County committee; issuance of call for fall county convention, apportionment of delegates.

Sec. 604. The chairman of the county committee of each political party shall forward by mail or deliver to the board of election commissioners, at least 25 days before the holding of the August primary, a copy of the call for the fall county convention, showing the number of delegates to which each election district of said county will be entitled at the fall county convention of said political party, to be held in said county in said year, and there shall be elected at the August primary by direct vote of the registered and qualified electors of each political party in each county as many delegates in each township, ward, precinct or district, as the case may be, as such political party in such township, ward, precinct or district shall, according to the certificate issued by the county committee of such political party, be entitled to at such county convention.

HISTORY: New 1954, p. 224, Act 116, Eff. Jun. 1, 1955.

168.605 Delegates to fall county convention; write-in candidates.

Sec. 605. The name of the candidate for delegate to the county convention shall not be printed upon the official primary election ballot, but 1 or more such names may be placed on such ballot by printed or written slips pasted thereon by the elector, or the names may be written in by the elector.

HISTORY: New 1954, p. 225, Act 116, Eff. Jun. 1, 1955.

168.606 Delegates to fall county convention; election, notice.

Sec. 606. Delegates to the fall county convention shall be elected by townships and in cities by precincts and the county clerk shall notify by mail each person elected as such delegate.

HISTORY: New 1954, p. 225, Act 116, Eff. Jun. 1, 1955.

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168.607 Delegates to fall county convention; election, votes required; tie vote, determination by lot.

Sec. 607. The required number of electors who receive the highest number of votes for delegates to the fall county convention of any political party, but not less than 3 votes, shall be declared by the board of primary election inspectors to be elected. If it shall appear on the canvass of the votes polled at any primary election for delegates to the fall county convention of any political party that 2 or more persons have received an equal number of votes for the same office, and that a failure to elect to any office is caused thereby, the election to such office shall be determined in the following manner: The board of canvassers for the county in which such election was held shall appoint a day for the appearance of all such persons before the county clerk for the purpose of determining by lot among such persons the right to such office, and shall cause notice thereof to be given to all such persons interested. The officer before whom such drawing is to take place shall prepare as many slips of paper as there are such persons and write the word "elected" on as many slips of paper as there are offices to be filled, and the words "not elected" on the remaining slips, and fold the same so as to conceal the writing and so that they may appear as near alike as possible. Such slips shall be placed in a box, and, at the time and place appointed for the drawing of such lots, each of such persons may draw 1 of such slips from the box; and any such person drawing a slip on which is written the word "elected" shall be deemed legally elected to the office in question; and the officer conducting such drawing shall forthwith give him a certificate of such election. If any such person shall fail to appear, the officer conducting such drawing shall designate some person to draw for such absent person.

HISTORY: New 1954, p. 225, Act 116, Eff. Jun. 1, 1955;—Am. 1968, p. 198, Act 136, Imd. Eff. Jun. 11.

168.608 Delegates to fall county convention; certification, record, notice of election.

Sec. 608. The board of primary election inspectors shall certify to the county clerk the names of the electors so elected as delegates, naming the political party upon whose ballot such electors were elected. The county clerk shall record the names of the delegates so elected in a book to be kept for that purpose and shall file said book among the records of his office, and shall forthwith notify each delegate so elected of his election as such delegate, and shall certify to the chairman of the committee of each political party of the county the delegates elected by such political party as delegates to the fall and succeeding spring county conventions.

HISTORY: New 1954, p. 225, Act 116, Eff. Jun. 1, 1955.

168.609 Delegates to city or county convention; proxy prohibited; vacancies in delegation.

Sec. 609. No delegate elected to any city or county convention shall give a proxy to represent him at such convention. All vacancies occurring in any delegation to any convention shall be filled by a majority vote of such delegation: Provided, That such delegation shall not be permitted to fill any vacancy which may occur in its number by any person not a resident of the ward, district, township or precinct, as the case may be, from which such absent delegate was chosen.

HISTORY: New 1954, p. 225, Act 116, Eff. Jun. 1, 1955.

168.610 Delegates to national convention; selection of national committeeman and national committeewoman.

Sec. 610. Delegates to the national convention of each party shall, at such convention, select the national committeeman and national committeewoman of such party for this state.

HISTORY: New 1954, p. 226, Act 116, Eff. Jun. 1, 1955.

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168.611 Delegates to national convention; election of congressional district delegates, delegates at large and presidential electors; certification.

Sec. 611. In the year 1956, and each fourth year thereafter, delegates of each political party who were elected to the last prior fall county convention shall reconvene in a county convention. Such county conventions shall, when so convened, elect delegates to a state convention. The number of delegates so elected shall be the same as the number elected to the last prior spring state convention. Said county conventions shall be held at least 90 days prior to the time set for the holding of the national convention of its political party. All county conventions shall be held on the same day and time. The time and place shall be fixed by the state central committee. A state convention shall be held in the year 1956, and each fourth year thereafter, composed of delegates so elected by the respective county conventions which shall be held at least 60 days prior to the holding of the national convention of its political party. On the date and prior to the state convention and at the place designated for the state convention, the delegates so elected by the respective county conventions shall convene in caucus in congressional districts and the delegates of each congressional district shall elect 2 district delegates to the national convention of its political party, and shall report to the state convention the names of the delegates so elected at each congressional caucus. The time for each of said caucuses shall be designated by the chairman of the state central committee. The state convention shall convene and shall elect the balance of the delegates to the national convention of its political party to which it is entitled under the call of the national convention as delegates-at-large. The convention shall likewise elect presidential electors in the manner now provided by law. Delegates chosen by the respective congressional districts and reported to the convention and delegates-at-large elected at the state convention shall be certified as the state delegation of such political party to its national convention by the chairman and secretary of the state convention. Such county and state conventions shall be conducted in accordance with the law now governing spring and fall county and state conventions.

HISTORY: New 1954, p. 226, Act 116, Eff. Jun. 1, 1955.

168.612 Precinct or convention delegate; age.

Sec. 612. Any person of the age of 18 years or older shall be eligible to be a candidate for election as a precinct delegate or be selected as a delegate to the state or national convention of any political party.

HISTORY: Add. 1970, p. 152, Act 64, Eff. Apr. 1, 1971.

CHAPTER XXVI.

DELEGATES—REFERENDUM

168.621 Party convention delegates; nomination.

Sec. 621. In all counties the provisions of this chapter shall be in force and effect and the nomination of all candidates of all political parties for delegates to county conventions shall be conducted as herein provided.

HISTORY: New 1954, p. 226, Act 116, Eff. Jun. 1, 1955;—Am. 1956, p. 232, Act 124, Imd. Eff. Apr. 13;—Am. 1964, p. 319, Act 236, Imd. Eff. May 27.

168.622 County conventions; time and place, chairman, vacancies, rules and regulations.

Sec. 622. The county conventions of each political party shall be held at such time and place as the county committee of each political party, through its chairman, shall designate: Provided, That county conventions at which delegates to a state convention are to be selected shall be held only at such times as shall be designated by the state central committee of such political party. They shall be called to order by the chairman of the county committee of each political party. He shall act as temporary chair-

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man until the delegates shall elect a permanent chairman. A permanent chairman shall be elected before any other business is transacted, and such election shall be conducted as follows: The county chairman shall cause to be read the list of elected delegates for such convention furnished to him by the county clerk, as provided in section 625 of this act, and, as the name of each delegate is called, the delegate shall state his choice for permanent chairman. The person receiving a majority of the votes of the elected delegates present shall become permanent chairman. Said convention may fill any vacancy occurring in any delegation to a county convention by a majority vote of the delegates present: Provided, That no vacancy shall be filled by any person not a qualified, registered elector residing in the precinct in which said vacancy occurs. Said convention shall prescribe the rules and regulations for the conduct of its affairs.

HISTORY: New 1954, p. 226, Act 116, Eff. Jun. 1, 1955.

168.623 Delegates to fall county conventions; election, apportionment to election precincts.

Sec. 623. Each election precinct in said county shall be entitled to such number of delegates to the fall county convention of each political party as shall be determined by the county committee of each political party in such county, which delegates shall be elected at the August primary election immediately preceding the holding of said fall county convention. Each election precinct in said county shall be entitled to the same number of delegates to the spring county convention of each political party and the persons elected as delegates to the preceding fall county convention shall be the delegates to such spring county convention: Provided, however, That in counties in which the question of the adoption of the provisions of this chapter has been submitted and passed prior to January 1, 1941, each election precinct in any said county shall be entitled to 1 delegate to the fall county convention of each political party who shall be elected as herein provided, and who shall also be the delegate to the spring county convention.

HISTORY: New 1954, p. 227, Act 116, Eff. Jun. 1, 1955.

168.624 Candidates for delegate to fall county conventions; eligibility; nominating petitions, affidavit; violation of section, penalty; complaint as to validity of petitions, registration or residence of candidate, investigation.

Sec. 624. Any person holding a public office in this state or municipal subdivision thereof may become a candidate for delegate to the county or district conventions, notwithstanding any provision of the laws of this state to the contrary. All candidates for the office of delegate to the county or district conventions of each political party shall be qualified, registered electors residing within, as well as having their actual bona fide residence within, the election precinct for which they desire to become a candidate, candidates shall file a petition with the county clerk of the county prior to 4 p.m., eastern standard time, on the seventieth day preceding the time designated for holding a primary election in such county, bearing the signatures of not less than 15 and not more than 20 registered electors residing within the precinct for which the petitioner desires to become a candidate. The petition shall be in the form required by the general laws of the state governing the filing of nominating petitions by candidates for other county offices at primary elections, and in addition shall state the candidate's place of residence and bear a signed affidavit of the candidate authorizing its filing. All duly elected and certified delegates shall be seated at the county or district county conventions. Any person violating the provisions of this section shall be guilty of a misdemeanor.

Whenever the county clerk shall receive a sworn complaint, in writing, questioning the validity of the registration or genuineness of the signature of the circulator or of

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any person signing the petition, the county clerk shall cause the petition or petitions to be forwarded to the proper city clerk or township clerk to compare the signatures appearing on the petition with the signatures appearing on the registration record, or in some other proper manner determine whether the signatures appearing on the petition are valid and genuine. Whenever such request shall have been made by the county clerk, the city clerk or township clerk shall complete the investigation and report his findings to the county clerk within 7 days after such request. No complaints respecting the validity or genuineness of signatures on such petitions shall be acted upon unless received by the county clerk by the sixty-third day preceding the primary election.

When a written complaint shall be made to the county clerk with respect to the registration and/or bona fide residence of a candidate, the county clerk shall check with the township or city clerk of the township or city in which the candidate is registered and/or residing, who shall report back to the county clerk within 48 hours as to the registration and/or bona fide residence of the candidate. In case such report shall show that the candidate is not a registered elector and/or a bona fide resident of the election precinct of the township or city for which his petition shows he is a resident, the county clerk shall remove the name of the candidate from the ballot. No such complaint received by the county clerk after the ballots have been released for printing shall be acted upon.

HISTORY: New 1954, p. 227, Act 116, Eff. Jun. 1, 1955;—Am. 1966, p. 65, Act 42, Imd. Eff. May 26.
CITED IN OTHER SECTIONS: The above section is cited in § 200.51.

168.625 Delegates to county fall conventions; canvass of returns, notice to candidate; tie vote, determination by lot; write-in candidates, certification.

Sec. 625. Such ballots shall be voted and canvassed by the precinct inspectors in the same manner as ballots bearing the names of the candidates for other county offices. The returns shall be made direct to the county clerk, who shall immediately notify the successful candidates by registered or certified mail at the address given in their nominating petitions. The county clerk shall, at the same time, furnish the chairman of the county committee of each political party with the names and addresses of the delegates elected to the county convention of his political party: Provided, That in case of a tie vote between the candidates for delegate in any precinct, then the county clerk shall notify such candidates to appear in his office at a specified time and the successful candidate shall be determined by drawing in a manner similar to that provided in section 851 of this act: Provided further, That in case a candidate is elected who has not filed a nominating petition and whose name is not printed on the ballots, the chairman of the board of precinct election inspectors shall ascertain whether such candidate is a registered elector in that precinct. If such candidate is found to be so registered, his name and address shall be certified to the county clerk on the return, and if not registered his name shall not be so certified.

HISTORY: New 1954, p. 228, Act 116, Eff. Jun. 1, 1955;—Am. 1958, p. 364, Act 190, Imd. Eff. Apr. 28.

168.626 Board of county election commissioners; preparation of ballots, contents, printing; distribution.

Sec. 626. It shall be the duty of the board of county election commissioners to prepare separate ballots for each of the several political parties for each election precinct in the county. The ballots shall be numbered consecutively and shall set forth the names of the delegates who have regularly filed petitions with the county clerk in the manner herein set forth and, in addition thereto, be prepared in such manner that the electors of each political party may write, print or paste the name of a candidate thereon. The delegate ballot at any partisan primary shall consist of 1 sheet of 70-pound white book paper, machine finished or equivalent, with 1 of the political party

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tickets printed on each side thereof. The names on the delegate ballot shall not be rotated. Such ballots shall be delivered to the county clerk for distribution to the election precincts at least 10 days prior to the holding of said primary election: Provided, That whenever there is located within a county subject to the provisions of this chapter, 1 or more cities or townships, or parts thereof, wherein voting machines are used, the board of county election commissioners may, in its discretion, dispense with the preparation of ballots for the election of delegates to the county convention of the several political parties and provide for their election upon such voting machines.

HISTORY: New 1954, p. 228, Act 116, Eff. Jun. 1, 1955.

CHAPTER XXVII.

SPECIAL PRIMARIES AND ELECTIONS

168.631 Special primary election; time.

Sec. 631. Whenever a special election shall be called to fill a vacancy in any office, the candidates for which are regularly nominated in accordance with the provisions of this act relating to primary nominations, a special primary for all political parties shall be held in the county, district or city in which the vacancy occurs on such day as may be fixed by the official or legislative body calling the special election, but not less than 20 days prior to the date of such special election, and the authorities calling any such special primary shall, in the call therefor, fix the time within which candidates may file nominating petitions.

HISTORY: New 1954, p. 228, Act 116, Eff. Jun. 1, 1955.

168.632 Special elections; in absence of choice for representative in congress.

Sec. 632. The governor shall call a special election in any congressional district of the state in which there has been no choice for a representative in congress at the general November election, or he shall direct that in such case the office shall be filled at the next general election.

HISTORY: New 1954, p. 229, Act 116, Eff. Jun. 1, 1955.

168.633 Special elections; vacancy in office of representative in congress.

Sec. 633. The governor shall call a special election in any congressional district of the state when the right of office of a person elected representative in congress shall cease before the commencement of the term of service for which he shall have been elected, or whenever a vacancy shall occur in the office of representative in congress after the term of service has begun for which such representative was elected; or the governor shall direct that such vacancy shall be filled at the next general election to be held at least 30 days after such vacancy shall occur.

HISTORY: New 1954, p. 229, Act 116, Eff. Jun. 1, 1955.

168.634 Special elections; vacancy in office of state senator or representative; general election, candidate, nomination, certification.

Sec. 634. The governor may call a special election in any senatorial or representative district whenever a vacancy shall occur in the office of senator or representative in the state legislature in that senatorial or representative district, or may direct that such vacancy shall be filled at the next general election. In the event that such vacancy shall occur within 30 days next preceding a general election and the governor directs that such vacancy be filled at such election, the executive committee of the county committee of each political party, if such county comprises 1 or more representative districts, or, if such district is comprised of more than 1 county, then the executive committee of the county committee of the respective political parties of each county in said district, may select, by a majority vote, a candidate for such office, and shall certify the name of such candidate to the county board of election commissioners of the

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county or counties comprising such representative district, at least 3 days before such general election. Upon such certification, the candidate so certified shall be the nominee of such party at such general election with the same force and effect as if such person had been nominated at a primary election as otherwise provided in this act. If the ballots for said election have already been printed before said certification, then the board of election commissioners shall cause the names of such candidates to be printed on a separate ballot, which ballot shall be counted, canvassed and returned as other ballots cast at said election. In the event that the governor shall direct that such vacancy shall be filled at the next general election, the secretary of state shall give notice thereof similar to the notice provided for in section 651 of this act.

HISTORY: New 1954, p. 229, Act 116, Eff. Jun. 1, 1955.

168.634a Repealed. 1970, p. 24, Act 10, Imd. Eff. Mar. 31.

Section provided for calling special election to fill vacancies in any court of record.

168.635 Special elections; referendum.

Sec. 635. It shall be lawful to call a special election for the submission of any proposition on any regular or special primary day.

HISTORY: New 1954, p. 229, Act 116, Eff. Jun. 1, 1955.

168.636 Applicability of act to special primary elections.

Sec. 636. The provisions of this act relative to primary election ballots shall be applicable to the ballots prepared for use at a special primary election.

HISTORY: New 1954, p. 229, Act 116, Eff. Jun. 1, 1955.

168.637 Primary elections; provisions governing.

Sec. 637. All primary elections held in this state shall be governed by and conducted in accordance with the provisions of this act.

HISTORY: New 1954, p. 229, Act 116, Eff. Jun. 1, 1955.

168.638 Special elections; notice.

Sec. 638. Whenever a special election shall be ordered by the governor to fill any vacancy, the secretary of state shall immediately notify the county clerk of each of the counties embraced in the election district, or the county clerk of the county the whole or part of which constitutes the election district, of the time of holding such election, the cause of such vacancy, the name of the officer and the time when the term of office will expire.

HISTORY: New 1954, p. 230, Act 116, Eff. Jun. 1, 1955.

168.639 Special elections called by municipalities; county election scheduling committee, members, vacancies, compensation; conflict with other scheduled elections, determination, notice.

Sec. 639. When a special election is called by a county, city, township, village or school district, the proposed date of the election shall be submitted to a county election scheduling committee consisting of the county clerk and 3 other members appointed by the board of supervisors. Members appointed by the board of supervisors shall be appointed at the first meeting of the board each year and shall serve for 1 year. Of the members appointed by the board of supervisors, 1 shall be a township clerk, 1 shall be a city clerk and 1 shall be a member of the board of education of a school district in the county. In counties containing no cities, the committee shall consist of 3 members. Vacancies shall be filled by appointment by the board of supervisors. The county clerk shall be chairman of the committee and the prosecuting attorney shall be legal advisor to the committee. Members of the committee who are full-time employees of a unit of government shall receive no additional compensation for serving on the committee. Other members shall receive a per diem established by the board of supervisors but not to exceed that paid to members of the board of canvas-

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sers. Any meeting of 4 hours or less shall be paid as a half day. The members of the commission may be paid expenses incurred in the performance of their duties. The committee shall determine if the proposed election date conflicts with any other scheduled election in the county. In determining conflict, the committee shall give consideration to such matters as the proximity of the proposed election to other scheduled elections, whether adequate notice can be given and if residents will be given opportunity to register for the election. The commission shall not approve any election scheduled to be held less than 45 days after the approval date and shall have the authority to disapprove an election date if an election is scheduled to be held in the same territory within 30 days of the proposed election date. Two or more special elections may be held on the same date. If the committee determines that no substantial conflict exists, it shall approve the proposed date and shall so notify the clerk of the governmental unit involved. If the committee determines that a substantial conflict exists, it shall notify the clerk of the governmental unit, explaining the conflict and disapproving the date and the proposed election shall not be scheduled on that date. A determination by the committee shall be made within 5 days of receipt of a proposed date unless the scheduling committee has 2 or more regularly scheduled meetings per month, in which case the determination shall be made at the first meeting of the committee following receipt in writing of the proposed date by the county clerk. Notice to the local clerk of the determination of the committee shall be made by the county clerk forthwith after the committee makes its determination. The secretary of any school district shall, upon receipt of the approval of a proposed date, forthwith notify the clerk of every city and township in the school district of the approved date. In a case where a district extends into more than 1 county, the determination shall be made by a committee of the county in which the greatest number of registered voters of the unit of government scheduling the special election reside after consulting with the county clerk from each county involved.

HISTORY: Add. 1968, p. 667, Act 345, Eff. Nov. 15;—Am. 1969, p. 731, Act 322, Imd. Eff. Aug. 20.
CITED IN OTHER SECTIONS: The above section is cited in § 340.306b.

CHAPTER XXVIII.

HOLDING OF ELECTIONS

168.641 General November elections; time.

Sec. 641. An election which shall be known and designated as the "general November election" shall be held in this state on the Tuesday succeeding the first Monday of November in every even numbered year.

HISTORY: New 1954, p. 230, Act 116, Eff. Jun. 1, 1955.

168.642 Repealed. 1963, 2nd Ex. Ses., p. 78, Act 56, Eff. Mar. 24, 1964.

Section provided for biennial spring elections.

168.643 General November elections; national, state, county and township officers to be elected.

Sec. 643. At the general November elections, there shall be elected when required by law the following officers:

1. Presidential electors;

2. In the state at large, a governor and a lieutenant governor, a secretary of state and an attorney general;

3. A United States senator;

4. In each congressional district, a representative in congress;

5. In each state senatorial district, a state senator;

6. In each state representative district, a representative in the state legislature;

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7. Justices of the supreme court;

8. Two members of the state board of education; except as provided in section 282a;

9. Two regents of the University of Michigan;

10. Two trustees of Michigan State University;

11. Two governors of Wayne State University;

12. In each county or district, judges of the court of appeals, a judge or judges of the circuit court, a judge or judges of probate, a circuit court commissioner or circuit court commissioners, a prosecuting attorney, a sheriff, a clerk, a treasurer, a register of deeds, an auditor, a mine inspector, a county road commissioner, a drain commissioner, 2 coroners and a surveyor. The board of supervisors in any county may unite the offices of county clerk and register of deeds in 1 office or separate the same at pleasure;

13. Township officers;

14. Such other officers as by this act or otherwise by law are now or hereafter may be required to be elected at such election.

HISTORY: New 1954, p. 230, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 72, Act 56, Eff. Mar. 24, 1964.

168.643a Referendums; questions submitted to electors, form.

Sec. 643a. Any question submitted to the electors of this state or the electors of any subdivision of this state shall, to the extent that it will not confuse the electorate, be worded in the following manner: A "yes" vote will be a vote in favor of the subject matter of the proposal or issue, and a "no" vote will be a vote against the subject matter of the proposal or issue. Questions shall be worded so as to apprise the voters of the subject matter of the proposal or issue, but need not be legally precise. The language used shall create no prejudice for or against the issue or proposal.

HISTORY: Add. 1969, p. 301, Act 152, Eff. Mar. 20, 1970.

168.644 Repealed. 1963, 2nd Ex. Ses., p. 78, Act 56, Eff. Mar. 24, 1964.

Section specified officers to be elected at biennial spring elections.

168.644a Odd year general election; time.

Sec. 644a. An election to be known as the "odd year general election" shall be held on the Tuesday succeeding the first Monday in November in every odd numbered year.

HISTORY: Add. 1970, p. 651, Act 239, Imd. Eff. Dec. 22.

168.644b Odd year primary election; time.

Sec. 644b. A primary election to be known as the "odd year primary election" shall be held on the Tuesday following the first Monday in August of each odd numbered year.

HISTORY: Add. 1970, p. 651, Act 239, Imd. Eff. Dec. 22.

168.644c Officers to be elected.

Sec. 644c. Notwithstanding any law or charter to the contrary, the following officers shall be elected at the odd year general election:

(a) All judicial officers other than justices of the supreme court and judges of the court of appeals. This provision shall not be effective unless a constitutional amendment authorizing the election of judges at odd numbered year elections is adopted.

(b) All elective city officers, including municipal judges, except as otherwise provided in this act.

HISTORY: Add. 1970, p. 651, Act 239, Imd. Eff. Dec. 22.

168.644e Nomination by primary; exceptions.

Sec. 644e. All officers required to be elected at the odd year general election shall be nominated at the odd year primary elections except where a city charter provides

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otherwise for city officers. Where a city charter provides for nomination by caucus or by filing a petition or affidavit directly for the general election, or provides for the election at the primary of a candidate who receives more than 50% of the votes cast for that office, the governing body by ordinance may provide for a caucus date, filing date or other provisions to the extent necessary to be consistent with the odd year election requirement of this act and the intent of the charter provisions.

HISTORY: Add. 1970, p. 651, Act 239, Imd. Eff. Dec. 22.

168.644f Nominating petitions; filing; signatures; omission of primary.

Sec. 644f. (1) Except as provided in section 644e, nominating petitions for offices to be filled at the odd year general election shall be filed by 4 p.m. on the seventh Tuesday prior to the odd year primary election. The place of filing and the number of signatures shall be the same as is now required by law for such offices.

(2) If no nonpartisan petition requirement is now contained in law or charter, the minimum number of signatures shall be ½ of 1% of the vote for secretary of state in the election district at the last election at which a secretary of state was elected, but in no case less than 10 signatures.

(3) If, upon the expiration of the time for filing nonpartisan petitions, not more than twice the number of candidates as there are persons to be elected to that office have filed, primary for that office shall not be held and those persons filing valid petitions shall be declared the nominees for the offices, unless a city charter provides otherwise for city offices.

HISTORY: Add. 1970, p. 652, Act 239, Imd. Eff. Dec. 22.

168.644g Terms of office, extension.

Sec. 644g. (1) A term of office shall not be shortened by the provisions of sections 644a to 644l. An officer scheduled by prior law to be elected at a time other than in November of an odd numbered year shall not be elected on the date scheduled but shall continue in office until a successor takes office pursuant to the first odd year general election following that date.

(2) Notwithstanding any law to the contrary, any officer required to be elected at the odd year general election, who by law is elected for a term of an odd number of years shall be elected hereafter for a term of 1 year longer than provided by law.

(3) In home rule cities where the charter provides for the election of city officers at a time other than in November of odd numbered years and provides that members of the governing body are not all to be elected in the same year, the governing body by ordinance adopted prior to April 1, 1971, may alter the length of terms now provided by charter to provide that the city may continue to elect part of the governing body at each election. A term shall not be extended beyond January 1 following the first odd numbered year election at which the officer would be elected pursuant to charter. A term shall not be for more than 4 years.

HISTORY: Add. 1970, p. 652, Act 239, Imd. Eff. Dec. 22.

168.644h Time of taking office.

Sec. 644h. All persons elected at the odd year general election shall take office at 12 noon on January 1 following the election. In home rule cities, if the charter provides for an earlier date for taking office or if prior to April 1, 1971, the council provides by ordinance for an earlier date for taking office, the earlier date shall prevail.

HISTORY: Add. 1970, p. 652, Act 239, Imd. Eff. Dec. 22.

168.644i Manner of conducting elections.

Sec. 644i. All odd year primary and general elections shall be conducted in the manner elections for state and county offices are conducted.

HISTORY: Add. 1970, p. 652, Act 239, Imd. Eff. Dec. 22.

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168.644j Exceptions to odd year elections.

Sec. 644j. The provisions of section 644c shall not apply to a home rule city where the charter in existence on the effective date of this section provides either of the following:

(a) Requires the election of city officers annually on the Tuesday succeeding the first Monday in November of each year. The city elections shall continue to be governed by charter.

(b) Requires the election of the governing body on a partisan basis on a date other than November of the odd numbered year.

HISTORY: Add. 1970, p. 652, Act 239, Imd. Eff. Dec. 22.

168.644k School elections.

Sec. 644k. The provisions of sections 644a to 644l shall not preclude an agreement which is made between a city and a school district that is wholly or partly within the city and which authorizes the city to conduct the school election in conjunction with the city election. Where an agreement is made, the school board before April 1, 1971 shall provide that the term of office of members of the school district shall be for an even number of years and shall provide for an election schedule which implements the change. A term may be extended for not more than 1 year for purposes of implementing the agreement. The board may provide that all members shall not be elected at the same election.

HISTORY: Add. 1970, p. 653, Act 239, Imd. Eff. Dec. 22.

168.644l Exemption from odd year election; reinstatement.

Sec. 644l. (1) Except in a city affected by section 644j, the governing body may provide by resolution adopted within 30 days following the effective date of sections 644a to 644l that the city shall continue to hold its elections as required by its charter.

(2) A city which exempts itself pursuant to subsection (1) may provide, by ordinance adopted not less than 7 months preceding the date of any regularly scheduled city election, that all regular city elections shall be held at the odd year general election. An ordinance adopted pursuant to this subsection shall provide for such terms of office and date for taking office as will conform to the intent of sections 644a to 644l.

(3) As an alternative to subsection (2), a city which exempts itself pursuant to subsection (1) and where the charter requires the holding of city elections annually during a month other than November may provide by ordinance adopted not less than 7 months preceding the date of any regularly scheduled city election that all regular city elections shall be held annually on the Tuesday following the first Monday in November for the terms of office required by charter. An ordinance adopted pursuant to this subsection shall provide for a date for taking office as will conform to the intent of this act.

(4) A copy of a resolution and any ordinance adopted pursuant to this section shall be filed with the secretary of state.

HISTORY: Add. 1970, p. 653, Act 239, Imd. Eff. Dec. 22.

168.645 Repealed. 1958, p. 231, Act 192, Eff. Sep. 13.

Section provided for biennial township elections.

168.646 City and village regular elections; provisions governing; judges, designation of incumbency on ballots.

Sec. 646. Regular elections shall be held in cities and villages at such times as are provided by the laws and charters governing the time of holding such elections, and such officers shall be elected at such elections and for such terms as are provided by the laws and charters governing such cities and villages: Provided, That in any primary or regular election at which candidates are to be nominated or elected to the office of

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judge, any incumbent judge who is a candidate, upon his request in writing, may have printed upon the ballot under the name of such candidate, the designation of that office.

HISTORY: New 1954, p. 231, Act 116, Eff. Jun. 1, 1955;—Am. 1958, p. 226, Act 192, Eff. Sep. 13;—Am. 1963, 2nd Ex. Ses., p. 73, Act 56, Eff. Mar. 24, 1964.

168.646a Election of local officers; nomination; certification.

Sec. 646a. (1) If any local officer is to be elected at any general November election or on the first Monday of April in any odd numbered year, candidates for such local office shall be nominated in the manner provided by law or charter. If such candidates are to be nominated at a fall primary election, the primary shall be held on the same day as is provided by law for holding the county or state primary election prior to such election, except as provided in section 646b. If such candidates are to be elected in April, the primary shall be held on the third Monday in February. If candidates for such local office are to be nominated at caucuses, the caucuses shall be held on a date prior to the date set for the above mentioned primary election or on the Saturday preceding the day of the primary election as determined by the local legislative body at least 20 days preceding the date of the caucus. If candidates are nominated by filing petitions or affidavits, they shall be filed at a time provided by charter but in no case later than the date of the primary. If a local primary election is to be held on the same day as any state or county primary election, or on a date established by a governing body pursuant to authority granted in section 646b of this act, the last day for local candidates to file nominating petitions shall be the same as the last date to file petitions for state and county offices. The names of all local candidates and titles of office shall be certified to the county clerk by the local clerk within 5 days after the last day for filing petitions, and certification of nominees shall be made to such clerk within 5 days after the date on which the primary or caucus was held.

Local or county questions, submission.

(2) If any local or county questions are to be voted on at any primary, special or general election at which state officers are to be voted for, the ballot wording of the question shall be certified to the local or county clerk at least 49 days prior to such election. If such wording is certified to a clerk other than the county clerk such clerk shall certify such ballot wording to the county clerk at least 47 days prior to such election. Petitions to place any county or local questions on the ballot at any such election shall be filed with the clerk at least 14 days prior to the date the ballot wording must be certified to the local clerk.

Application of section, filing of affidavits and petitions.

(3) The provisions of this section shall apply notwithstanding any provisions of law or charter to the contrary, unless an earlier date for the filing of affidavits or petitions, including nominating petitions, is provided in any law or charter, in which case the earlier filing date shall be controlling.

HISTORY: Add. 1958, p. 94, Act 86, Eff. Sep. 13;—Am. 1961, p. 254, Act 178, Eff. Sep. 8;—Am. 1962, p. 98, Act 109, Eff. Mar. 28, 1963;—Am. 1963, 2nd Ex. Ses., p. 73, Act 56, Eff. Mar. 24, 1964;—Am. 1964, p. 379, Act 252, Imd. Eff. May 28;—Am. 1970, p. 69, Act 23, Imd. Eff. May 27.

168.646b City or village officers; nomination and election; primary date.

Sec. 646b. Notwithstanding section 646a, where the charter of any city or village establishes the date for nomination or election of city or village officers by reference to schedules provided by law for the filing of petitions and the nominating and electing of candidates for state or county offices, such references shall be deemed to refer to the provisions of law which prior to the adoption of the 1963 constitution established a primary on the third Monday in February and required the filing of petitions 49 days prior thereto.

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In the year 1970 only, any city, the charter of which provides for a September primary to be held on a date other than the date on which the state primary is held, regardless of any charter provision to the contrary, shall hold its primary on either the date of the state primary or on a date determined by the governing body of such city.

HISTORY: Add. 1964, p. 379, Act 252, Imd. Eff. May 28;—Am. 1970, p. 70, Act 23, Imd. Eff. May 27.

168.646c Election of judges of common pleas court; terms of office; affidavit of qualifications; nominating petitions, signatures required, filing.

Sec. 646c. Notwithstanding any other provision of law, general or local, judges of the common pleas court shall be elected at general elections. The terms of office of all elected common pleas court judges serving in office as of December 31, 1965 shall be extended 1 year and thereafter all common pleas judges shall be elected at the general election in the even numbered years for a term of 6 years, except as specifically provided otherwise. At the November, 1966 general election the candidate for judge receiving the greatest number of votes shall be deemed elected for an 8-year term and the other successful candidates for 6-year terms. At the November, 1968 general election the 2 candidates for judge receiving the greatest number of votes shall be deemed elected for 8-year terms, and the next 2 candidates receiving the greatest number of votes, for 6-year terms. At the November, 1970 general election the successful candidates for judge shall be deemed elected for 6-year terms. Thereafter, 3 candidates for judge shall be elected in each general election for 6-year terms. All persons filing as a candidate for the office of judge of the court of common pleas shall file their affidavit of qualification, nomination petitions as provided by law or filing fee of $100.00 with the city clerk and be governed by the provisions of this act relative thereto.

The printing of the name of any person on the ballot as a candidate for the office of judge of the common pleas court may be obtained by filing with the city clerk nominating petitions containing the signatures, addresses and dates of signing of a number of qualified and registered electors residing in said city equal to not less than 1/2 of 1% nor more than 2% of the votes cast in that municipality for secretary of state at the last preceding November election in which a secretary of state was elected. The city clerk shall receive such nominating petitions up to 4 p.m. eastern standard time of the seventh Tuesday preceding the August primary. Petitions, as far as applicable, shall be in the form of and in accordance with all provisions of section 544 but shall contain no reference to any political party.

HISTORY: Add. 1965, p. 132, Act 100, Imd. Eff. Jun. 28.

168.646d Precinct divisions for 1968; effective date, notice; petitions for precinct delegate, effect; office of county supervisor, placement on ballot.

Sec. 646d. Notwithstanding any provision of law to the contrary, including any act passed at the 1968 regular session, the following dates will be in effect for the year 1968 only:

July 2—Precinct divisions, necessitated by the establishment of supervisor district lines, shall be made by this date, notice of such divisions shall be made forthwith to the county clerk and the secretary of state.

July 9—Effective date of precinct divisions made as a result of establishment of supervisor districts.

Petitions filed for precinct delegate, if valid for the precinct for which filed, shall be deemed valid for a precinct changed or established as a consequence of establishing supervisor district lines. The candidates shall be deemed a candidate in the precinct in which he resides.

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The office of county supervisor shall be placed on the ballot immediately following the county offices.

HISTORY: Add. 1968, p. 244, Act 156, Imd. Eff. Jun. 17.

NOTICES OF ELECTION

168.647 Notice of elections; registered or certified mail.

Sec. 647. Notices of election required by this act to be given by the secretary of state to county clerks, and by county clerks to city and township clerks, shall be sent by registered or certified mail with return receipt demanded.

HISTORY: New 1954, p. 231, Act 116, Eff. Jun. 1, 1955;—Am. 1956, p. 364, Act 190, Imd. Eff. Apr. 26.

168.648 Notice of elections to county clerk; time, contents.

Sec. 648. The secretary of state, at least 60 days and not more than 90 days preceding any regular state or district primary or election, shall send to the county clerk of each county a notice in writing of such primary or election, specifying in such notice the federal, state and district offices for which candidates are to be nominated or elected, as well as any constitutional amendments and questions to be submitted thereat.

HISTORY: New 1954, p. 231, Act 116, Eff. Jun. 1, 1955.

168.649 Referendum; certification of proposed constitutional amendment or special question.

Sec. 649. Whenever a proposed constitutional amendment or other special question is to be submitted to the electors of the state for popular vote, the secretary of state shall, not less than 49 days before election, certify the same to the clerk of each county in the state and shall at the same time prescribe the form in which such amendment or other special question shall be submitted. Any city ordinance which has been or is hereafter adopted by the common council in a city of over 500,000 and which is subject to referendum shall be submitted to the people of that city at the next general election unless submitted to a special election by action of the common council.

HISTORY: New 1954, p. 231, Act 116, Eff. Jun. 1, 1955;—Am. 1968, p. 87, Act 46, Imd. Eff. May 24.

168.649a Airport authority referendum; petitions, filing; submission.

Sec. 649a. Regardless of any other provisions of this act, referendum petitions filed pursuant to the provisions of and within the time limit provided by section 23 of Act No. 73 of the Public Acts of 1970, being section 259.823 of the Compiled Laws of 1948, shall be placed on the ballot at the next general election if the referendum petitions are determined by the secretary of state to be sufficient and valid as required by this act the same as other referendum petitions filed under the provisions of this act. Referendum petitions filed under the provisions of section 23 of Act No. 73 of the Public Acts of 1970 with the secretary of state shall be canvassed by him and if found to be sufficient shall be certified to the county clerks within the authority from which the petitions were filed and he shall at the same time prescribe the form in which the special question shall be submitted. The returns shall be canvassed by the board of county canvassers and the results certified to the secretary of state.

HISTORY: Add. 1970, p. 591, Act 211, Imd. Eff. Sep. 18.

168.650 Subsequent vacancy; additional notice to county clerks.

Sec. 650. If, after such notices have been sent, a vacancy shall occur in any office which by law is required to be filled at such election, the secretary of state shall send to each county clerk an additional notice specifying the office in which such vacancy exists and that such vacancy will be filled at the next general election.

HISTORY: New 1954, p. 231, Act 116, Eff. Jun. 1, 1955.

168.651 Special election; notice to county clerks, contents.

Sec. 651. Whenever a special election shall be ordered by the governor to fill any vacancy, the secretary of state shall immediately notify the county clerk of each of the

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counties embraced in the election district, or the county clerk of the county, the whole or part of which constitutes the election district, of the time of holding such election, the cause of such vacancy, the name of the officer and the time when the term of office will expire.

HISTORY: New 1954, p. 231, Act 116, Eff. Jun. 1, 1955.

168.652 Special elections; notice to city and township clerks, contents.

Sec. 652. On receipt of any such notice from the secretary of state, the county clerk shall forthwith send a copy of the notice in writing to the clerk of each city and township in his county, which notice shall contain in substance the notice so received from the secretary of state, and he shall at the same time in such notice designate all county offices to be filled and any questions to be submitted at such election. If such county shall be divided into 2 or more senatorial or representative districts, such notice, so far as it relates to the election of senators and representatives, shall be sent by the county clerk to the clerk of each city and township in each respective district.

HISTORY: New 1954, p. 232, Act 116, Eff. Jun. 1, 1955.

168.653 Special elections; public notice, publication, posting, form.

Sec. 653. On receipt of any such notice from the county clerk, the clerk of each city and township shall give public notice of the time and place in such city or township at which such election is to be held and of the offices to be filled. Such notice shall be given by publication thereof at least twice in some newspaper or newspapers published or of general circulation in said city or township, and if deemed advisable by the legislative body or township board, by posting notices in 2 or more conspicuous places in each election precinct, said first publication or said posting to be made not less than 10 days prior to such election. Such published or posted notices shall be in substantially the following form:

ELECTION NOTICE

To the qualified electors of the .....county of .....
Notice is hereby given that a .....
(indicate whether regular, special or primary)
election will be held in the .....of .....
(here insert the name of city or township)
in the county of.....and state of Michigan, on .....
from .....o'clock in the forenoon until .....o'clock in the afternoon, eastern standard time, for the purpose of nominating or electing candidates for the following offices:.....
(list of offices)
and to vote on the following propositions: .....
.....
(list constitutional amendments, bond issues and other propositions)
.....
.....Clerk.

It shall not be necessary for the county, city or township clerk to publish any notice other than as hereinbefore provided.

HISTORY: New 1954, p. 232, Act 116, Eff. Jun. 1, 1955.

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ELECTION PRECINCTS

168.654 Election precincts; definition.

Sec. 654. The words "election precinct" as used in this act shall mean a political subdivision, the area of which is embraced in its entirety within the confines of a city, ward, township or village, and for which not more than 1 polling place is provided for all qualified and registered electors residing therein. When not divided according to law into 2 or more election precincts, each organized city, ward, township and village shall be an election precinct.

HISTORY: New 1954, p. 232, Act 116, Eff. Jun. 1, 1955.

168.655 Election precincts; provisions governing.

Sec. 655. The election precincts in the several cities, wards, townships and villages shall remain as established at the time this act takes effect until they shall be changed in accordance with the provisions of this chapter.

HISTORY: New 1954, p. 233, Act 116, Eff. Jun. 1, 1955.

168.656 Election precincts; establishment, petition, referendum; division of precincts, effective date, notice, expense.

Sec. 656. Any city, ward, township or village using paper ballots, having less than 400 registered voters, which constitutes a single election precinct, in the discretion of the election commission, or other officials charged with the performance of such duty by the charter of any city or village, may be divided into 2 or more election precincts. In any township, upon a petition signed by not less than 25 qualified electors of the township showing the boundaries of the proposed election precincts, the township board shall submit to the electors of the township, at the next election held therein, the question of the division of the township into election precincts, as set forth in the petition. If, upon such referendum, the electors of the township shall decide in favor of such division of the township into such election precincts, the township board shall thereupon make such division and enter the same of record in the proceedings of the township board. When in any township, city, ward or village, or in any election precinct therein, using paper ballots, there shall be 400 or more registered electors, the election commission of the township or city, or other officials charged with the performance of such duty by the charter of any city or village, shall by resolution divide such precincts into 2 or more precincts, or shall again divide the township, city, ward or village into election precincts, so that there shall not be more than 400 registered electors in any one precinct.

The division of precincts shall be made effective not later than 90 days before the primary election next preceding the general November election. City and township election commissions shall divide precincts according to law, not later than the one hundred twentieth day prior to the primary next preceding the general November election, and shall forthwith notify the county clerk of the number of registered voters in each precinct in such city or township. The county clerk shall notify the state director of elections immediately following the one hundred tenth day prior to the primary of any precincts in his county which have not been divided according to law, and the state director of elections shall proceed to make such divisions as are necessary at the expense of the city or township involved, not later than the ninetieth day prior to the primary next preceding the general November election.

HISTORY: New 1954, p. 233, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 619, Act 271, Imd. Eff. June 30;—Am. 1969, p. 533, Act 290, Imd. Eff. Aug. 11.

CITED IN OTHER SECTIONS: The above section is cited in § 200.51.

168.657 Election precincts; division, rearrangement.

Sec. 657. When any city, ward, township or village has been divided into 2 or more election precincts, the election commission, or other officials charged with the performance of such duty by the charter of any city or village, as the case may be, may by

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resolution divide any precinct thereof into 2 or more precincts, attach a portion of any precinct to an adjoining precinct, or may again rearrange the city, ward, township or village into election precincts as said election commission or other officials charged with the performance of such duty by the charter of any city or village, may deem necessary and convenient for conducting primaries or elections in said city, ward, township or village, in the same manner and under the same restrictions as provided in sections 656 and 661 of this act.

HISTORY: New 1954, p. 233, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 620, Act 271, Imd. Eff. Jun. 30.

168.658 Election precincts; consolidation.

Sec. 658. When any city, ward, township or village has been divided into 2 or more election precincts, pursuant to law, and it shall appear from an examination of the precinct registration records, that there are not more than 400 registered electors in such city, ward, township or village using paper ballots, or not more than 1,400 registered electors in such city, ward, township or village using voting machines, the election commission, or other officials charged with the performance of such duty by the charter of any city or village, by resolution, may abolish the division or divisions and thereafter such city, ward, township or village shall constitute a single election precinct as if no division had ever been made. No such consolidation shall be made later than the one hundred twentieth day prior to any primary or election.

HISTORY: New 1954, p. 233, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 620, Act 271, Imd. Eff. Jun. 30;—Am. 1969, p. 533, Act 290, Imd. Eff. Aug. 11.

168.659 Repealed. 1955, p. 634, Act 271, Imd. Eff. Jun. 30;—1955, p. 743, Act 283, Imd. Eff. Jul. 19.

Section prohibited change in election precincts within 60 days of primary or election.

168.660 Election precincts; division, alteration, rearrangement or abolition, record; notice.

Sec. 660. Whenever a city, ward, township or village shall be subdivided into election precincts, or the election precincts thereof shall be altered or rearranged, the city, township or village election commission, or other officials charged with the performance of such duty by the charter of any city or village, as the case may be, shall enter said action of record in its proceedings, specify the numbers of said precincts altered or rearranged in numerical order, and describe the boundaries of each such precinct. Notice of such subdivision, alteration or rearrangement shall be given forthwith by the city, township or village clerk. Such notification shall be effected by mailing to each qualified and registered elector affected by such subdivision, alteration or rearrangement a notice by first class letter postage advising the location of his new polling place and, if deemed advisable by the city, township or village election commission, by posting a public notice of such change in 2 places in each precinct affected thereby, advising the boundaries of each of said precincts. A notice shall also be immediately transmitted to the county clerk, and the county clerk shall transmit to the secretary of state, at least 110 days prior to the primary next preceding the general November election, the number of election precincts in his county. The said city, township or village clerk shall give like notice of the abolition of the division of a city, ward, township or village into election precincts, and shall, in said notice of abolition, state that the city, ward, township or village is restored as a single election precinct and indicate the location of the polling place therein. Notice of such abolition shall be immediately transmitted to the county clerk, and by him to the secretary of state, as in the case of the subdivision or alteration of boundaries as herein provided.

HISTORY: New 1954, p. 234, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 620, Act 271, Imd. Eff. Jun. 30.

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168.661 Election precincts; number of voting machines; division of precincts, effective date.

Sec. 661. In each precinct using voting machines, there shall be at least 1 voting machine for each 600 registered electors at all general November elections and at the primary immediately preceding such elections. At all other primaries and elections, the number of voting machines shall be at the discretion of the local election commission. When the registration in any precinct using voting machines exceeds 1,400, such precinct or precincts shall be divided or rearranged.

Any division of precincts shall be made effective not later than 90 days before the primary election next preceding the general November election. City and township election commissions shall divide precincts according to law, not later than the one hundred twentieth day prior to the primary next preceding the general November election, and shall forthwith notify the county clerk of the number of registered voters in each precinct in such city or township. The county clerk shall notify the state director of elections immediately following the one hundred tenth day prior to the aforesaid primary of any precincts in his county which have not been divided according to law, and the state director of elections shall proceed to make such divisions as are necessary at the expense of the city or township involved, not later than the ninetieth day prior to the primary next preceding the general November election. Should the election commission of any city, village or township using voting machines decide to use paper ballots for any primary or election, the preceding limitations shall continue for that election.

HISTORY: New 1954, p. 234, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 620, Act 271, Imd. Eff. June 30;—Am. 1964, p. 280, Act 212, Imd. Eff. May 22.

POLLING PLACES, EQUIPMENT, SUPPLIES

168.662 Polling places; designation, rental or erection by legislative bodies; equipment; central polling places; authority of township boards.

Sec. 662. The legislative body in each city, village and township shall designate and prescribe the place or places of holding any primary or election in their respective cities, villages and townships, and shall provide a suitable polling place in or for each precinct located in such city, village or township, as the case may be, for use at each primary or election held therein. School houses, police stations and other publicly owned or controlled buildings shall, whenever possible and convenient, be used as polling places. The legislative body in each city, village and township shall make arrangements for the rental or erection of suitable buildings for this purpose wherever public buildings are not available, and shall cause such polling places to be equipped with the necessary facilities for lighting and with adequate facilities for heat and ventilation: Provided, That in any city, village or township, it shall be lawful for the legislative body to establish a central polling place or places for not more than 6 precincts to each such central polling place when it is possible and convenient for the electors to vote thereat, and to provide for the discontinuance and abolishment of such other polling places as may not be required as a result of the establishment of such central polling places: Provided further, That township boards are hereby authorized to provide polling places located within the limits of a city which has been incorporated from territory formerly a part of such township, and the electors of such township may cast their ballots at such polling places.

HISTORY: New 1954, p. 234, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 621, Act 271, Imd. Eff. Jun. 30.

168.663 Polling places; erection of barriers.

Sec. 663. The legislative body of each city, village and township shall provide for and cause to be erected in the room where any election is to be held in each election precinct of such city, village or township, a suitable barrier which shall be so placed as

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to separate from the rest of the room the area in which the election officials, challengers, voting machines or ballot boxes and voting booths, and persons in the actual process of voting, are located. The barrier shall be of a type approved by the secretary of state.

HISTORY: New 1954, p. 235, Act 116, Eff. Jun. 1, 1955;—Am. 1962, p. 60, Act 74, Eff. Mar. 28, 1963.

168.664 Polling places; booths or temporary rooms, specifications.

Sec. 664. On the inside of said railing, the said officers shall cause 1 or more booths or temporary rooms to be erected. At least 1 such booth shall be provided at each polling place and not less than 1 for each 100 persons entitled to vote thereat, as shown by the registration book of the precinct. Each such booth shall be built with walls not less than 6 feet high and in such manner that the person preparing his ballot shall be concealed from all other persons. In each booth there shall be provided a shelf of sufficient size with smooth surface on which ballots may be placed to be marked.

HISTORY: New 1954, p. 235, Act 116, Eff. Jun. 1, 1955.

168.665 Polling places; forms, stationery and supplies; provision, delivery, approval by state bureau of elections.

Sec. 665. All forms, stationery and supplies required by the several boards of precinct election inspectors for all federal, state, district and county primaries and elections shall be furnished in accordance with sections 666, 667, 668, 669 and 670 of this act. All forms, stationery and supplies to be provided by the secretary of state and the boards of county election commissioners shall be delivered to the county clerks who shall, in turn, deliver them to the several city and township clerks at the time official ballots are delivered, and said ballots, as well as all forms, stationery and supplies referred to in sections 666, 667, 668, 669 and 670 of this act, shall be delivered by said city and township clerks to the several boards of precinct election inspectors in sufficient time for use at any such primary or election. Notwithstanding any provision of law to the contrary, it shall be unlawful for any publisher, printer or supplier to offer for sale to any county, city, village or township clerk or election commission any of the following until such shall have been approved by the state bureau of elections:

1. Statements of returns
2. Tally books and poll books
3. Combined tally and statement books
4. Certificates of electors sworn to disability
5. Envelopes for transmitting tally books, statement books, poll books and election certificates
6. Wrappers for securing voted ballots
7. Applications for ballots
8. Anything which is required by the election law to be approved, prescribed or recommended by the secretary of state or state director of elections.

The provisions of this section shall not apply to forms printed on the direct order of any county, city, village or township clerk or election commission.

HISTORY: New 1954, p. 235, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 621, Act 271, Imd. Eff. Jun. 30;—Am. 1957, p. 248, Act 198, Eff. Sep. 27.

168.666 Michigan election law and manual of instructions; metal sealing devices; paper election seals; printed instructions to electors; blank forms for returns.

Sec. 666. At any federal, state, district or county primary or election, the secretary of state shall furnish to the county clerk of each county at the expense of the state the following:

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(a) The secretary of state shall have printed for distribution and shall furnish a copy of the Michigan election law and of the manual of instructions for each precinct board of election inspectors in the state;

(b) Prior to each primary, general or special election at which state, district or county officers are to be nominated or elected, the secretary of state shall procure a supply of self-sealing metal sealing devices adapted and suitable for sealing the ballot boxes used at such election. Said sealing devices shall have the words "State of Michigan" and serial numbers stamped thereon, and at least 30 days before any such election he shall cause to be transmitted to the several county clerks such number of said metal sealing devices as will provide a sufficient number of such seals for each voting precinct within the county;

(c) The secretary of state shall furnish a substantial supply of red gummed paper seals for use of the precinct boards of election inspectors in sealing such package of ballots and the envelopes containing the tally sheets or books and the statement of returns. Each such seal shall have inscribed thereon the words "Election Seal—State of Michigan" and the date of the primary or election at which it is to be used. A space shall also be provided thereon in which 2 members of the board of election inspectors shall write their initials after the seal has been applied;

(d) The secretary of state shall furnish uniform printed instructions to electors printed in large type upon cards, containing any information that will assist electors in marking their ballots and correctly designating their choices. Two such placards of instructions shall be conspicuously displayed in each polling place; and

(e) The secretary of state shall furnish to the various county clerks suitable blank forms for use by the various county boards of canvassers in making returns of the canvass required by law, and the various county boards of canvassers shall use the blanks furnished by the secretary of state in making returns of the canvass.

HISTORY: New 1954, p. 235, Act 116, Eff. Jun. 1, 1955.

168.666a Sealing devices for ballot boxes.

Sec. 666a. In addition to the supplies furnished under section 666, the secretary of state shall furnish to the county clerk of each county devices, which, when used with self-sealing metal seals, will enable ballot boxes to be sealed easily and securely.

HISTORY: Add. 1969, p. 222, Act 127, Eff. Mar. 20, 1970.

168.667 Election supplies, furnished at county expense.

Sec. 667. At any federal, state, district or county primary or election, the various boards of county election commissioners shall furnish, at the expense of their respective counties, the following:

Forms for election returns; certificate of board of precinct election inspectors, form.

(a) The several boards of election commissioners shall furnish suitable forms for use by the precinct inspectors of election in making returns of any such primary or election to the boards of county canvassers. The names of all qualified candidates shall be printed thereon in their proper office divisions and after each name there shall be provided spaces in which to write the number of votes received by that particular candidate in any given precinct in words and figures. Said prescribed forms shall also have printed thereon the title or caption or other designation identifying any amendment or question to be voted on, together with spaces similar to those provided after the names of candidates for recording the affirmative and negative votes cast for each such amendment or question. Said statement of returns form shall also contain a certificate to be subscribed by each member of the precinct election board in the following form:

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STATE OF MICHIGAN } ss
County of . . . . . }

Ward (or township) . . . . . Precinct . . . . . .

CERTIFICATE OF BOARD OF PRECINCT ELECTION INSPECTORS FOR RETURNS AND FOR SEALING BALLOTS AND BOXES

WE DO HEREBY CERTIFY That the foregoing is a correct statement of returns of the votes cast in the precinct indicated above, at the (primary or election) held on ....., the ..... day of ....., 19...., for the several candidates and for the (amendments or propositions) herein shown.

WE DO HEREBY FURTHER CERTIFY That all ballots cast at the (primary or election) held in the above designated precinct of the (city, ward, township or village) of ....., State of Michigan, on the ..... day of ....., in the year 19...., have been securely tied in packages or rolls and sealed in such manner as to render it impossible to open such packages or rolls or remove any of the contents thereof without breaking the said seals; that there was endorsed on each of said packages or rolls a statement showing the number and kind of ballots included in each such package or roll; that all of said packages or rolls, so endorsed, together with one tally sheet, were placed in the proper ballot box or boxes; that the slots in the ballot boxes were closed, that the ballot boxes were securely sealed with the official metal seals furnished for that purpose; that such seals were affixed in such manner as to render it impossible to open such ballot boxes without breaking such seals.

IN WITNESS WHEREOF, We have hereunto set our hands this ..... day of ....., A.D., 19.... .

.....

.....

.....

Members of the Board of Election Inspectors

Tally sheets.

(b) The several county boards of election commissioners shall, at the expense of their respective counties, furnish suitable tally sheets or combined tally and return sheets to be used by the inspectors of election in counting the votes for all candidates and for amendments or propositions submitted on ballots prepared by said commissioners and shall deliver the same to the inspectors of election, as provided in this act in the case of ballots;

Envelopes for statement of returns.

(c) The various boards of county election commissioners shall furnish self-addressed substantial paper envelopes with gummed flaps to be used by the various boards of precinct election inspectors for sealing the statements of returns, the tally books or combined tally and return sheets, poll lists and a certificate of election inspectors;

Containers for wrapping ballots cast.

(d) The several boards of county election commissioners shall furnish a sufficient number of substantial paper wrappers for use in wrapping the packages or rolls of each kind of ballots cast at any state or county primary or election. Such wrappers shall have printed thereon a form for recording the date of the election, the city, ward or township and precinct, the number and kind of ballots contained in such package or roll and a statement to be signed by the chairman certifying that such ballots have been wrapped, tied and sealed in the required manner. The board of election commissioners of any city or township may supply a bag type container to be used in lieu of the paper wrappers. The minimum specifications of such bag type containers shall be established by the secretary of state. If such bag type containers are to be used in any

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city or township, the clerk thereof shall notify the county clerk and thereafter paper wrappers shall not be furnished to such city or township. Each specific type of bag type container shall be approved by the secretary of state before being used. Such bag shall have securely attached thereto a tag on which can be written the same information as is required to be placed on the paper wrappers and such bag shall contain a device whereby it can be sealed with a metal seal. Hereafter any references in law to the wrapping and sealing of paper ballots by precinct inspectors shall be deemed to include placing of ballots in bag type containers and sealing of such bags in precincts using bag type containers in lieu of paper wrappers; and

Pencils.

(e) The board of election commissioners of each county shall provide, at the expense of the county, for each state, district or county election in said county, as many black or blue lead pencils as may be necessary to supply each election precinct with at least 3 of such pencils for each booth erected in such precinct. The pencils provided for each precinct shall be enclosed with the official ballots when delivered to the city or township clerk as by law provided. The inspectors of election shall attach such pencils with strings, or in other suitable manner, to the shelf of the booth. The board of election commissioners of each county shall issue a warrant in payment for said pencils, and said warrant shall be paid by the county treasurer out of the general fund of the county.

HISTORY: New 1954, p. 236, Act 116, Eff. Jun. 1, 1955;—Am. 1957, p. 281, Act 222, Eff. Sep. 27.

168.668 Polling places; posting of election law; delivery of register of electors and supplies.

Sec. 668. It shall be the duty of the county clerk of each county to cause to be printed large cards or posters containing verbatim the whole of section 729 of this act, and shall furnish 2 of the same to the board of election inspectors of each election precinct in his county at the same time that the official ballots for use at the elections are delivered, and the board of election inspectors shall cause the said posters to be posted in conspicuous places in the polling places so that the same can be plainly seen and read by all persons at any election. It shall be the duty of the clerk of any city, township or village in which this act is operative to deliver to the board of election inspectors of each election precinct within his jurisdiction, before the time for opening of the polls on election day, the register of electors and the blanks for poll lists and returns and any other supplies necessary to carry out the provisions of this act not herein otherwise provided for.

HISTORY: New 1954, p. 237, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 621, Act 271, Imd. Eff. Jun. 30.

168.669 Polling places; ballot boxes, specifications; United States flags.

Sec. 669. At any federal, state, district or county primary or election, the various city and township boards of election commissioners shall furnish, at the expense of their respective cities and townships, the following:

(a) There shall be provided and kept by the township clerk for each election precinct in a township, by the village clerk for each election precinct in a village, and by the city clerk for each election precinct in a city, at the expense of the township, village or city, as the case may be, a sufficient number of suitable ballot boxes with lock and key, each of which ballot boxes shall have on [sic] opening through the inside lid of the proper size to admit a single folded ballot, through which opening each ballot received shall be passed into the box. All ballot boxes shall be provided with a second cover or a metal or wooden device for closing such slot so the same may not be opened without unlocking the ballot box and breaking the seal thereon; and

(b) The boards of election commissioners of the several cities, the township boards of the several townships and the councils of the various villages shall procure for each

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polling place therein a flag of the United States, made of class "A" bunting and of dimensions not less than 3 feet in width by 5 feet in length, together with a staff and necessary appliances for displaying the same, and shall deliver them in proper time to the several boards of election inspectors whose duty it shall be to cause the flag to be displayed at or in each polling place during the progress of elections. Immediately thereafter, the boards of election inspectors shall return the flags, which shall be used only for the purpose herein mentioned, to the respective clerks who are charged with the proper care and custody thereof.

HISTORY: New 1954, p. 237, Act 116, Eff. Jun. 1, 1955.

168.669a Polling places; ballot containers.

Sec. 669a. In addition to ballot containers which comply with the requirements of this act, ballot containers for use at the general November election held in the year 1964 and at the primary immediately preceding, may be used if they comply with specifications approved by the secretary of state and shall be secured by sealing as directed by him.

HISTORY: Add. 1964, p. 378, Act 251, Eff. Aug. 28.

168.670 Local primaries and elections; ballots, forms, stationery and supplies.

Sec. 670. For all local primaries and elections, the election commissioners of the various cities, townships and villages shall furnish, at the expense of their respective cities, villages and townships all ballots, forms, stationery and supplies required for the proper conduct of such primaries and elections. These supplies shall conform generally with the supplies furnished for general primaries and elections.

HISTORY: New 1954, p. 238, Act 116, Eff. Jun. 1, 1955.

168.671 Blank forms for returns; metal sealing devices for ballot boxes.

Sec. 671. At the time of delivering the official ballots and other election supplies to the several township and city clerks, or in case of city, village or township elections, to the several wards or precincts, there shall be delivered with such supplies a sufficient number of such blank forms for use by inspectors of election in making returns of such general or special elections as are required by law, and there shall also be delivered at such times with such supplies a sufficient number of self-sealing metal sealing devices for the use of the inspectors of election in sealing the ballot boxes after the close of the election, and a record of the number of such sealing devices so delivered shall be preserved.

HISTORY: New 1954, p. 238, Act 116, Eff. Jun. 1, 1955.

168.672 Board of inspectors of elections; presence in precinct polling places.

Sec. 672. At every election, there shall be a board of at least 3 inspectors of election, constituted as in this chapter provided, in and for each election precinct. Not less than a majority of the inspectors shall be present in the precinct polling place during the time the polls are open.

HISTORY: New 1954, p. 238, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 622, Act 271, Imd. Eff. Jun. 30.

168.673 Repealed. 1955, p. 634, Act 271, Imd. Eff. Jun. 30;—1955, p. 743, Act 283, Imd. Eff. Jul. 19.

Section provided for chairman of board of inspectors of elections.

168.674 Precinct election inspectors; appointment, chairman, political party membership, vacancies.

Sec. 674. Notwithstanding any provisions of law to the contrary, the city and township election commission and the village election commission for village elections only, at least 21 days but not more than 40 days before each election, but in no case less

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than 5 days prior to the date set for holding schools of instruction, shall appoint for each election precinct at least 3 inspectors and as many more as in its opinion is required for the efficient, speedy and proper conduct of such election and shall designate 1 such inspector as chairman: Provided, however, That not more than 50%, as nearly as possible, of the total number of such inspectors as are appointed in each election precinct shall be of the same political party. Should a vacancy occur in the office of chairman or in the office of election inspector prior to election day, the chairman of the election commission shall designate some other properly qualified applicant or inspector as chairman or some other qualified applicant as election inspector, as the case may be. Should a vacancy occur in the office of chairman on election day, the remaining inspectors shall designate 1 of their number as chairman.

HISTORY: New 1954, p. 238, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 622, Act 271, Imd. Eff. Jun. 30;—Am. 1958, p. 226, Act 192, Eff. Sep. 13.

168.675 Precinct election inspectors; vacancies during election.

Sec. 675. In case 3 inspectors shall not attend at the opening of the polls or shall not remain in attendance during the election, the electors present may choose, viva voce, such number of said electors as, with the inspector or inspectors present, shall constitute a board of 3 in number; and such electors so chosen shall be inspectors of that election during the continuance thereof: Provided, however, That not more than 2 of the members of the board of inspectors of election when constituted shall be of the same political party.

HISTORY: New 1954, p. 238, Act 116, Eff. Jun. 1, 1955.

168.676 Repealed. 1955, p. 634, Act 271, Imd. Eff. Jun. 30;—1955, p. 743, Act 283, Imd. Eff. Jul. 19.

Section provided for city or village board of election inspectors.

168.677 Precinct election inspectors; qualifications; application, contents; candidates ineligible.

Sec. 677. Precinct election inspectors shall be qualified and registered electors of the city, township or village in which they serve, of good reputation, with sufficient education and clerical ability to perform the duties of the office. No person shall be appointed to any election board unless such person shall have filed with the city, township or village clerk an application in his own handwriting containing the following minimum information: Name, home address, ward and precinct registration, date of birth, length of residence in city, township or village, political party preference, education, employment, other experience qualifications and statement of physical disability, if any. The form of this application shall be approved by the state director of elections. No person shall be knowingly appointed or permitted to act as a precinct election inspector if such person or any member of his immediate family is a candidate for nomination or election to any office at such election or who has been convicted of a felony or election crime, nor shall any person be permitted to act as an election inspector if he shall have failed to attend a school of instruction or taken an examination as provided in section 683 of this act. The provisions of this section shall not prohibit the candidate for or delegate to a political party convention from acting as an election inspector in a precinct other than the precinct in which he resides. No election shall be invalidated merely because of the violation of the provisions of this section.

HISTORY: New 1954, p. 239, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 622, Act 271, Imd. Eff. Jun. 30;—Am. 1958, p. 226, Act 192, Eff. Sep. 13;—Am. 1962, p. 54, Act 67, Eff. Mar. 28, 1963;—Am. 1967, p. 54, Act 35, Eff. Nov. 2.

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168.678 Board of election inspectors; authority.

Sec. 678. Each board of election inspectors shall possess full authority to maintain peace, regularity and order at its polling place, and to enforce obedience to their lawful commands during any primary or election and during the canvass of the votes after the poll is closed.

HISTORY: New 1954, p. 239, Act 116, Eff. Jun. 1, 1955.

168.679 Counting board; provisions governing; duties.

Sec. 679. The legislative body of any city, township or village may, by resolution, provide that for any primary or election in any or in each precinct of such city, township or village, there shall be an additional board of 3 or more inspectors of election, which shall be known as the counting board, and whose duty it shall be to count the ballots cast in such precinct at any primary or election and make returns thereof. The provisions of this chapter relative to the appointment, qualifications, privileges, powers, duties and oaths of office of inspectors of election shall apply with like force and effect to the members of any such counting board, insofar as the counting of the votes cast at and the making of returns of any primary or election are concerned. In any precinct for which a counting board has been provided, the duties of the inspectors of election who have conducted the primary or election during the day shall cease on the closing of the polls, and the counting board shall thereupon assume charge and control of the place of voting, the ballot boxes, the ballots and all other equipment of said polling place and shall proceed with the counting of votes. Such counting board shall perform all duties required by this act to be performed after the closing of the polls at any primary or election by the board of inspectors of election in a precinct not having a counting board, as provided in this section.

HISTORY: New 1954, p. 239, Act 116, Eff. Jun. 1, 1955.

168.680 Precinct election inspectors; oath of office.

Sec. 680. Each precinct election inspector shall, before entering upon the discharge of his duties, take and subscribe the following constitutional oath of office, which oath any of the inspectors may administer: "I do solemnly swear (or affirm) that I will support the constitution of the United States and the constitution of this state, and that I will faithfully discharge the duties of the office of inspecor [sic] of elections according to the best of my ability."

HISTORY: New 1954, p. 239, Act 116, Eff. Jun. 1, 1955.

168.681 Precinct election inspectors; right to vote.

Sec. 681. Any precinct election inspector in any township shall have the right to vote in the election precinct where he acts as such election officer, even though he resides in another election precinct of the same township.

HISTORY: New 1954, p. 240, Act 116, Eff. Jun. 1, 1955.

168.682 Election officials; compensation.

Sec. 682. Any person employed as an inspector of election, or in any other official capacity at any election, primary election, or on any board of canvassers or board of registration, shall, except as herein otherwise specifically provided, receive such reasonable compensation as may be allowed by the township board of any township, board of supervisors of any county or the legislative body of any city or village, as the case may be.

HISTORY: New 1954, p. 240, Act 116, Eff. Jun. 1, 1955.

168.683 Election inspectors; instruction, compensation, vacancies.

Sec. 683. Each county clerk prior to each primary and election shall, by some reliable means, notify the clerk of each township and city in the county of a training school for election inspectors to be held at a place designated by the county clerk within 20

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days prior to each primary, general and special election. The township and city clerks shall notify each election inspector appointed to serve at that election of the time and place of such training school. At such meeting, the county clerk shall instruct and demonstrate the manner in which the duties of election inspectors are required by law to be performed. It shall be the duty of the inspectors, so notified, to attend such meeting unless excused by the county clerk for good cause. Compensation may be paid them therefor by their respective municipalities at such rate as may be determined by the governing bodies. No inspector of election shall serve in any election unless he shall have within the last preceding 2 years either attended an election school or shall have passed satisfactorily an examination given by the election commission of the city, township or village in which appointed. The examination shall be subject to the approval of the secretary of state. This section shall not prevent the appointment of an inspector of election to fill a vacancy. This section shall not prohibit any city or any township having a population of 10,000 or more from conducting its own training school for election inspectors of that city or township in which case election inspectors who have attended such school shall not be required to attend the county training school.

HISTORY: New 1954, p. 240, Act 116, Eff. Jun. 1, 1955;—Am. 1962, p. 55, Act 67, Eff. Mar. 28, 1963;—Am. 1963, p. 222, Act 159, Eff. Sep. 6.

PREPARATION, PRINTING AND DELIVERY OF OFFICIAL BALLOTS

168.684 Vignette; preparation, adoption, size; notice of change; provision of cuts.

Sec. 684. The state central committee of each political party in this state shall prepare and adopt a vignette, to be printed at the top of the column of the official ballot assigned to such party, as a distinctive and characteristic heading thereto. Such vignette shall not be more than 1 ½ inches square, and in addition to the device adopted shall set forth legibly the name of such party. The vignette shall remain as the heading for the column of such party on the ballots at all elections until changed by the state central committee of the party. Notice of any change of vignette shall be certified by the secretary of the state central committee to the secretary of state at least 4 months prior to the date of the primary or election at which the change shall be effective.

At least 3 months prior to any general election the secretary of state shall furnish each board of county election commissioners, in care of the county clerk, a true copy of the vignette filed by each political party entitled to a place on the ballots and the order in which the party columns shall appear thereon. The board of election commissioners of each county shall provide, at the expense of the county, a sufficient number of cuts of the several vignettes for use in printing the official ballots for any state, district or county election.

HISTORY: New 1954, p. 240, Act 116, Eff. Jun. 1, 1955;—Am. 1961, p. 381, Act 223, Eff. Sep. 8.

168.685 Petition to form new political party; filing, signatures required, form, type; disqualification of party.

Sec. 685. The name of no candidate of a new political party shall be printed upon the official ballots of any election unless the chairman and secretary of the state central committee of the party shall have filed with the secretary of state, at least 6 months prior to such election, a certificate signed by them bearing the name of the party, and unless accompanying the certificate there shall have been filed petitions bearing the signatures of registered and qualified electors equal to not less than 1% nor more than 4% of the number of votes the successful candidate for secretary of state received at the last election in which a secretary of state was elected. The petitions shall be signed by at least 100 residents in each of at least 10 counties of the state and not more than 35% of the minimum required number of the signatures may be by resident

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electors of any one county. All signatures appearing upon the petitions shall have been obtained within a period of 6 months immediately preceding the date of filing. The validity and authenticity of the signatures may be determined in the same manner as provided for initiatory and referendary petitions in section 9 of article 2 of the state constitution. The petitions shall be in substantially the following form:

PETITION TO FORM NEW POLITICAL PARTY

We, the undersigned, duly registered electors of the city, township of ....., (strike one) county of ....., state of Michigan, residing at the places set opposite our names, hereby declare our intention to organize the ..... party, and respectfully request the secretary of state, in accordance with section 685, Act No. 116, Public Acts of 1954, as amended, to receive the certificate and vignette of our party, tendered herewith, for filing, and place the names of our candidates on the ballot at the ..... election. Warning: Whoever knowingly signs petitions to organize more than one new state political party, signs a petition to organize a new state political party more than once or signs a name other than his own, is violating the provisions of the Michigan election law.

.....
.....
.....

The size of all organizing petitions shall be 8 ½ inches by 13 inches and shall be printed in the following type sizes: The words "petition to form new political party" and the name of the proposed political party shall be in 24-point bold face type; the word "warning" and the language contained therein shall be in 12-point bold face type.

No political party, the principal candidate of which shall have received a vote equal to less than 1% of the total number of votes cast for the successful candidate for the office of secretary of state at the last preceding election in which a secretary of state was elected shall have the name of any candidate printed on the ballots at the next ensuing election, nor shall a column be provided on the ballots for such party. Any party so disqualified may again qualify and have the names of its candidates printed in a separate party column on each election ballot in the manner set forth in the first paragraph of this section for the qualification of new parties. The term "principal candidate" of any party shall be construed to mean the candidate whose name shall appear nearest the top of the party column.

HISTORY: New 1954, p. 240, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 622, Act 271, Imd. Eff. Jun. 30;—Am. 1961, p. 381, Act 223, Eff. Sep. 6;—Am. 1963, 2nd Ex. Ses., p. 74, Act 56, Eff. Mar. 24, 1964;—Am. 1965, p. 596, Act 312, Eff. Jan. 1, 1966.

This section was amended by P.A. 1964, No. 240, p. 329, but that act was disapproved by the voters at the November, 1964, election.

168.686 State convention; canvass of returns, certification of nominees; presidential and vice-presidential candidates.

Sec. 686. Within 24 hours after the conclusion of the state convention prior to any general election, the state central committee of each political party shall convene and canvass the proceedings of the convention and determine the nominees of the convention, and within 24 hours after the conclusion of the state convention the chairman and secretary of the committee shall forward to the board of election commissioners of each county, in care of the county clerk at the county seat, and to the secretary of state, the typewritten or printed names, together with residence, including the street address if known, of all candidates nominated at any regularly called state convention

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at which candidates for any of the offices to be filled at such election shall be nominated. In each presidential year, the state central committee of each political party shall, at the same time, forward to the board of election commissioners of each county and to the secretary of state the typewritten or printed names of the candidates of such party at the forthcoming election for the offices of president of the United States and vice-president of the United States certified to by the chairman and secretary of the committees. It shall not be necessary for any party committee to certify nominations made at an official primary election.

HISTORY: New 1954, p. 241, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 623, Act 271, Imd. Eff. Jun. 30;—Am. 1961, p. 383, Act 223, Eff. Sep. 8.

168.686a Small parties; nomination of candidates, procedure.

Sec. 686a. The nomination of candidates for political parties entitled to a position on the ballot which failed to have at least 1 candidate who polled at least 5% of the total vote cast for all candidates for secretary of state at the last preceding state election at which a secretary of state was elected, shall be made as follows: At the times and manner provided for the calling of county and state conventions in sections 591, 592, 593 and 594 of this act, calls may be issued for county caucuses and state conventions. If caucuses and conventions are held, they shall be held at the times set forth in the sections listed.

County caucuses; nominees, certificate of acceptance, affidavit of identity, withdrawal.

County caucuses may nominate candidates for the office of representative in congress, state senator and state representative if the offices represent districts contained wholly within the county, and for all county offices. The names, mailing addresses and office to which nominated of all candidates so nominated shall be certified by the chairman and secretary of the caucus to the county clerk within 24 hours after the conclusion of the caucus. Accompanying the certification shall be an affidavit of identity for each candidate named in the certificate as provided in section 558 of this act and a separate written notice of acceptance of nomination signed by each candidate named on the certificate. The form of the certificate of acceptance shall be prescribed by the secretary of state. The names of candidates so certified shall be printed on the ballot for the forthcoming election. The name of no candidate shall be printed on the ballot unless the notice of acceptance and the affidavit of identity accompanies the certificate. Candidates so nominated and certified shall not be permitted to withdraw.

Same; delegates to state convention.

The county caucus may also select the number of delegates to the state convention to which the county is entitled and shall select its own officers and name its own county committee.

State convention; nominees, certificate of acceptance, affidavit of identity, withdrawal.

The state convention shall be held at the time and place indicated in the call. The convention shall consist of delegates selected by the county caucuses. The convention may fill vacancies in any delegation from qualified electors of that county present at the convention. The convention may nominate candidates for all state offices. District candidates may be nominated at district caucuses held in conjunction with the state convention attended by qualified delegates of the district. If there are no delegates of a district present, no district caucus shall be held for that district and no candidates shall be nominated for that district. The names, mailing addresses and offices to which nominated of all candidates nominated for state or district offices, within 24 hours after the conclusion of the convention, shall be certified by the chairman and secretary of the state convention to the secretary of state. Accompanying the certification

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shall be an affidavit of identity for each candidate named in the certificate as provided in section 558 of this act and a separate written notice of acceptance of nomination signed by each candidate named on the certificate. The form of the certificate of acceptance shall be prescribed by the secretary of state. The names of candidates so certified shall be printed on the ballot for the forthcoming election. The name of no candidate shall be printed on the ballot unless the notice of acceptance and the affidavit of identity accompanies the certificate. Candidates so nominated and certified shall not be permitted to withdraw.

HISTORY: Add. 1961, p. 384, Act 223, Eff. Sep. 8.

168.687 Certification of nominations by board of canvassers.

Sec. 687. The board of canvassers, whose duty it is to determine who are nominated for public office at any official primary election, shall forthwith, upon such determination, certify the nomination as follows:

State at large.

For an office to be filled by the electors of the state at large, to the board of election commissioners of each county and to the secretary of state;

District office.

For a district office, to the board of election commissioners of each county, the whole or part of which county forms a part of the district, or to the board of election commissioners of the county, a part of which forms the district and to the secretary of state;

County office.

For a county office, to the board of election commissioners of the county; and

City or ward office.

For a city or ward office, to the board of election commissioners of the city.

Contents of certificate.

Each certificate shall set forth the name of the candidate, the office for which and the party on whose ticket he was nominated and, if for a district office, shall designate the district.

HISTORY: New 1954, p. 242, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 624, Act 271, Imd. Eff. Jun. 30;—Am. 1961, p. 385, Act 223, Eff. Sep. 8.

168.688 Certificates of nomination; delivery.

Sec. 688. All certificates of nomination required to be made to the board of election commissioners of any county shall be delivered to the county clerk, or forwarded to him by registered or certified mail with return receipt demanded, and such county clerk shall deliver such certificate to the county board of election commissioners at its first meeting thereafter.

HISTORY: New 1954, p. 242, Act 116, Eff. Jun. 1, 1955;—Am. 1956, p. 364, Act 190, Imd. Eff. Apr. 26.

168.689 Official ballots; preparation, printing.

Sec. 689. The board of election commissioners of each county shall prepare the official ballots for use at any state, district or county election held therein, and shall have printed a sufficient number of ballots containing the names of all candidates properly certified to said board of election commissioners, and ballots for all proposed constitutional amendments or other questions to be submitted at such election to supply each election precinct in such county with a sufficient number for such precinct, and not less than 25% more than the total number of votes cast therein at the corresponding election held 4 years previous for the office which received the greatest number of votes.

HISTORY: New 1954, p. 242, Act 116, Eff. Jun. 1, 1955.

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168.690 Official ballots; delivery to township, village and city clerks; duties of township and municipal election boards.

Sec. 690. The township, city or village board of election commissioners, as the case may be, shall cause the ballots required for any regular or special township, village or city election, or official primary election for the nomination of candidates for township, village, city or ward offices, to be printed and delivered to the township, village or city clerk, as the case may be, at least 10 days before any such election, and like duties as are hereinbefore enjoined upon county boards of election commissioners and upon county, township and city clerks relative to the printing, counting, packaging, sealing and delivery of official ballots, are hereby enjoined upon the several township and municipal boards of election commissioners and upon the several township, village or city clerks relative to the printing, counting, packaging, sealing and delivery of official ballots for use in each precinct of such township, village or city at any such municipal or township election.

HISTORY: New 1954, p. 243, Act 116, Eff. Jun. 1, 1955.

168.691 Official ballots; names of candidates, identification; married women.

Sec. 691. The said boards of election commissioners shall cause to be printed on the ballot (or ballot labels or slips to be placed on a voting machine, when used), the names of the candidates certified to said boards pursuant to this act; but the name of no candidate shall be placed or printed in more than 1 column on the ballot for the same office: Provided, That the board of election commissioners in any county or city may, if deemed desirable, arrange the ballots with an identification numeral to be placed in the same space with the name of each of said candidates, the said identification numeral to be rotated with the name of the candidate, when rotated, regardless of where said name may appear upon the ballot.

The name of a candidate shall be printed showing the given name or abbreviation or initials of the given name of the candidate and, in the case of a married woman, shall not be printed showing the husband's given name.

HISTORY: New 1954, p. 243, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 624, Act 271, Imd. Eff. Jun. 30.

168.692 Nomination by more than one party; choice; nomination for more than one office.

Sec. 692. Any person nominated at a primary election by more than 1 political party, or certified as a nominee by more than 1 political party, or nominated by 1 political party and thereafter certified as a nominee by another political party, shall be notified of such dual nominations by registered or certified mail with a return receipt demanded, by the county clerk, or clerks of the several counties affected if for a state or district office, immediately upon certification to him of such nominations by the board of canvassers or by the party committees, as the case may be. Such person shall, within 3 days after the receipt of said notification, advise the county clerk or clerks in writing in which political party column it is desired that his or her name be printed or placed on the ballots or voting machines for the ensuing election. Any person who has been certified for more than 1 office, except where 2 or more offices may be legally combined, shall be notified in a like manner and shall, within 3 days of receipt thereof, advise the county clerk or clerks of the particular office for which he desires to be a candidate.

HISTORY: New 1954, p. 243, Act 116, Eff. Jun. 1, 1955;—Am. 1956, p. 364, Act 190, Imd. Eff. Apr. 26.

168.693 Nomination by more than one party or for more than one office; failure to make choice; procedure.

Sec. 693. Any person nominated at a primary or certified as a candidate by more than 1 political party for the same office, or for more than 1 office, except where 2 or

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more offices may be legally combined, who fails to designate the particular office sought and the party column in which it is desired that his or her name be printed or placed on the ballots or voting machines for the ensuing election, as herein provided, shall have his or her name printed or placed on said ballots or voting machines by the proper board of election commissioners in the following manner:

(1) Should such candidate's name have been certified by more than 1 political party, it shall be printed or placed in the column of that party first making certification;

(2) Should such candidate be nominated at a primary by 1 political party pursuant to the filing of petitions and be certified as a candidate by another party for the same office, or for more than 1 office, except where 2 or more offices may be legally combined, such candidate's name shall be printed or placed on the ballots or voting machines in the party column and for that office for which petitions were filed; or

(3) Should the name of such candidate be written or placed on the primary election ballots or voting machines for the same office, or for more than 1 office, except where 2 or more offices may be legally combined, by the electors of more than 1 political party without petitions having been filed or certification made, then the name of such candidate shall be printed or placed on the ballots or voting machines for the office and in the column of that party casting the greatest number of votes for such candidate at the preceding primary election.

HISTORY: New 1954, p. 243, Act 116, Eff. Jun. 1, 1955.

168.694 Applicability of certain sections.

Sec. 694. All the provisions of sections 691, 692, 693 and 695 of this act shall also apply to all city, village and township elections held in this state under the provisions of this act, except that the notice herein required to be given by a candidate shall, in case of a city, village or township office be given by him to the proper city, village or township board of election commissioners within 2 days after his name has been so certified as nominated by 2 or more political parties for the same office.

HISTORY: New 1954, p. 244, Act 116, Eff. Jun. 1, 1955.

168.695 Ineligibility of candidate at subsequent election.

Sec. 695. No person whose name was printed or placed on the primary ballots or voting machines as a candidate for nomination on the primary ballots of 1 political party shall be eligible as a candidate of any other political party at the election following that primary.

HISTORY: New 1954, p. 244, Act 116, Eff. Jun. 1, 1955.

168.696 Official ballots; printing; candidates with similar surnames, determination, designation of occupation.

Sec. 696. The board of election commissioners in each county shall cause the names of all candidates for federal, state, district, county and township offices at any election to be printed on 1 ballot, separate from any other ballot. The names of all candidates of each political party shall be placed in a separate column on said ballot under the name and vignette of such party with the name of each candidate opposite the name of the office for which he was certified to have been nominated. If 2 or more candidates for the same office, nominated by the same political party or by different political parties, or any nonpartisan candidates for the same office, have the same or similar surnames, the board of election commissioners, upon the request of any such candidate filed in writing not later than 3 days after the date of the certification of the nomination of such candidates, shall determine, within 3 days after filing of the request, in the case of an alleged similarity whether similarity exists, and shall notify the requester and the other candidate affected of its determination by registered mail sent not later than the final date for such determination. A candidate who is dissatisfied with the determination by the board may file an appeal in the circuit court of the county where

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the board is located within 7 days after the final date for determination by the board and the court shall hear the matter de novo. In case of the same surnames or a final determination by the board, or by the court before the latest date on which the board can arrange for printing of the ballots, of the existence of similarity, the board shall print the occupation or residence of each of such candidates having the same or similar surnames on the ballot or ballot labels or slips to be placed on the voting machine, when used, under their respective names. The request may not be made by a candidate of a political party whose candidate for secretary of state received less than 10% of the total vote cast in the state for all candidates for secretary of state in the last preceding November election. The term "occupation" shall be construed to include political office, even though it is not the candidate's principal occupation.

HISTORY: New 1954, p. 244, Act 116, Eff. Jun. 1, 1955;—Am. 1966, p. 591, Act 328, Imd. Eff. Jul. 19;—Am. 1967, p. 56, Act 36, Eff. Nov. 2.

This section was amended by P.A. 1964, No. 240, p. 331, but that act was disapproved by the voters at the November, 1964, election.

168.697 Official ballots; order of listing offices.

Sec. 697. At the general November election, the names of the several offices to be voted for shall be placed on the ballot substantially in the following order in the years in which elections for such offices are held: Electors of president and vice president of the United States; governor and lieutenant governor; secretary of state; attorney general; United States senator; representative in congress; senator and representative in the state legislature; members of the state board of education; regents of the university of Michigan; trustees of Michigan state university; governors of Wayne state university; prosecuting attorney; sheriff; clerk; treasurer; register of deeds; auditor in counties electing an auditor; mine inspector in counties electing a mine inspector; county road commissioners; drain commissioners; coroners; and surveyor. The following township officers shall be placed on the same ballot as above described in substantially the following order in the year in which elections for such officers are held: supervisor, clerk, treasurer, trustees and constables.

HISTORY: New 1954, p. 244, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 625, Act 271, Imd. Eff. June 30;—Am. 1956, p. 176, Act 88, Imd. Eff. Apr. 5;—Am. 1963, 2nd Ex. Ses., p. 75, Act 56, Eff. Mar. 24, 1964;—Am. 1965, p. 201, Act 131, Imd. Eff. Jul. 8;—Am. 1966, p. 82, Act 58, Imd. Eff. Jun. 7.

168.698 Repealed. 1955, p. 634, Act 271, Imd. Eff. Jun. 30;—1955, p. 743, Act 283, Imd. Eff. Jul. 19.

Section provided for a separate presidential ballot.

168.699 Separate judicial ballot; order of listing offices.

Sec. 699. At the general November election, the names of the several nonpartisan offices to be voted for shall be placed on a separate judicial ballot containing no party designation in the following order: justices of the supreme court, judges of the court of appeals, judges of the circuit court, judges of the probate court and circuit court commissioners in the years in which they are elected.

HISTORY: New 1954, p. 245, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 76, Act 56, Eff. Mar. 24, 1964.

168.700, 168.701 Repealed. 1963, 2nd Ex. Ses., p. 78, Act 56, Eff. Mar. 24, 1964.

Sections provided for order of names on ballots at biennial spring elections.

168.702 Official ballots; placing of name to fill vacancy.

Sec. 702. The name of a candidate to fill a vacancy in any office shall be placed in the appropriate place on the ballot, regard being had to its being a state, congressional, legislative or county office.

HISTORY: New 1954, p. 245, Act 116, Eff. Jun. 1, 1955.

168.703 Official ballots; position of parties.

Sec. 703. The ticket of the party having the greatest number of votes in the state at the last election in which a secretary of state was elected, as shown by the votes cast

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thereat for secretary of state, shall be placed first on the ballot, the position of other party tickets to be governed relatively by the same rule.

HISTORY: New 1954, p. 245, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 76, Act 56, Eff. Mar. 24, 1964.

168.703a Official ballots; listing of candidates, incumbents.

Sec. 703a. If 2 or more candidates, either partisan or nonpartisan, are to be elected to the same office, the name of the incumbent shall be listed first on the ballot. The other candidates shall be listed alphabetically according to surnames. If there are 2 or more incumbents, their names shall be listed alphabetically followed by the names of the other candidates.

HISTORY: Add. 1968, p. 87, Act 46, Imd. Eff. May 24.

168.704 Official ballots; size of voting squares or circles.

Sec. 704. Every square which is printed on any ballot and which is intended as a place for an elector to mark his choice shall be not less than 3/8 of an inch square. Every circle which is printed on a ballot and which is intended as a place for an elector to mark his choice shall be not less than 1/2 of an inch in diameter.

HISTORY: New 1954, p. 245, Act 116, Eff. Jun. 1, 1955.

168.705 Official ballots; paper, printing, numbering, color of paper.

Sec. 705. The ballots of each kind shall be of uniform size and printed in black ink on white paper of a grade equal to 50-pound book, machine finished, and sufficiently thick so that the printing cannot be distinguished from the back. The ballots of each kind shall be perforated diagonally across the upper right-hand corner of the face thereof, so that the corner can be readily torn off. Printed on the detachable corner shall be the name or kind of ballot, and a bold-face letter corresponding to a similar letter on the ballot box. The ballots shall be numbered consecutively on such corner, such number to be printed thereon. This section shall not prohibit the printing of unnumbered ballots for emergency purposes. Such ballots shall, prior to being delivered to the polls, have the numbers printed or stamped on the detachable corners. No 2 ballots of the same kind in the same election precinct shall bear the same number. The election commission may provide for the printing of the ballots on colored paper as follows: State and county ballots, white paper; non-partisan ballots, blue tinted paper; constitutional amendments and state propositions, red tinted paper; county propositions, green tinted paper; local propositions, buff paper; local candidates, white paper. If the election commission prints ballots on colored paper, all instruction ballots shall be printed on any color paper not used for official ballots.

HISTORY: New 1954, p. 245, Act 116, Eff. Jun. 1, 1955;—Am. 1958, p. 227, Act 192, Eff. Sep. 13.

168.706 Official ballots; sample form.

Sec. 706. The arrangement of the ballot containing the names of candidates for office shall conform as nearly as possible to the following plan, and shall contain the specific instructions there set forth and no others:

OFFICIAL BALLOT

County of ..... Date .....

INSTRUCTIONS - To vote a straight party ticket make a cross (X) in the circle under the name of your party. Nothing further need be done. To vote for a candidate not on your party ticket, make a cross (X) in the square before his name. Candidates for president and vice-president must be voted for as a unit, and the vote cannot be split. Candidates for governor and lieutenant governor must be voted for as a unit, and the vote cannot be split.

If 2 or more candidates are to be elected to the same office and you desire to vote for candidates not on your party ticket, make a cross (X) in the square before the

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names of the candidates for whom you desire to vote on the other ticket, and strike out an equal number of names on your party ticket, for that office.

If you do not desire to vote any party ticket, do not make a cross (X) in the circle at the head of any ticket, but make a cross (X) in the square before the name of each candidate for whom you desire to vote.

If you wish to vote for a candidate not on any ticket, write or place the name of such candidate on your ticket opposite the name of the office.

Before leaving the booth, fold the ballot so that the face of the ballot is not exposed and so that the numbered corner is visible.

Name of Offices Voted For:	Vignette with Name of Party ◯	Vignette with Name of Party ◯	Vignette with Name of Party ◯
PRESIDENTIAL Electors of President and Vice-President of the United States	☐ Name of Candidate for President. Name of Candidate for Vice-President.	☐ Name of Candidate for President. Name of Candidate for Vice-President.	☐ Name of Candidate for President. Name of Candidate for Vice-President.
STATE Governor and Lieutenant Governor	☐ Governor Name of Candidate Lieut. Governor Name of Candidate	☐ Governor Name of Candidate Lieut. Governor Name of Candidate	☐ Governor Name of Candidate Lieut. Governor Name of Candidate
Secretary of State	☐ Secretary of State Name of Candidate	☐ Secretary of State Name of Candidate	☐ Secretary of State Name of Candidate
CONGRESSIONAL United States Senator	☐ U. S. Senator Name of Candidate	☐ U. S. Senator Name of Candidate	☐ U. S. Senator Name of Candidate
Representative in Congress ..... District	☐ U. S. Representative Name of Candidate	☐ U. S. Representative Name of Candidate	☐ U. S. Representative Name of Candidate
LEGISLATIVE Senator ..... District	☐ State Senator Name of Candidate	☐ State Senator Name of Candidate	☐ State Senator Name of Candidate
Representative ..... District	☐ State Representative Name of Candidate	☐ State Representative Name of Candidate	☐ State Representative Name of Candidate
COUNTY Prosecuting Attorney	☐ Pros. Attorney Name of Candidate	☐ Pros. Attorney Name of Candidate	☐ Pros. Attorney Name of Candidate

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Sheriff	☐ Sheriff Name of Candidate	☐ Sheriff Name of Candidate	☐ Sheriff Name of Candidate

HISTORY: New 1954, p. 245, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 625, Act 271, Imd. Eff. Jun. 30,—Am. 1963, 2nd Ex. Ses., p. 76, Act 56, Eff. Mar. 24, 1964.

This section was amended by P.A. 1964, No. 240, p. 331, but that act was disapproved by the voters in the November, 1964, election.

168.707 Referendum on proposed constitutional amendment or question; form of ballot, certification.

Sec. 707. Whenever a proposed constitutional amendment or other proposition is to be submitted to the electors of the state for popular vote, the secretary of state shall, not less than 49 days prior to the date of the election at which such proposed constitutional amendment or other proposition is to be submitted, certify to the various county clerks the form of ballots to be prepared in connection therewith which shall have printed thereon a statement of such proposed constitutional amendment or other proposition in not to exceed 100 words, exclusive of caption, as provided in section 2 of article 12 of the state constitution, on a single ballot separate and distinct from the ballots containing the names of candidates or nominees for public office over which shall appear a suitable caption and under which shall be printed the words "Yes ( )" and "No ( )" in separate lines; and it shall be the duty of the various boards of county election commissioners to print such ballots for use in their respective counties. Any city ordinance which has been or is hereafter adopted by the common council in a city of over 500,000 and which is subject to referendum shall be submitted to the people of that city at the next general election unless submitted to a special election by action of the common council.

HISTORY: New 1954, p. 247, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 77, Act 56, Eff. Mar. 24, 1964;—Am. 1968, p. 87, Act 46, Imd. Eff. May 24.

168.708 Proposed constitutional amendment or question; statement of purpose, publication.

Sec. 708. The secretary of state shall duly prepare a concise statement setting forth the nature of any such proposed amendment or other proposition and shall send copies of said statement to the several daily and weekly newspapers published in the state, prior to the election, with a request that said papers give as wide publicity as possible to said proposed amendment or other proposition. Publication of any matter by any paper under the provisions of this section shall be without expense or cost to the state.

HISTORY: New 1954, p. 247, Act 116, Eff. Jun. 1, 1955.

168.709 Proposed constitutional amendment or question; statement of purpose, copies to voting precincts, posting.

Sec. 709. The secretary of state shall also furnish the several county clerks in the state at least 2 copies of each such statement on paper suitable for posting for each voting precinct in their respective counties. The county clerk shall furnish the said copies of such statement to the several city and township clerks in his county at the time other supplies for the election are furnished, and said city and township clerks shall, before the opening of the polls on election day, deliver 2 copies of such statement to each voting precinct in his city or township, to the board of election inspectors of said precinct, who shall post the same in conspicuous places in the room where such election is held.

HISTORY: New 1954, p. 247, Act 116, Eff. Jun. 1, 1955.

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168.710 Proposed constitutional amendment or question; proof copies of ballots, filing, public inspection.

Sec. 710. The county board of election commissioners shall place on file at the office of the county clerk, at least 15 days prior to any election, proof copy of the official ballot containing the names of candidates for public office to be voted for at such election, and such proof copies shall be open for public inspection.

HISTORY: New 1954, p. 248, Act 116, Eff. Jun. 1, 1955.

168.711 Official ballots; proof copies, certification, correction of errors.

Sec. 711. At the time of filing the proof copy of the ballot at the office of the county clerk, the county board of election commissioners shall send by registered or certified mail, with a return receipt demanded, a proof copy of the official ballot to each candidate whose name appears on said ballot at his last known address. The board of election commissioners shall also send 2 copies of proof ballots to the secretary of state who shall immediately approve and certify to said ballot or notify the board of election commissioners of any correction: Provided, That said candidate shall, if he desires to correct said ballot, forward the same to said county clerk within 2 days of the receipt of same with such corrections noted thereon. The board of election commissioners shall correct such errors as may be found in said ballot by the inspection provided for herein and at the expiration of the 2 day correction period shall proceed with the printing of the ballots. The county clerk shall forward a copy of the corrected ballot to the secretary of state.

HISTORY: New 1954, p. 248, Act 116, Eff. Jun. 1, 1955;—Am. 1956, p. 365, Act 190, Imd. Eff. Apr. 26.

168.712 Official ballots; omissions or errors; correction by pasters.

Sec. 712. In case the name of any candidate regularly certified to said board of election commissioners shall have been omitted from such ballots, or in case it is found that a mistake has been made in the printing of the name of any candidate on said ballot, said board of election commissioners shall furnish pasters containing the name of such candidate and the same shall be placed upon the ballots in the same manner as provided in the case of a candidate selected to fill a vacancy.

HISTORY: New 1954, p. 248, Act 116, Eff. Jun. 1, 1955.

168.713 Absent voters' and other ballots and election supplies; delivery to county clerks, deadline.

Sec. 713. The county board of election commissioners shall cause the ballots required for any regular or special election or official primary election in such county, wrapped and tied as herein required, to be delivered to the county clerk at the earliest possible time after the approval of the proof thereof, and absent voter ballots shall be delivered to the county clerk at least 45 days before the general November election and at least 22 days before any other election or primary election. All other ballots and election supplies shall be delivered to the county clerk at least 12 days before any election or primary election.

HISTORY: New 1954, p. 248, Act 116, Eff. Jun. 1, 1955;—Am. 1956, p. 329, Act 171, Imd. Eff. Apr. 16.

168.714 Absent voters' and other ballots and election supplies; delivery by county clerks to township and city clerks, deadline.

Sec. 714. The county clerk of each county, at the earliest possible time and at least 42 days before the general November election and at least 20 days before any other election or primary election, in such county, shall cause to be delivered to the clerk of each township and city in his county, the absent voter ballots for each precinct. All

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other ballots and election supplies shall be delivered to the clerk of each township and city in his county at least 10 days before any election or primary election. The county clerk shall take receipt from each township and city clerk for all ballots and supplies delivered to them.

HISTORY: New 1954, p. 248, Act 116, Eff. Jun. 1, 1955;—Am. 1956, p. 329, Act 171, Imd. Eff. Apr. 16.

168.715 Absent voters' and other ballots; duties of township and city clerks, delivery to voting precinct boards of election inspectors.

Sec. 715. It shall be the duty of county, city and township clerks to keep safeguarded all official ballots for absent voters' use. The said township or city clerk shall have the right to open the package or packages of absent voter ballots received by him for any precinct in his township or city, provided he shall receive application for absent voter ballots from any qualified elector of such precinct, but not otherwise. He shall in no case open any of the other packages of official ballots but shall keep them intact in some safe and secure place, and shall deliver them and other election supplies, together with the absent voter ballots remaining in his possession, to the chairman or some member of the board of inspectors of election of the proper precinct or precincts of his township or city, as the case may be, before 7 o'clock in the forenoon of the day of election. On delivery of said ballots to the chairman or some other member of the board of election, said clerk shall take a receipt therefor, which receipt he shall file in his office.

HISTORY: New 1954, p. 248, Act 116, Eff. Jun. 1, 1955.

168.716 Absent voters' and other ballots; wrapping, sealing.

Sec. 716. The ballots of each kind for each election precinct shall be wrapped and secured in 2 separate packages. Each package shall be securely sealed with a red paper seal furnished by the secretary of state and shall bear on its wrapper the name and number of the precinct and a certificate signed by the county clerk or some member of the board of county election commissioners or his or its duly authorized agent, setting forth the number and kind of ballots in such package and that such ballots were counted, packaged and sealed by himself personally, or by his duly authorized agent.

HISTORY: New 1954, p. 249, Act 116, Eff. Jun. 1, 1955.

168.717 Absent voters' ballots; numbering, packaging, marking.

Sec. 717. At least 3% of the total number of ballots of each kind to which each precinct is entitled, together with such additional number as the county clerk, upon a proper showing by the respective township or city clerks, may deem to be necessary, beginning with ballot No. 1 and including the consecutive numbers thereafter, shall be enclosed in 1 package, as many as are necessary thereof to be used for absent voters as provided by law: Provided, however, That such county clerk may deliver to each township or city clerk a sufficient number of each kind of such absent voters' ballots for each township and city in the county with numbers higher than those on any other ballots delivered to such township or city clerk, in which case the unused absent voters' ballots of such higher numbers shall remain in the possession of the clerk for contingencies, and further reference had in this act to the disposition of absent voters' ballots bearing the regular precinct numbers shall not apply to such ballots. Each package of absent voters' ballots shall be plainly marked on the outside, "Absent voters' ballots". The remainder of the ballots of each kind for such precinct shall be enclosed in a second package, sealed as above provided.

HISTORY: New 1954, p. 249, Act 116, Eff. Jun. 1, 1955.

168.717a Absent voters' ballots where voting machines used exclusively; form, contents, discontinuance.

Sec. 717a. (1) Notwithstanding any provision of law to the contrary, in cities, villages or townships where voting machines are used exclusively, the absent voter bal-

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lots for all elections, if ordered by resolution of the election commission thereof, and approved by the election commission of the county, may be a consolidated ballot and be a replica of the face of the voting machine, both as to arrangement and coloring, with the following exceptions:

(a) The absent voter ballot need not be of the same size as the face of the voting machine, but may be reduced by not more than 1/3. The instructions to the absent voter shall be printed thereon. In place of the party lever, a circle shall be shown; and in place of the individual candidate levers, squares shall be shown. The circle shall be not less than 1/4 inch in diameter and the squares shall be not less than 3/16 inch square.

(b) The names of candidates for each office or proposal shall be arranged on the absent voter ballot by precinct in the same manner as on the voting machines used in that precinct. The ballots shall be numbered consecutively from 1 upwards in the upper right hand corner, on the front side thereof. The ballot shall be perforated diagonally across the upper right hand corner so that the number can be readily torn off.

(c) The instructions to the absent voter printed on the absent voter ballot shall be prepared by the clerk of the city, village or township and shall follow as nearly as possible the instructions for voting of regular paper ballots.

(2) In counties where voting machines are used exclusively throughout said county the absent voter ballots for all county-wide and state-wide elections, if ordered by resolution of the election commission of the county, may be a consolidated ballot and a replica of the face of the voting machine, both as to arrangement and coloring with the exceptions hereinbefore noted.

(3) The clerk of any city, village or township, the election commission of which has ordered the absent voter ballot for all elections held therein to be in the form described in this section, shall certify to the county clerk of the county in which the unit of government is located, a copy of the resolution so adopted. The county clerk shall furnish the city, village or township absent voter ballots in the form established for all elections held thereafter in the city, village or township in which he is required to furnish ballots.

(4) If the election commission of any city, village or township after the adoption of such a resolution desires to discontinue the use of an absent voter ballot of the form established in this act, it may discontinue its use upon the adoption of a resolution. The clerk of the city, village or township shall thereupon certify to the county clerk of the county in which the unit of government is located a copy of the resolution so adopted.

HISTORY: Add. 1960, p. 25, Act 29, Eff. Aug. 17;—Am. 1961, p. 142, Act 119, Eff. Sep. 8.

168.718 Official ballots; printer, acts prohibited; instruction ballots, printing.

Sec. 718. It shall not be lawful for the printer of official ballots for use at any election, or any other person, to give or deliver any of said ballots to, or knowingly permit any of said ballots to be taken by, any person other than the board of election commissioners for which such ballots are being printed; or to print, or cause or permit to be printed, any ballots in any other form than the one prescribed by this act, or with any other name thereon, or with the names misspelled, or the names, devices or designs therein arranged in any other way than that authorized and directed by the said board of election commissioners; but it shall be lawful for said board of election commissioners and upon its authorization for the chairman and candidates named on the official ballots to procure any number of facsimiles thereof to be printed on red, yellow or blue paper and to circulate the same for the purpose of the instruction of voters. Said colored facsimiles shall have printed at the head the words "Instruction Ballot".

HISTORY: New 1954, p. 249, Act 116, Eff. Jun. 1, 1955.

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168.719 City, township and village election commissions; duties; party committees, duties; proof copy of ballot, public inspection.

Sec. 719. The election commission of each city, township and village shall perform such duties relative to the preparation, printing and delivery of ballots as are required by law of the boards of election commissioners of counties. Like duties and privileges as are enjoined and granted by this act upon and to the various committees of the different political organizations are hereby prescribed for city, village or township committees in matters pertaining to any city, village or township election, except that it shall not be necessary for a city, township or village committee of a political party or organization to furnish a vignette or heading for the ballots other than to designate the name of the party or political organization which they represent. In cities, villages and townships the names of candidates for city, township or village offices, as the case may be, shall be given by the committees of the various political organizations to the board of election commissioners of such city, village or township not less than 18 days before each election, but it shall not be necessary for any party committee to give to the board of election commissioners the name of any candidate nominated at an official primary election. The proof of the ballot shall be open to public inspection at the office of the township, city or village clerk, not less than 15 days before such election.

HISTORY: New 1954, p. 249, Act 116, Eff. Jun. 1, 1955.

CONDUCT OF ELECTIONS AND MANNER OF VOTING

168.720 Polls; times of opening and closing.

Sec. 720. On the day of any election, the polls shall be opened at 7 o'clock in the forenoon, and shall be continuously open until 8 o'clock in the afternoon and no longer. Every qualified elector present and in line at the polls at the hour prescribed for the closing thereof shall be allowed to vote.

HISTORY: New 1954, p. 250, Act 116, Eff. Jun. 1, 1955.

168.721 Polls; opening and closing governed by central standard time.

Sec. 721. Unless otherwise specified, the hours for the opening and closing of polls and for the conducting of elections shall be governed by eastern standard time: Provided, however, That in the counties where central standard time is the observed time of any such county, the opening and closing of the polls and the conducting of elections may be governed by central standard time, upon resolution to such effect adopted by the county board of supervisors.

HISTORY: New 1954, p. 250, Act 116, Eff. Jun. 1, 1955.

168.722 Polls; announcement of opening and closing.

Sec. 722. The chairman or an inspector designated by him shall announce to those present at the polling places, the opening of the polls and the closing of the polls.

HISTORY: New 1954, p. 250, Act 116, Eff. Jun. 1, 1955;—Am. 1963, p. 347, Act 224, Eff. Sep. 6.

168.723 Ballot boxes; examination, locking.

Sec. 723. Before opening the polls, each ballot box to be used at the election shall be examined by the board of inspectors of election and the contents, if any, removed therefrom; it shall then be locked, and the key thereof delivered to 1 of the inspectors, to be designated by the board. The said box shall not be opened during the election.

HISTORY: New 1954, p. 250, Act 116, Eff. Jun. 1, 1955.

168.724 Ballots; opening packages; distribution of pencils; unused absent voters' ballots.

Sec. 724. At the opening of the polls, after the organization of and in the presence of the board of inspectors, 1 of the inspectors shall open the packages of ballots in such a manner as to preserve the seal intact. He shall then place in the booths the pencils to

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be used for marking ballots. The unused absent voters' ballots shall be the first used by the board of inspectors of election.

HISTORY: New 1954, p. 250, Act 116, Eff. Jun. 1, 1955.

168.725 Repealed. 1955, p. 634, Act 271, Imd. Eff. Jun. 30;—1955, p. 743, Act 283, Imd. Eff. Jul. 19.

Section provided for manner of initialing ballots.

168.726 Ballots; delivery to elector.

Sec. 726. No ballots shall be delivered to an elector by any person other than 1 of the inspectors of election and only within the polling place, except as provided in this act for absent voters' ballots.

HISTORY: New 1954, p. 251, Act 116, Eff. Jun. 1, 1955.

168.727 Challenges; duty of election inspector or elector; indiscriminate challenges, penalty.

Sec. 727. It shall be the duty of any election inspector to challenge a person applying for ballots whom he shall know or have good reason to suspect not to be a qualified elector of the precinct, or in connection with whose name in the registration book a challenge appears, and it shall be competent for any registered and qualified elector of the precinct present to challenge the right of anyone attempting to vote if such elector shall know or have good reason to suspect such person is not a qualified elector in that precinct: Provided, That challenges shall not be made indiscriminately and without good cause, and if any person shall challenge a qualified and resident elector of a voting precinct for the purpose of annoying or delaying voters, he shall be deemed guilty of a misdemeanor.

HISTORY: New 1954, p. 251, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 626, Act 271, Imd. Eff. Jun. 30.

168.728 Challenges; disposition.

Sec. 728. If at the time a person proposing to vote is challenged, there are several persons awaiting their turn to vote, said challenged person shall stand to one side until after unchallenged voters have had an opportunity to vote, when his case shall be taken up and disposed of.

HISTORY: New 1954, p. 251, Act 116, Eff. Jun. 1, 1955.

168.729 Challenges; oath, questions as to qualifications; false statements, penalty.

Sec. 729. If any person attempting to vote shall be challenged as unqualified, he shall be sworn by 1 of the inspectors of election to truthfully answer all questions asked him concerning his qualifications as an elector and any inspector or qualified elector at the poll may question said person as to such qualifications. If the answer to such questions show that said person is a qualified elector in that precinct, he shall be entitled to receive a ballot and vote. Should the answers show that said person is not a qualified elector at that poll, he shall not be entitled to receive a ballot and vote. If any one of his answers concerning a material matter shall not be true, he shall, upon conviction, be deemed guilty of perjury.

HISTORY: New 1954, p. 251, Act 116, Eff. Jun. 1, 1955.

168.730 Challengers; appointment by political party or interested committee or organization; qualifications; number.

Sec. 730. At every election, each of the political parties and any incorporated organization or organized committee of citizens interested in the adoption or defeat of any measure to be voted for or upon at such election, or interested in preserving the purity of elections and in guarding against the abuse of the elective franchise, shall have the right to designate challengers as herein provided. Challengers shall be registered and qualified electors of the city or township in which they serve except that a citizen be-

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tween the ages of 18 and 21 years, who has resided in the state at least 6 months and in the city or township at least 30 days, shall also be qualified to be a challenger. No candidate for nomination or election to any office shall serve as a challenger at the primary or election in which he is a candidate except that a candidate for delegate to a county convention may serve as a challenger in a precinct other than the one in which he is a candidate. No person who is appointed as an election inspector at any primary or election may act as a challenger at any time during such primary or election day. Political parties, organizations or committees shall be authorized to designate not to exceed 1 challenger to serve in a precinct at any one time. The election commission or city clerk of any city shall have the right to refuse to certify to the inspectors of election the name of any organization or committee which shall fail to furnish evidence satisfactory to the commission that the organization or committee is devoted to the purposes enumerated in this section.

HISTORY: New 1954, p. 251, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 627, Act 271, Imd. Eff. Jun. 30;—Am. 1957, p. 306, Act 248, Eff. Sep. 27;—Am. 1966, p. 66, Act 42, Imd. Eff. May 26.

168.731 Challengers; notice of appointment by organization, contents; appointment without authorization, penalty.

Sec. 731. Not less than 10 nor more than 20 days prior to any election, any organization or committee of citizens other than political party committees authorized by the provisions of this act intending to appoint challengers at such election shall file with the clerk of the county, city, village or township in which such election is to be held, a statement setting forth the intention of such organization or committee to appoint such challengers. Such statement shall set forth the reason why such organization or committee claims the right to appoint such challengers, with a facsimile of the card to be used, and shall be signed and sworn to by the chief presiding officer, the secretary or some other officer of such organization or committee. Prior to the opening of the polls, such clerk shall certify in writing to the inspectors of election in such county, city, village or township the names of any organization or committee authorized to appoint and keep challengers at the places of voting in such county, city, village or township. Any person who shall file such statement in behalf of any organization or committee not authorized by the provisions of this act to appoint such challengers, or any county, city, village or township clerk who shall wilfully and intentionally fail to perform the duties required of him by the provisions of this section shall, upon conviction, be punished by a fine not exceeding $1,000.00, or by imprisonment in the state prison not exceeding 2 years, or by both such fine and imprisonment in the discretion of the court.

HISTORY: New 1954, p. 251, Act 116, Eff. Jun. 1, 1955.

168.732 Challengers; authority; evidence of right to be present; affidavit of qualifications.

Sec. 732. Authority signed by the recognized chairman or presiding officer of the chief managing committee of any organization or committee of citizens interested in the adoption or defeat of any measure to be voted for or upon at any election, or interested in preserving the purity of elections and in guarding against the abuse of the elective franchise, or of any political party in such county, township, city, ward or village, shall be sufficient evidence of the right of such challengers to be present inside the room where the ballot box is kept, provided the provisions of the preceding sections have been complied with: Provided, That such authority shall have written or printed thereon the name of the challenger to whom it is issued and the number of the

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precinct to which such challenger has been assigned. The challenger authority for any person between the ages of 18 and 21 years shall contain an affidavit signed by the chairman and the challenger indicating that the person is qualified to serve as a challenger.

HISTORY: New 1954, p. 252, Act 116, Eff. Jun. 1, 1955;—Am. 1966, p. 66, Act 42, Imd. Eff. May 26.

168.733 Challengers; space in polling place; rights; expulsion for cause, protection.

Sec. 733. Space shall be provided for the challengers within the polling place which will enable them to observe the election procedure and each person offering to vote. They shall have the right, under the scrutiny of an election inspector, to inspect the poll books, without handling same, as ballots are issued to electors and their names entered therein, but in so doing must neither interfere with nor unduly delay the work of the board; to observe the manner in which the duties of the election inspectors are being performed; to challenge the voting rights of those who they have good reason to believe are not qualified electors, but such challenges shall not be made indiscriminately; to challenge any election procedure that is not being properly performed; to remain during the canvass of votes and until the returns are duly signed and made; to examine each ballot as it is being counted without handling same; to keep such records of votes cast and other election procedures as they desire; and to observe the recording of absent voters' ballots on voting machines. Any evidence of drinking of alcoholic beverages or disorderly conduct shall constitute sufficient cause for their expulsion from the polling place. Challengers shall be protected in the discharge of their duties by the inspectors and officers on duty.

HISTORY: New 1954, p. 252, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 627, Act 271, Imd. Eff. Jun. 30.

168.734 Challengers; preventing presence, penalty.

Sec. 734. Any officer or election board who shall prevent the presence of any such challenger as above provided, or shall refuse or fail to provide such challenger with conveniences for the performance of the duties expected of him, shall, upon conviction, be punished by a fine not exceeding $1,000.00, or by imprisonment in the state prison not exceeding 2 years, or by both such fine and imprisonment in the discretion of the court.

HISTORY: New 1954, p. 252, Act 116, Eff. Jun. 1, 1955.

168.735 Poll book and poll list; contents.

Sec. 735. At every primary and election, 1 poll book and 1 poll list shall be kept by the inspectors of election. In each such poll book and list there shall be entered the names of all electors who are given official ballots, and at the time of entering each such name there shall be placed on the same line and immediately following said name the number of the ballot or ballots given such elector. The names of the electors shall be entered in the poll book and list in the order in which such electors are given ballots. The name of an absent voter and the number of his ballot shall be entered in the poll book and list at the time his marked ballot or ballots are taken by the inspector from the sealed envelope, as provided by law. The numbers on all metal seals used to seal all voting machines, ballot boxes and ballot bags at the completion of the precinct canvass shall be recorded on the certificate provided in the poll book and this certificate shall be signed by all members of the board of inspectors.

HISTORY: New 1954, p. 252, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 627, Act 271, Imd. Eff. Jun. 30;—Am. 1965, p. 50, Act 35, Imd. Eff. May 19.

168.736 Voting; ballots, delivery to electors by numbers; assistance by election inspectors.

Sec. 736. When an elector applying to vote shall not be challenged, or, having been challenged, if the answers to questions asked him while under oath as to his qualifica-

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tions shall show that he is a qualified elector at that poll, he shall be permitted to vote. The inspector having charge of the ballots shall deliver to said elector 1 of each kind of said ballots to be voted at the election. All the ballots so given to an elector applying to vote shall bear the same number, beginning, for the first elector to whom ballots are given, with the lowest numbered ballots, the next higher number for the second such elector, and so on. On request of the elector, an inspector may give explanation of the manner of voting, and if by the board deemed necessary, an interpreter may be called, but the elector shall not be otherwise assisted in the marking of his ballot, except as provided in this act for assisted electors.

HISTORY: New 1954, p. 252, Act 116, Eff. Jun. 1, 1955;—Am. 1956, p. 44, Act 37, Imd. Eff. Mar. 28;—Am. 1963, 2nd Ex. Ses., p. 78, Act 56, Eff. Mar. 24, 1964.

168.737 Voting; ballots, marking.

Sec. 737. The elector shall then go directly into a booth which is unoccupied and indicate in the following manner, with pencil or pen on the proper ballot, the candidate or candidates for whom he desires to vote:

(1) If the elector desires to vote a straight ticket, he may make a cross (X) in the circle under the name of his party at the head of the ballot. Nothing further need be done;

(2) Where only 1 candidate is to be elected to an office and the elector desires to vote for a candidate not on his party ticket, he should make a cross (X) in the circle under the name of his party, and also make a cross (X) in the square before the name of the candidate for whom he desires to vote on the other ticket. In such case, it shall not be necessary to cross off the name of the candidate on his party ticket. If the elector votes for more than 1 candidate for the same office where only 1 candidate is to be elected to said office, said ballot shall not be counted for either of such candidates, but shall be as to them null and void;

(3) When 2 or more candidates are to be elected to the same or like office, such as coroners, and the elector desires to vote for a candidate or candidates not on his party ticket for such office, he should mark a cross (X) in the circle under his party name, and mark a cross (X) in the square before the name or names of the candidate or candidates for whom he desires to vote on the other ticket or tickets, and also cross off an equal number of names of the candidates for such office on his party ticket; but if such elector shall not cross off the names of an equal number of candidates for such office on his party ticket, he shall be deemed to have crossed off the name of each candidate for such office which is printed on his party ballot opposite the name of the candidate on some other party ticket in front of which name he has made a cross (X);

(4) If the elector wishes to vote for a candidate not on any ticket, he may write or place the name of such candidate on his ticket opposite the name of the office and make a cross (X) in the circle under the party name;

(5) A ticket marked with a cross (X) in a circle under a party name shall be deemed a vote for each of the candidates named in such party column whose name is not crossed off, except those candidates where a cross (X) is placed in the square before the name of some opposing candidate on another ticket, or where there is written or pasted on the party ticket a name which is not printed on any party ticket;

(6) If the name of any person who is not a candidate on any ticket is written or placed on the party ticket opposite the name of the office and there is a cross (X) in the circle under the party name, the name so written or placed shall be counted 1 vote for such person, whether the original name on the party ticket is erased or not, excepting cases where there is a cross (X) in the square before the name of some opposite candidate on some other party ticket;

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(7) If no cross (X) is placed in the circle under the party name, a cross (X) in the square before the name of any candidate shall be deemed a vote for such candidate except in cases where the elector votes for more candidates for the same office than are to be elected; and

(8) Such elector shall indicate his preference on any constitutional amendment or other submitted question by making a cross (X) in the square in front of the word "Yes" or in the square in front of the word "No" opposite or below such question on the proper ballots.

HISTORY: New 1954, p. 253, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 627, Act 271, Imd. Eff. Jun. 30.

This section was amended by P.A. 1964, No. 240, p. 333, but that act was disapproved by the voters in the November, 1964, election.

168.738 Voting; ballots, folding, deposit in ballot box; rejection for exposure.

Sec. 738. Before leaving the booth, the elector shall fold his ballot or each of his ballots so that no part of the face shall be exposed, and with the detachable corner on the outside, and on leaving the booth shall at once deliver in public view such ballot or ballots to the inspector designated to receive the same. The inspector shall tear off the corner of the ballot, where perforated, containing the number and shall then in the presence of the elector and the board of inspectors deposit each of said ballots in the proper ballot box without opening the same: Provided, however, That if any elector shall show his ballot or any part thereof to any person other than one lawfully assisting him in the preparation thereof, after the same shall have been marked, so as to disclose any part of the face thereof, such ballot shall not be deposited in the ballot box, but shall be marked "rejected for exposure", and shall be disposed of as are other rejected ballots. In case such elector shall so expose his ballot, a minute of such occurrence shall be entered on the poll list opposite his name and such elector shall not be allowed to vote thereafter at such election.

HISTORY: New 1954, p. 254, Act 116, Eff. Jun. 1, 1955.

168.739 Voting; ballots, deposit in separate boxes; label on box.

Sec. 739. The ballots containing the names of candidates for federal, state, district and county offices shall be deposited in 1 box, the ballots containing the names of candidates for local offices in another box, and the ballots prepared for the submission of proposed constitutional amendments or other propositions shall be deposited in a separate box or boxes. Each box shall be plainly labeled, so that the label may be readily seen by each elector, to indicate the kind of ballots to be deposited therein.

HISTORY: New 1954, p. 254, Act 116, Eff. Jun. 1, 1955.

168.740 Voting; ballots, spoiling.

Sec. 740. If any elector inadvertently spoils a ballot, he shall return all of the ballots given him to the board, and said board shall deliver to him another ballot or set of ballots, all bearing the same number. One of the inspectors of election shall, upon the poll book and list, note the change in the number on the ballot or ballots given such elector.

HISTORY: New 1954, p. 254, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 628, Act 271, Imd. Eff. Jun. 30.

168.741 Voting; unused and spoiled ballots, preservation.

Sec. 741. The board of inspectors of election shall preserve the unused ballots, together with the ballots which have been spoiled by the electors and in place of which other ballots have been issued, and return them to the city, township or village clerk, or other officer provided by a city or village charter, with a statement of the number of ballots voted, and the said clerk shall give to the inspectors of election a receipt therefor, which receipt shall be filed with the chairman of the board.

HISTORY: New 1954, p. 254, Act 116, Eff. Jun. 1, 1955.

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168.742 Voting; time for voting ballot.

Sec. 742. The board of inspectors of election may make such regulations as they deem proper, reasonably limiting the time in which an elector may remain in the room or booth while preparing and voting his ballot.

HISTORY: New 1954, p. 254, Act 116, Eff. Jun. 1, 1955.

168.743 Voting; ballots, return by elector; failure, penalty.

Sec. 743. No elector to whom an official ballot has been delivered shall be permitted to pass without the polling place without either voting such ballot or returning it to the inspector from whom he received it; and any elector who shall attempt to pass without the polling place with a ballot or election pencil in his possession, and shall refuse to deliver the same upon request, shall be at once arrested on demand of any member of the board of inspectors.

HISTORY: New 1954, p. 254, Act 116, Eff. Jun. 1, 1955.

168.744 Unlawful acts.

Sec. 744. It shall be unlawful for any inspector of election, or any person in the polling room or any compartment therewith connected, to persuade or endeavor to persuade any person to vote for or against any particular candidate or party ticket, or for or against any proposition which is being voted on at such election. It shall be unlawful for any person to place or distribute stickers, other than stickers provided by the election officials pursuant to law, in the polling room or any compartment therewith connected or within 100 feet from any entrance to the building in which said polling place is located.

HISTORY: New 1954, p. 255, Act 116, Eff. Jun. 1, 1955.

168.745 Ballot of challenged voter; endorsement, rejection.

Sec. 745. Whenever at any election the ballot of any person who has been challenged as an unqualified voter and who has taken the oath provided by law in such case to be taken shall be received by the inspectors of election, said inspectors shall cause to be plainly endorsed on said ballot, with pencil, before depositing the same in the ballot box, the number corresponding to the number placed after such voter's name on the poll lists without opening the same: Provided, That in case a ballot shall be so folded, defaced, printed or prepared that such number cannot be legibly and permanently written on the back thereof, said inspectors shall refuse to accept such ballot.

HISTORY: New 1954, p. 255, Act 116, Eff. Jun. 1, 1955.

168.746 Ballot of challenged voter; endorsement concealed, identification prohibited.

Sec. 746. To prevent the identification of said ballot, except as hereinafter provided for in case of a contested election, the inspectors of election shall cause to be securely attached to said ballot, with mucilage or other adhesive substance, a slip or piece of blank paper of the same color and appearance, as nearly as may be, as the paper of the ballot, in such manner as to cover and wholly conceal said endorsement but not to injure or deface the same; and if any inspector or other officer of an election shall afterward expose said endorsement or remove the said slip of paper covering the same, or attempt to identify the ballot of any voter, or suffer the same to be done by any other person, he shall, on conviction thereof, be deemed guilty of a misdemeanor.

HISTORY: New 1954, p. 255, Act 116, Eff. Jun. 1, 1955.

168.747 Contested election; challenged voters' ballots, identification in court.

Sec. 747. In case of a contested election, on the trial thereof before any court of competent jurisdiction, it shall be competent for either party to the cause to have pro-

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produced in court the ballot boxes, ballots and poll books used at the election out of which the cause has arisen, and to introduce evidence proving or tending to prove that any person named on such poll lists was an unqualified voter at the election aforesaid, and that the ballot of such person was received. On such trial, the correspondence of the number endorsed on a ballot as herein provided with the number of the ballot placed opposite the name of any person on the poll lists shall be received as prima facie proof that such ballot was cast by such person: Provided, That the ballot of no person shall be inspected or identified under the provisions of this chapter unless such person shall consent thereto in writing, or unless such person has been convicted of falsely swearing in such ballot, or unless the fact that such person was an unqualified elector at the time of casting such ballot has been determined.

HISTORY: New 1954, p. 255, Act 116, Eff. Jun. 1, 1955.

168.748 Contested election; petition to determine qualifications of electors.

Sec. 748. After issue joined in any case of contested election, either party to the cause may present a petition to the court before which the said cause is to be tried, setting forth among other things that the petitioner has good reason to believe and does believe that 1 or more voters at the election out of which the cause has arisen, naming him or them, and stating his or their place of residence, were unqualified to vote at such election; that he believes the same can be established by competent testimony; that the ballot or ballots of such voter or voters were received after being challenged, as provided by law; and praying that the court may try and determine the question of the qualification of such voter or voters at said election, which petition shall be verified by the oath of the petitioner or some other person acquainted with the facts, and thereupon the court shall direct an issue to be framed, within a time to be fixed therefor, for the purpose of determining the question of the qualifications of the voter or voters named in said petition to vote at said election; and such issue shall stand for trial as in other cases, and the verdict of the jury or judgment of the court upon such issue so made shall be received, upon the trial of the principal issue in said cause, as conclusive evidence to establish or to disprove the said qualifications of said voter or voters.

HISTORY: New 1954, p. 255, Act 116, Eff. Jun. 1, 1955.

168.749 Contested elections; challenged voters ballots, removal of slips concealing endorsements, replacement.

Sec. 749. On said trial, the judge presiding thereat and no other person shall remove from all challenged voters' ballots the slips of paper concealing the said endorsements until all ballots bearing numbers agreeing with the numbers against the names of such persons on the poll list as have been proved unqualified voters as aforesaid, have been found, and immediately thereafter said judge shall replace slips of paper upon all ballots from which he has taken the same in the same manner as is provided in this chapter for the inspectors of election.

HISTORY: New 1954, p. 256, Act 116, Eff. Jun. 1, 1955.

168.750 Electors; exemption from civil process.

Sec. 750. During the day on which any election or primary election shall be held, pursuant to the provisions of law, no civil process shall be served on any elector entitled to vote at such election or primary election.

HISTORY: New 1954, p. 256, Act 116, Eff. Jun. 1, 1955.

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ASSISTED VOTERS

168.751 Voting; assistance of elector by election inspectors.

Sec. 751. Whenever at any election an elector shall state under oath, duly administered by some member of the election board, that because of physical disability he cannot mark his ballot, and such disability shall be made manifest to said inspectors, he shall be assisted in the marking of his ballot by 2 inspectors of election: Provided, That in case an elector is so disabled on account of blindness, he may be assisted in the marking of his ballot by a member of his immediate family or by any person over 21 years of age designated by such blind person.

HISTORY: New 1954, p. 256, Act 116, Eff. Jun. 1, 1955.

168.752 Voting; assistance of elector, oath; form.

Sec. 752. The oath shall be administered to such elector before he is given a ballot and before he is permitted to enter a booth, which oath shall be in the following form: "You do solemnly swear (or affirm) that you cannot mark your ballot because of physical disability." (Here state disability).

HISTORY: New 1954, p. 256, Act 116, Eff. Jun. 1, 1955.

168.753 Assisted voters' ballots; marking for identification.

Sec. 753. All ballots of voters assisted shall be marked for identification the same as is provided by this act for the marking of ballots of challenged voters.

HISTORY: New 1954, p. 256, Act 116, Eff. Jun. 1, 1955.

168.754 Assistance of electors; duties and restrictions.

Sec. 754. The inspectors upon whom shall fall the duty of assisting a voter shall render such assistance inside the voting booth by showing him how to mark his ballot in order to vote as he desires, or the inspector shall himself mark the ballot as directed by the voter, but no ballot shall be marked by the inspector from any written or printed list or slip furnished him by the voter or any other person. The inspector shall not suggest to the voter how he should vote, or in any manner attempt to influence him as to the marking of his ballot, nor allow any other person so to do: Provided, That the duties and restrictions with respect to inspectors as provided for in this section shall apply to and govern any person assisting the voter in the marking of his ballot, in accordance with the authorization in section 751 of this act.

HISTORY: New 1954, p. 256, Act 116, Eff. Jun. 1, 1955.

168.755 Assistance of electors; record and report.

Sec. 755. Whenever an elector is thus sworn, there shall be entered on a list, the form for which shall be furnished the inspectors of election for that purpose by the clerk of the township or city, the name and address of the elector thus sworn, the words "sworn to disability", the nature of the disability and the date of the election at which such entry was made. At the close of the election, such list shall be signed and certified as correct by each member of the election board, and shall be filed with the clerk with whom the poll book is filed. If no elector shall have been assisted as herein provided, such fact shall be certified to upon such list.

HISTORY: New 1954, p. 256, Act 116, Eff. Jun. 1, 1955;—Am. 1961, p. 404, Act 230, Eff. Sep. 8.

168.756 False swearing; perjury.

Sec. 756. Any elector who shall swear falsely that he is incapable of marking his ballot shall, on conviction, be deemed guilty of perjury.

HISTORY: New 1954, p. 257, Act 116, Eff. Jun. 1, 1955.

168.757 Unlawful acts; felony.

Sec. 757. Any inspector who shall administer an oath or who shall permit an oath to be administered in his presence to any person whom he knows to be capable of marking the ballot for himself, or who shall wilfully assist any elector in any manner contrary to the provisions contained herein, or who shall neglect or refuse to keep the re-

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ord of such oath having been administered, or to mark the ballot of an assisted voter for identification, as is required herein, shall, upon conviction, be deemed guilty of a felony.

HISTORY: New 1954, p. 257, Act 116, Eff. Jun. 1, 1955.

ABSENT VOTERS

168.758 Absent voter; definition.

Sec. 758. For the purposes of this act, the term "absent voter" shall be construed to mean any qualified and registered elector who, on account of physical disability, is unable without another's assistance to attend the polls; any qualified and registered elector who, on account of the tenets of his religion, cannot attend the polls on the day of election or primary election; any qualified and registered elector who cannot attend the polls on the day of any election in the precinct in which he resides because of being an election precinct inspector in another precinct; any qualified and registered elector who is 70 years of age or more; or any qualified and registered elector, unless confined in a prison or jail, who is absent or who expects to be absent from the township or city in which he or she resides during the entire period the polls are open for voting on the day of any election or primary election. The foregoing provisions of this section shall not be construed as applying to persons who have moved to another state, regardless of length of residence therein, and who no longer maintain an actual residence in Michigan. The storage of personal effects or household goods, the ownership of property which is rented or leased to others, or occasional brief visits to a former Michigan domicile while residing elsewhere for most of the year shall not constitute a residence for voting purposes in this state, except as defined in section 1 of article 2 of the state constitution and statutes enacted thereunder, and except former residents of Michigan domiciled in the District of Columbia, or to former residents who are serving in the United States army, navy, merchant marine, marine corps or air force.

HISTORY: New 1954, p. 257, Act 116, Eff. Jun. 1, 1955;—Am. 1959, p. 240, Act 171, Eff. Mar. 19, 1960;—Am. 1963, 2nd Ex. Ses., p. 78, Act 56, Eff. Mar. 24, 1964;—Am. 1965, p. 698, Act 354, Eff. Mar. 31, 1966.

168.758a Absent voters' ballots for president and vice-president; qualifications, applications.

Sec. 758a. (1) A citizen of the United States above the age of 21 years may vote by absent voter ballot for president and vice president of the United States if he has either of the following qualifications:

Removal to Michigan from foreign state.

(a) He has removed from a place within the United States or its possessions to this state, was qualified to vote for president and vice president at the time of removal in the place from which he removed but is no longer qualified to vote in that place, produces evidence of these facts, and will have resided in this state for less than 6 months and in a city or township of this state for not less than 30 days next preceding an election at which candidates for president and vice president are voted for.

Removal to foreign state from Michigan.

(b) If he has removed from this state to another place within the United States or its possessions, was a duly qualified and registered elector in a city or township of this state at the time of removal, and produces evidence that he cannot yet qualify to so vote in his present place of residence.

Ballots; furnishing; designation; counting votes.

(2) A citizen qualified to vote for president and vice president under this act, upon making proper application shall be furnished with an absent voter ballot for president and vice president only as provided in this act. The ballot shall be a regular paper ballot for such election but shall be plainly designated, in the manner prescribed by the

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secretary of state, "president and vice president only". No vote shall be counted on such a ballot other than the vote for president and vice president of the United States.

Application; time, form, content; oath; temporary registration.

(3) Any person who qualifies to vote for president and vice president under paragraph (1a) of this section may make application for a presidential ballot by delivering an application in person to the clerk of the city or township of present residence not later than 2 p.m. on the Saturday immediately prior to the election. The application shall contain a certificate of the voting officer of the place of previous residence which shall be completed at the time of filing and shall also contain a statement that the applicant possesses all the qualifications of an elector in Michigan except those relating to residence and that as to residence he will have resided in the state of Michigan for a period of less than 6 months and in the city or township of present residence at least 30 days immediately prior to the election. The application shall be sworn to before the clerk and upon acceptance by the clerk shall serve as a temporary registration which shall be valid for that election only. Any temporary registration as herein set forth shall be delivered to the precinct inspectors with the absent voter ballots and shall be returned to the clerk following the election. The form of the combined application-temporary registration shall be prescribed by the secretary of state.

Application by former resident of Michigan; form, certificate voting officer; cancellation of records.

Any voter who qualifies to vote for president and vice president under paragraph (1b) of this section may make application to the city or township clerk of his last place of residence in Michigan not later than 2 p.m. on the Saturday immediately prior to the election, on a form prescribed by the secretary of state, which form shall include a certificate from the voting officer of the place of present residence stating that the applicant cannot qualify to vote because of failure to meet residence requirements. Any such application shall be deemed to be an authorization to, immediately following the election, cancel the registration of the applicant if it is still on the registration records.

HISTORY: Add. 1965, p. 106, Act 75, Eff. Mar. 31, 1966.

168.759 Absent voters' ballots; application, deadline, form.

Sec. 759. At any time during the 75 days preceding any primary or election, but not later than 2 o'clock in the afternoon of the Saturday prior thereto, any voter who qualifies to vote as an absent voter, as defined in section 758 of this act, may make application to the township, city or village clerk, either in person or by mail, to vote absentee. The application may be a written request signed by the voter setting forth the statutory grounds for making the application or may be on an application form provided for that purpose by the clerk of the city, township or village or a federal post card application. The clerk of the city, township or village shall have the applications available in his office at all times and shall furnish this form to anyone upon request. Such application blank shall be in substantially the following form and shall be signed by the applicant:

"Application for absent voter's ballot for the primary or election to be held on ....., 19..... .

I, ..., a duly qualified and registered elector of the ..... precinct of the township of ..... or village of ..... or of the ..... ward of the city of ....., in the county of ..... and state of Michigan, hereby make application for an official ballot, or ballots, to be voted by me at such election.

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The statutory grounds on which I base my request are:

- ☐ I expect to be absent from the community in which I am registered for the entire time the polls are open on election day.
- ☐ I am physically unable to attend the polls without the assistance of another.
- ☐ I cannot attend the polls because of the tenents of my religion.
- ☐ I have been appointed an election precinct inspector in a precinct other than the precinct where I reside.
- ☐ I am 70 years of age or more.

(Check applicable reason)

Send absent voter's ballot to me at:

(Street No. or R.R.)

.....

.....

(Post Office) (State)

My registered address is .....

(Street No. or R. R.)

.....

(Post Office) (State)

Date .....

I hereby declare the foregoing statements to be true.

.....

(Signature)

Any person making a false statement in this declaration upon conviction shall be guilty of a misdemeanor."

Any person who shall make a false statement in any application for absent voter's ballot, upon conviction, shall be deemed guilty of a misdemeanor.

HISTORY: New 1954, p. 257, Act 116, Eff. Jun. 1, 1955;—Am. 1958, p. 227, Act 192, Eff. Sep. 13;—Am. 1959, p. 241, Act 171, Eff. Mar. 19, 1960;—Am. 1962, p. 79, Act 90, Imd. Eff. Apr. 30;—Am. 1963, p. 402, Act 237, Eff. Sep. 6;—Am. 1965, p. 698, Act 354, Eff. Mar. 31, 1966.

168.759a Armed services members and employees outside United States; registration, absent voters' ballots.

Sec. 759a. Any civilian employee of the armed services of the United States outside of the United States or any member of his immediate family outside of the United States, or any member of the armed services of the United States or member of his immediate family, who is a qualified elector of any city or township of this state but is not registered for voting, may apply at the time of making application to register by mail, as provided in section 504 of this act, for absent voters' ballots. Upon receipt of the application, the city or township clerk to whom it is directed if such application complies with the requirements of this act, shall forward to the applicant both the absent voters' ballots requested and the forms necessary for registration, together with instructions for completing the forms. If the ballots are not yet available at the time of receipt of the application, the clerk shall immediately forward the registration forms and instructions and shall send the ballots as soon thereafter as they are available. If the ballots and registrations are received before the close of the polls on election day and if the registration complies with the requirements of this act, then the absent voters' ballots shall be delivered to the proper election board to be voted. If the registration does not comply with the requirements of this act, the ballots shall be retained by the clerk until the expiration of the time that the voted ballots must be kept and shall then be destroyed without opening the envelope.

HISTORY: Add. 1956, p. 28, Act 21, Imd. Eff. Mar. 22.

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168.759b Emergency absent voters' ballot; application.

Sec. 759b. Any registered elector may apply for absent voter ballots at any time prior to 4 p.m. on election day if he shall have become physically disabled or shall be absent from the city or township because of sickness or death in the family which has occured [sic] at a time which has made it impossible to apply for absent voter ballots by the statutory deadline. The application shall be called an emergency absent voter application.

Emergency absent voter applications may be made by letter or on a form provided by the clerk. The application shall set forth that the voter is qualified to vote in the election, stating the statutory reason for applying for an emergency absent voter ballot and that the reason for applying after the statutory deadline occurred at such a time to make it impossible to file an application for absent voter ballots by the statutory deadline.

Any person intentionally making a false statement in such application is guilty of a felony. Any person aiding or abetting any person to make a false statement on such application is guilty of a felony.

Upon receipt by the clerk of a valid application for an emergency absent voter ballot, the clerk may deliver the ballots to the applicant in person, through a deputy or an election assistant, or he may deliver them at his office to a person named by the applicant in the application. The voter may return the ballots to the clerk in the sealed envelope provided therefor in any manner he sees fit. To be valid, ballots must be returned to the clerk in time to be delivered to the polls prior to 8 p.m. on election day.

HISTORY: Add. 1965, p. 366, Act 205, Imd. Eff. Jul. 16.

168.760 Absent voters; records, public inspection.

Sec. 760. Upon receipt of such properly executed application, as above provided, the city, township or village clerk shall file the same in his office and shall enter the name of the applicant and the address to which the ballot or ballots are to be sent upon a list or record to be kept for such purpose, together with the date of receiving the application, the date of mailing or delivering the ballot or ballots to such voter, the date of receiving the ballot from such voter, and such other information as may seem necessary or advisable. Applications and lists shall be open to public inspection at all reasonable hours.

HISTORY: New 1954, p. 258, Act 116, Eff. Jun. 1, 1955.

168.761 Absent voters' ballots; marking, numbering; statement of voter, form.

Sec. 761. The city, township or village clerk forthwith upon receipt of an application for absentee ballots, or if the application is received prior to the printing of the absentee ballots as soon as the ballots are received by the clerk, shall forward by mail, postage prepaid, or shall deliver personally 1 of the ballots, or set of ballots, if there are more than 1 kind of ballot to be voted, to each qualified applicant for absent voter's ballots from his city, township or village, if the applicant is properly registered and if the signature on the application agrees with the signature on the registration card. Absent voter's ballots may be delivered to the applicant in person at the office of the clerk notwithstanding the provision of section 759 providing that no absentee applications shall be received by the clerk after 2 p.m. on the Saturday prior to the election, persons qualified to vote absentee may apply to vote absentee in person at the clerk's office prior to 2 p.m. on a day preceding the election except Sunday or legal holiday. Such applicants, if qualified, shall receive their ballots and vote the same in the clerk's office. All other absent voter's ballots, excepting emergency absentee ballot applications, shall be mailed or delivered to the registration address of the applicant unless the application requests delivery to an address outside the city or township or to a hospital or similar institution in which case the ballots shall be mailed or delivered to the

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address given in the application. Absent voters' ballots shall be issued in the same order in which applications are received by the clerk of any city, township or village, as nearly as may be, and each ballot so furnished shall bear the lowest number of each kind available for this purpose. The clerk shall enclose with such ballot or ballots a return envelope properly addressed to himself and bearing upon the back thereof a printed statement in substantially the following form:

TO BE COMPLETED
BY THE CLERK

Name of Voter _____ Street address or R. R. _____

City, Township or Village _____ County _____

Ward _____ Precinct _____ Date of Election _____

TO BE COMPLETED BY THE ABSENT VOTER

The undersigned asserts that he is a legally registered and qualified elector of the Municipality indicated above, that he is voting absentee in conformity with statutory restatements for so voting and that, unless indicated to the contrary below, the ballots were marked by him personally and enclosed in this envelope without being exhibited to any other person.

x _____
Signature of Absentee Voter

The above form must be signed or your vote will not be counted.

TO BE COMPLETED ONLY IF VOTER IS ASSISTED IN VOTING
BY ANOTHER PERSON

Assisted the above named disabled voter in marking his ballots in accordance with his directions. The ballots were inserted in the return envelope without being exhibited to any other person.

Signature of Person Assisting Voter _____ Street Address or R.R. _____ City, Twp. or Village _____

ANY PERSON MAKING A FALSE STATEMENT ON THIS FORM IS
GUILTY OF A MISDEMEANOR.

HISTORY: New 1954, p. 258, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 628, Act 271, Imd. Eff. Jun. 30;—Am. 1958, p. 228, Act 192, Eff. Sep. 13;—Am. 1965, p. 237, Act 152, Imd. Eff. Jul. 12;—Am. 1966, p. 372, Act 264, Imd. Eff. Jul. 12.

168.761a Absent voters' ballots; precinct delegate ballots.

Sec. 761a. In cities or townships which have established absent voter ballot counting boards, when precinct delegates are to be elected, the clerk, when forwarding absent voter ballots to voters may in addition to the regular return envelope, forward to the absent voter a separate envelope for the return of the delegate ballot. Delegate ballots shall be returned to the clerk by the voter in the special envelope in such case and the clerk shall forward the delegate ballots so returned to the proper precinct on election day. The precinct inspectors shall tally such ballots separately and add such totals to the precinct totals as shown by the voting machines in completing their statements. The secretary of state shall issue rules to implement this section.

HISTORY: Add. 1965, p. 634, Act 331, Imd. Eff. Jul. 23.

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168.762 Absent voters' ballots; procedure when no application.

Sec. 762. If from any precinct the said township, village or city clerk shall not receive any application for absent voter ballots, he shall deliver the packages of absent voter ballots intact to the chairman or some member of the board of inspectors of election of said precinct before the opening of the polls on election day.

HISTORY: New 1954, p. 259, Act 116, Eff. Jun. 1, 1955;—Am. 1956, p. 44, Act 37, Imd. Eff. Mar. 28.

168.763 Repealed. 1956, p. 46, Act 37, Imd. Eff. Mar. 28.

Section imposed duty upon clerk to initial 3 additional absentee ballots before delivery to board of inspectors.

168.764 Absent voters' ballots; instructions.

Sec. 764. The city, township or village clerk, as the case may be, shall also enclose with each ballot or set of ballots sent to each absent voter a copy of section 758 of this act and separate printed instructions to be furnished by said clerks containing the following: "Upon receipt of the ballot or ballots herewith enclosed, you will mark the same in accordance with instructions thereon. Then fold each such ballot so that the face of the ballot is not exposed and so that the numbered corner is visible. Place the ballot or ballots in the envelope enclosed herewith and securely seal the same. Execute and sign the statement printed upon the back of the envelope. If this statement is not completed and signed, your ballot will not be counted. Place the necessary postage upon the envelope and deposit the same in the post office or in some government receptacle provided for the deposit of mail matter, or deliver the same personally to said clerk before the opening of the polls on election day. Absent voter's ballots to be valid must be mailed or delivered by some person other than the absentee voter so that they will reach the clerk of the city, township or village in which your precinct is located in time to be deposited by him with the proper election board before the closing of the polls on primary or election day. Ballots delivered by the absentee voter personally must be delivered to the clerk prior to the opening of the polls on election day." Any person voting absent voter's ballots shall mark, fold and dispose of such ballots in accordance with these instructions.

HISTORY: New 1954, p. 259, Act 116, Eff. Jun. 1, 1955;—Am. 1956, p. 44, Act 37, Imd. Eff. Mar. 28;—Am. 1958, p. 229, Act 192, Eff. Sep. 13.

168.765 Absent voters' ballots; safekeeping, public inspection, delivery to election inspectors, applications not received after opening of polls.

Sec. 765. The city, village or township clerk shall safely keep in his office until election day any envelopes theretofore received by him containing the marked ballots of any absent voter, and he shall, before the opening of the polls on election day, or as soon thereafter as may be, deliver such envelopes to the chairman or some member of the board of inspectors of election in such absent voter's precinct, together with the signed applications received by him from any voters of such precinct and his list or record kept relative thereto: Provided, That where the higher numbered ballots are used in accordance with the provisions of section 717 of this act, the applications and lists shall be retained in the office of the clerk and shall be open to public inspection at all reasonable hours. It shall be the duty of the city, village or township clerk, or someone delegated by him, to call for and receive absent voters' ballots from the postoffice at which such city, village or township clerk regularly receives mail addressed to such city, village or township clerk on election day in sufficient time to deliver any envelopes containing absent voters' ballots to the board of inspectors of election before the closing of the polls. All marked absent voters' ballots received by the city, village or township clerk, after the final adjournment of the polls, or too late to be delivered by

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him to the inspectors of election, shall be plainly marked by him with the time and date of receipt and shall be filed in his office. No absent voter's ballot shall be handed out to such voter after the opening of the polls on election day.

HISTORY: New 1954, p. 259, Act 116, Eff. Jun. 1, 1955.

168.766 Absent voters' ballots; verification by election inspectors.

Sec. 766. Upon receipt from the city, township or village clerk of any envelope containing the marked ballot or ballots of an absent voter, the board of inspectors of election shall verify the legality of such vote by an examination of the registration record to see that the person has not voted in person, that he is a registered voter, and that the signature on the statement agrees with the signature on the registration record; and by an examination of the statement of such voter to see that it is properly executed.

HISTORY: New 1954, p. 259, Act 116, Eff. Jun. 1, 1955;—Am. 1958, p. 229, Act 192, Eff. Sep. 13.

168.767 Absent voters' ballots; illegal vote; rejection of ballot, marking, preservation.

Sec. 767. If upon an examination of the envelope containing an absent voter's ballot or ballots, it is determined that the signature on the envelope does not agree sufficiently with the signature on the registration card so as to identify the voter or if the board shall have knowledge that the person voting the ballot or ballots has died, or if it is determined by a majority of the board that such vote is illegal for any other reason, then such vote shall be rejected, and thereupon some member of the board shall, without opening the envelope, mark across the face of such envelope, "rejected as illegal", and the reason therefor. The statement shall be initialed by the chairman of the board of election inspectors. Said envelope and the ballot or ballots contained therein shall be returned to the city, township or village clerk and retained and preserved in the manner now provided by law for the retention and preservation of official ballots voted at such election.

HISTORY: New 1954, p. 260, Act 116, Eff. Jun. 1, 1955;—Am. 1958, p. 229, Act 192, Eff. Sep. 13.

168.768 Absent voters' ballots; legal vote; deposit of ballot in box, record.

Sec. 768. If upon such examination of the envelope containing an absent voter's ballot or ballots, the board of inspectors of election shall determine that such vote is legal, the member of the board receiving ballots at such election shall open the absent voter's envelope, take out the ballot or ballots therein contained and shall, without unfolding such ballot or ballots, detach from each such ballot the perforated numbered corner, and shall deposit each such ballot in the proper ballot box. One of the inspectors of election shall note upon the poll book and list the fact that such voter voted at such election by means of an absent voter's ballot.

HISTORY: New 1954, p. 260, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 629, Act 271, Imd. Eff. Jun. 30.

168.769 Absent voters' ballots; voting in person; return of ballot, double voting prohibited.

Sec. 769. The provisions of this chapter shall not be construed so as to prohibit any absent voter, returning to his place of residence, from voting in person within his precinct at any regular or special election or official primary election, notwithstanding that he may have made application for an absent voter's ballot and the same may have been mailed by the said clerk: Provided, That such voter has not availed himself of the privileges of an absent voter, as provided by this chapter, and voted any such ballot mailed him by the said clerk, and provided also that he returns such ballot or ballots, if received, to the board of inspectors of election in his precinct. In case any absent voter ballot is so returned, it shall, by said board, be marked "cancelled" and placed in the regular box with other cancelled ballots. Any voter voting at any election, both in per-

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son and by means of an absent voter ballot, or who shall attempt so to vote, shall, on conviction, be deemed guilty of a felony.

HISTORY: New 1954, p. 260, Act 116, Eff. Jun. 1, 1955.

VOTING MACHINES

168.770 Voting machines; separate booths for marking paper ballots; contracts.

Sec. 770. At all elections hereafter held in this state, ballots or votes may be cast, registered, recorded and counted by means of voting machines, as provided in this chapter. In any primary election in any precinct where both voting machines and paper ballots are used, separate booths shall be provided for marking paper ballots.

The governing body of any governmental unit in this state may contract with the governing body of any other governmental unit in this state with regard to the use of voting machines owned by either of the contracting units.

HISTORY: New 1954, p. 260, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 629, Act 271, Imd. Eff. Jun. 30;—Am. 1965, p. 782, Act 386, Eff. Mar. 31, 1966.

168.770a Voting machines; authorization of use by secretary of state; petition; rules as to election procedures.

Sec. 770a. The secretary of state may permit the use of any type of voting device for election purposes in any election upon petition for use of the device by the legislative body of the political subdivision desiring to use any new device. Permission granted by the secretary of state shall be valid for 1 election only. Local legislative body includes school boards. Upon authorizing the use of the device, the secretary of state shall prepare detailed rules as to election procedures when the device is used. The rules may include prescribing the counting of votes and the making of returns by persons other than precinct election inspectors. No rule shall be made which provides for reducing the secrecy of the ballot. In partisan general elections, candidates shall be listed under a party heading. Rules so promulgated shall be consistent with the election law.

HISTORY: Add. 1965, p. 125, Act 91, Imd. Eff. Jun. 28;—Am. 1966, p. 108, Act 86, Imd. Eff. Jun. 14;—Am. 1967, p. 69, Act 50, Eff. Nov. 2.

168.771 Voting machines; purchase.

Sec. 771. Hereafter, the board of supervisors of any county, the legislative body of any incorporated city or village, or the township board of any township in the state of Michigan, may, by a majority vote, authorize, purchase and order the use of any thoroughly tested or reliable voting machine in any 1 or more voting precincts within said county, city, village or township until otherwise ordered by the officers adopting the same.

HISTORY: New 1954, p. 260, Act 116, Eff. Jun. 1, 1955.

168.772 Voting machines; construction and operation.

Sec. 772. A voting machine to be purchased as provided in section 771 of this act must be so constructed as to provide facilities for voting for the candidates of at least 7 different parties or organizations, and must permit all voters to vote for any person for any office, whether or not nominated as a candidate by any party or organization, and must permit voting in secrecy. It shall also be so constructed that votes may be cast thereon for constitutional amendments or any other public measure; it must also be so constructed as to provide for at least 30 candidates for each party organization at any and all elections, and said machine must be constructed of good and durable material in a workmanlike manner, and also so constructed that it can be easily and conveniently operated by inspectors of election and the voters; it must also be so constructed as to prevent voting for more than 1 person for the same office, except where the voter is entitled to vote for more than 1 person for that office, and it must afford him an opportunity to vote for any and all persons for that office as he is by law entitled to vote

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for and no more, at the same time preventing his voting for the same person twice: Provided, That at any time when the polls are open, any voter finding in his use of the machine that same does not operate in exact accordance with the provisions of this section shall be entitled to notify the chairman or any member of the board thereof, whereupon the member so notified and the other members of the board present shall inspect said machine and determine whether or not the alleged irregularity of operation is a fact. If it is determined that the machine is not operating in accordance with this section, no further voting thereon shall be permitted until the machine is adjusted and the number of votes recorded thereon shall not be changed during the process of adjustment. If the machine cannot be properly adjusted, it shall be locked and no further voting permitted thereon. Any person charged with the duty of setting, adjusting or operating voting machines shall perform that duty in such a manner that the machines will enable voters to use same in accordance with the provisions of this section. Any person wilfully failing to carry out the provisions of this section shall, upon conviction thereof, be fined not more than $500.00, or imprisoned for not more than 90 days, or both such fine and imprisonment, in the discretion of the court.

HISTORY: New 1954, p. 260, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 629, Act 271, Imd. Eff. Jun. 30.

168.773 Voting machines; maintenance, custody.

Sec. 773. The board of supervisors of any county, the common council of any city or village, or the township board of any township adopting a voting machine shall, as soon as practicable thereafter, provide for each election district a voting machine in complete working order, and the county, city, township or village clerk shall thereafter keep the same in repair and shall have the custody thereof, and of the furniture and equipment of the polling place when not in use at an election. If it shall be impracticable to supply each and every election district with a voting machine at any election following such adoption, as many may be supplied as it is practicable to procure, and the same may be used in such election district or districts within the county, city, village or township as the officers adopting same may determine. More than 1 voting machine may be provided and used in any election precinct.

HISTORY: New 1954, p. 261, Act 116, Eff. Jun. 1, 1955.

168.774 Voting machines; contracts for purchase, terms.

Sec. 774. The board of supervisors of any county, the legislative body of any city or village, or the township board of any township, on the adoption and purchase of voting machines, may provide for the payment thereof in such manner as they deem for the best interest of the county, city, village or township, and may enter into a contract for the purchase of said machines with provision for payment thereof in annual installments not exceeding in all 10 years, and of such amounts and payable at such times as said local authorities shall determine, and said officials shall further have the right to acquire title to said machines at the time of installation or at any time thereafter by payment of the full amount of the purchase price or the balance thereof either in cash or by the issuance and delivery in payment therefor of certificates of indebtedness drawn for the amounts of said annual installments; said certificates shall be valid negotiable obligations of said county, city, village or township and may be issued with or without interest, but in no case shall the interest exceed 6%. It is further provided that in case any city, village or township of a county in which the use of voting machines shall have been determined upon by the board of supervisors shall have previously purchased voting machines, such city, township or village shall have returned to it from the general fund of said county such pro rata amount of the whole cost for the

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county as the number of voting precincts so previously provided by any such city, township or village bears to the whole number in the county, but not exceeding the amount previously paid by any such city, township or village.

HISTORY: New 1954, p. 261, Act 116, Eff. Jun. 1, 1955.

168.775 Voting machines; ballot labels, printing, order of names; amendments or questions; vignettes; printed ballots.

Sec. 775. All ballot labels shall be printed in black ink on clear white material or amendments, propositions and questions may be printed on red tinted material and the names of candidates for nonpartisan offices on blue tinted material of such size as will fit the ballot frame and in plain type as the space will reasonably permit. (The name of each candidate for nomination to any office by a political party shall be placed upon the party row of such party to which shall be prefixed the name and vignette of such party.) The names of candidates for office to be voted for at such election shall be placed upon such machines in the same order that the names of candidates for office are now required to be placed upon printed ballots by the general election law. Where candidates for local offices in any city, village or township are to be voted for at the same election with state or county candidates, the names of the candidates for such offices shall be placed last upon such voting machines, following the names of candiates for state, county and other offices to be voted for at such election, and the name of the local unit shall be prominently printed on the ballot to indicate the portion of the ballot on which the names of the local candidates appear. The order in which the names of such candidates for local offices shall be placed upon such machines shall be prescribed by the board of election commissioners of the city, village or township, as the case may be. Where amendments to the constitution or other questions are to be voted on, such amendments or questions shall be placed on the voting machine upon the portion of the keyboard provided therefor or upon any other available space when deemed advisable by the board of election commissioners of the county, city, village or township. In city and village elections where any special question is to be voted on, a condensed statement of such question not to exceed 100 words may be placed upon the voting machine in lieu of a verbatim statement of such question. Such condensed statement shall be in such form as to apprise the voter of the exact question to be voted on. Said provision may also apply to amendments, provided that verbatim statements thereof shall in such cases be placed conspicuously within the machine booth so that each voter may, if he desires, read the entire context of such amendments; such condensed statements shall be written under the direction of the proper legal authority in the state, county, city, village or township, as the case may be. Two or more independent nominations may be placed on the same party row and such candidates shall be voted for individually. The party lever or device, if any, in connection with such party row, shall be locked whenever such party row does not contain the names of candidates of a party organization or the names of an independent body which may have nominated candidates for more than 1 office. The vignettes adopted for such independent candidates, if any, shall be printed upon the ballot labels in connection with the names of such candidates. Where voting machines are purchased or are used, the election commissioners of the county, city, village or township shall not be required to print and furnish paper ballots for election districts using voting machines, except for any question or matter that cannot be provided for by the voting machines. The board of election commissioners of the county shall cause to be printed ballot labels or slips containing the names of candidates for all offices to be voted for or questions to be voted upon, except when the city, village or township officials only are to be elected, at which time the city, village or township clerk shall provide such ballot labels for use upon such voting machines, and shall forward the same to the board of election commissioners of each city, village or township within the

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county where such voting machines are used at least 5 secular days before the day of election. Whenever local officers are to be elected at any such general election, it shall be the duty of the city, township or village clerk, respectively, to file with the board of election commissioners of the county, the titles of offices, the names of all candidates to be voted for, and all questions or propositions to be voted upon within such city, township or village, at that election.

HISTORY: New 1954, p. 262, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 630, Act 271, Imd. Eff. Jun. 30;—Am. 1957, p. 427, Act 293, Eff. Sep. 27;—Am. 1959, p. 248, Act 173, Eff. Mar. 19, 1960;—Am. 1961, p. 254, Act 178, Eff. Sep. 8.

This section was amended by P.A. 1964, No. 240, p. 333, but that act was disapproved by the voters in the November, 1964, election.

168.776 Voting machines; supplies and equipment; keys, delivery and return.

Sec. 776. Not to exceed 3 additional sets of ballot labels shall be provided for each polling place for each election for use on the voting machine, and the same shall be delivered by the board of election commissioners to the election board of each voting precinct. Envelopes for the delivery and return of the keys of the voting machine shall be furnished by the county or city clerk, upon which shall be printed or written the number of the machine, the ward or precinct and the record of the protective counter, if any, and the numbers of the seals before and after the election, each of which shall be correctly filled out and be delivered to the proper board or official: Provided, however, That in communities where the registration books and supplies are delivered to their respective boards by the local law enforcement agency, a key ring to which is attached the keys to the voting machine and tags bearing the number of the machine and the ward and/or precinct, may be delivered by said agency to the proper board or official. The number registered on the protective counter, if any, and the numbers of the seals before the election, and after, if used, shall be recorded in the "statement of returns". At the close of the polls, the key ring containing the keys to the voting machine and the tags bearing the number of the machine and of the ward and/or precinct shall be returned to the city, village or township clerk. In all general or city elections where voting machines are used, there shall be furnished by the board of election commissioners, to the election board in each such precinct, a sufficient number of instruction ballots or wall diagrams showing the keyboard of the voting machine with the titles of offices, names of candidates, with designating numbers and letters, if any, and questions, and with illustrations and brief instructions on how to vote.

HISTORY: New 1954, p. 263, Act 116, Eff. Jun. 1, 1955.

168.777 Voting machines; model, instructions.

Sec. 777. A model representing a portion of the face of the machine and containing fictitious names must be delivered to each board of election inspectors for use on election day, and one of said board, or some one appointed by said board, shall offer to exhibit and explain the operation of the voting machine, by use of the model, to each voter before such voter shall be allowed to vote. Printed instructions on how to vote, circulated to voters, must conform to the instructions approved by the official providing ballots, and adapted to the machine used.

HISTORY: New 1954, p. 263, Act 116, Eff. Jun. 1, 1955.

168.778 Voting machines; control; officers of election, compensation, duties; lighting of machines; police protection.

Sec. 778. The clerk of the city, village or township in which voting machines are used shall have complete control of such machines, excepting when such machines are owned by the county, in which case said control shall be vested in the county clerk. The clerk and his authorized assistants shall, for the purpose of this chapter, be considered as officers of election and may be paid for the time spent in the discharge of their duties, in the same manner as other election officers are paid: Provided, however, That this section shall not apply to any city where said clerk or his authorized assis-

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tants receive such compensation as fixed by the legislative body. In cities where there are more than 20 voting machines, more than 1 authorized assistant may be appointed. Said clerk or his authorized assistants shall cause the machines to be properly labeled, put in order, set and arranged. In preparing a voting machine for an election, the clerk or his authorized assistants shall arrange the machine and the ballots therefor so that it will in every particular meet the requirements for voting and counting at such election, and thoroughly test and seal or lock the same. When a machine has been prepared for the election, it shall be the duty of such election commissioners, or the city clerk or his authorized assistants, to make a certificate in writing which shall be filed with the election commissioners of the county, city, village or township, within which they are authorized to act, certifying to the correct adjustment of the machine, the number of the machine, whether or not all the candidates and question counters and the public counter are set at zero, the number registered on the protective counter, if one is provided, and the number of the metal seal with which the machine is sealed. The election commissioners, or authorized assistants, shall then be afforded an opportunity to inspect said machines to determine whether they are properly prepared. In elections where state and county officers are to be voted for, an additional certificate shall be filed with the county clerk. Each voting machine shall be furnished with a device for lighting which shall give sufficient light to enable voters while in the booth or other enclosure to read the ballot labels, and suitable for use by the election officers in examining the counters of the machine. It shall be the duty of the clerk or his authorized assistants to cause the voting machines to be delivered at the respective polling places in which they are to be used at least 1 hour before the time set for opening the polls: Provided, That police protection shall be furnished by the local authorities whenever the officers charged with the duty of preparing such machines shall deem such protection necessary to prevent possible injury of any 1 or more voting machines, but such machines shall at all times be under the supervision of such officer, except during the hours prescribed by law for voting on election day.

HISTORY: New 1954, p. 283, Act 116, Eff. Jun. 1, 1955.

168.779 Election inspectors; qualifications as to voting machines.

Sec. 779. No inspector of election shall serve in any election at which a voting machine is used unless he shall have received instruction as provided in section 683 of this act and is fully qualified to perform his duties in connection with the machine. This shall not prevent the appointment of an inspector of election to fill a vacancy in an emergency.

HISTORY: New 1954, p. 284, Act 116, Eff. Jun. 1, 1955;—Am. 1962, p. 55, Act 67, Eff. Mar. 28, 1963.

168.780 Repealed. 1955, p. 634, Act 271, Imd. Eff. Jun. 30;—1955, p. 743, Act 283, Imd. Eff. Jul. 19.

Section dispensed with all clerks and gatekeepers in any city, village or township where voting machines were used.

168.781 Election inspectors and poll clerks; opening of polls, examination of machine seals and counter, delivery of keys, other duties.

Sec. 781. The inspectors of election and poll clerks, if any, of each district shall meet at the polling place therein, at least 1/2 hour before the time set for the opening of the polls at such election, and shall proceed to arrange within the guard rail the furniture and voting machine for the conduct of the election. The inspectors of election shall then and there have the voting machine, ballots and stationery required to be delivered to them for such election, and the registry of the electors required to be made and kept therefor. The inspectors shall thereupon cause at least 2 instruction cards to be posted conspicuously within the polling place. If not previously done, they shall insert in their proper place on the voting machine the ballot labels containing the names of the offices to be filled at such election, the names of the candidates nominated

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therefor and the question, if any, to be voted upon. The keys of the voting machines shall be delivered to the election officers or chairman of the election board not more than 24 hours nor less than 1/2 hour before the time set for opening the polls, in a sealed envelope, on which shall be written or printed the number and location of the voting machine, the number on the seal and, if provided with a protective counter, the number registered on such counter as reported by the clerk or his authorized assistants: Provided, That where key rings to which are attached the keys to the voting machines, with tags bearing the numbers of the machines and of the wards and/or precincts, are delivered by the local law enforcement agency, the number on the seal and of the protective counter, if any, shall be recorded in the statement of returns. Before opening the machine, at least 2 of the officers present shall examine the number of the seal on the machine, also the number registered on the protective counter, if one is provided, and shall see if they are the same as recorded on the envelope containing the keys or on the statement of returns. If found not to agree, the machine must not be opened until the clerk, or the assistant duly appointed and authorized to act for such clerk, shall have been notified and shall have presented himself at the polling place for the purpose of re-examining such machine and shall certify that it is properly arranged. If the numbers on the seal and the protective counter, if one is provided, are found to agree with the numbers on the envelope or statement of returns, the inspectors shall proceed to open the doors concealing the counters. Before the polls are opened for the election, each inspector shall carefully examine every candidate and question counter and see that it registers zero, and the same shall be subject to the inspection of the official challengers who may be present. If any counter for a candidate or question is found not to register zero, the inspectors of election shall immediately notify the county, city or township clerk, under whose direction such machine has been prepared for election, and said clerk or the assistant appointed by him shall adjust the counter at zero, re-examine the machine and certify to its proper adjustment for use in the election. During the examination of the voting machine by the inspectors of election, the machine shall remain locked against voting until the polls are formally opened, and shall not be operated except by the electors in voting, or by the inspectors in recording absent voters' ballots.

HISTORY: New 1954, p. 264, Act 116, Eff. Jun. 1, 1955.

168.782 Repealed. 1966, p. 86, Act 62, Imd. Eff. Jun. 9.

Section related to irregular and emergency ballots.

168.782a Voting machines; voting for more write-in candidates than space on machine, procedure.

Sec. 782a. If any voter wishes to vote for more write-in candidates than there are spaces upon the voting machine or for any person whose name is not on the machine or for any combination of names that cannot be voted with the machine, the following procedure shall be followed:

(a) The voter shall notify an election inspector of the situation.

(b) The election inspector shall tell the voter to clear the voting machine, in secret, of all votes including write-ins that the voter has attempted to cast.

(c) The voter shall advise the election inspector when he has cleared the machine.

(d) Not less than 2 election inspectors who shall not be of the same political party shall then inspect the machine to determine whether it is cleared, and if not, shall proceed to clear the machine, including the write-in slots.

(e) The election inspectors shall then operate the appropriate voting machine mechanism to prepare the machine for the next voter.

(f) The election inspectors shall make a notation of the facts in the poll book and shall initial the notation.

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(g) The election inspectors shall provide the voter with a complete set of paper ballots identical to the paper ballots used by absentee voters in that precinct, and shall also provide the voter with an unsealed envelope in which to deposit the ballots.

(h) The voter shall mark his ballots, in secrecy, and deposit them in the envelope provided, seal the envelope and hand the sealed envelope to an election inspector.

(i) The election inspector shall commingle the envelope with absentee ballot return envelopes of the precinct, if any.

(j) The envelopes and ballots shall be called, tallied and processed in the same manner as absentee ballots.

(k) If any paper ballots are cast under the provisions of this section in any municipality using absent voter counting precincts, the chairman of the election board in the precinct where the ballots were cast shall immediately upon the close of the polls, notify the clerk of the governmental unit of such fact and the clerk shall cause the ballots to be transmitted to the absent voter counting precinct.

HISTORY: Add. 1966, p. 85, Act 62, Imd. Eff. Jun. 9.

168.782b Voting machines; use of emergency ballots when no reserve machine available.

Sec. 782b. If there is no reserve machine available, emergency ballots may also be provided by the board of election commissioners of the county, having suitable blank spaces to permit the voter to vote a straight party ticket, or if he desires to split his party ticket, to indicate the party ticket the majority of whose candidates he favors, together with the names of such other candidates for whom he desires to vote. The ballots shall be used only in emergency and upon special permission of the board or official whose duty it is to provide ballots for the election and who shall prepare such ballots which shall be held by the city, township or village clerk, subject to the order of the county clerk or other authorized person. It shall not be necessary to provide emergency ballots for each election unless same shall have been used, destroyed or lost, in which case similar ballots shall again be provided. If at any time during the election, the voting machine is disabled and cannot be repaired and no other voting machine can be had to supply its place, an emergency shall be declared to exist and the voting thereafter at that election in that voting precinct shall be by ballot, in the manner provided in this section. The board or official having the custody of the emergency ballots, when so directed, shall supply a sufficient number of such ballots to the election board for use by the voters. One of the ballots shall be delivered by the election board to each voter who may thereafter appear to vote and shall be voted and counted subject to the provisions relative to voting by ballot at general elections, except as herein otherwise provided. The ballots shall be numbered consecutively from 1 up, which number and identification shall be printed upon a perforated stub as in the case where only regular ballots are used at elections.

HISTORY: Add. 1966, p. 86, Act 62, Imd. Eff. Jun. 9.

168.783 Voting machines; challenged voter, procedure.

Sec. 783. When the right of any person offering to vote is challenged and his answers under oath shall show him to possess the qualifications to vote at that precinct, he must be allowed to cast his vote either upon the regular keyboard of the machine, or upon the machine in the space provided for voting an "irregular ballot", or upon a ballot such as provided for absent voters, in the discretion of the precinct inspectors. The poll list shall be marked and the paper ballot, if used, shall be identified in the manner provided where voting machines are not used and such ballots shall be counted, recorded and preserved in the same manner as prescribed elsewhere in this chapter for the handling of absent voters' ballots. If the vote be cast upon the machine in the space provided for voting an "irregular ballot", the poll list number shall be

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written in the space on the machine next preceding the ballot cast and the number concealed and the ballot preserved as near as possible in the manner as prescribed in case the voter is permitted to use the paper ballot.

HISTORY: New 1954, p. 266, Act 116, Eff. Jun. 1, 1955.

168.784 Voting machines; irregular ballots, unlawful use.

Sec. 784. With the exception of persons not nominated or for a combination of names that cannot be voted with the machine and except for voting for president and vice-president and except for challenged votes, no irregular ballot shall be voted for any person for any office, whose name appears on the machine as a nominated candidate for that office. An irregular ballot must be cast in its appropriate place on the machine or it shall be void and not counted.

HISTORY: New 1954, p. 266, Act 116, Eff. Jun. 1, 1955.

168.785 Voting machines; location.

Sec. 785. The exterior of the voting machine and every part of the polling place shall be in plain view of the election officers and the public. The voting machine shall be placed at least 3 feet from every wall and partition of the polling place.

HISTORY: New 1954, p. 266, Act 116, Eff. Jun. 1, 1955.

168.786 Voting machines; voting, secrecy, time limit.

Sec. 786. Only 1 voter at a time shall be permitted to pass within the guard rail to vote. The operating of the voting machine by the elector while voting shall be secret and obscure, from all other persons, except as provided by this act in cases of assisted electors. No voter shall have the right to remain within the voting machine booth longer than 2 minutes and if he shall refuse to leave it after the lapse of 2 minutes, he shall be removed by the inspectors: Provided, That the inspectors may grant him further time in their discretion.

HISTORY: New 1954, p. 266, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 631, Act 271, Imd. Eff. Jun. 30.

This section was amended by P.A. 1964, No. 240, p. 334, but that act was disapproved by the voters at the November, 1964, election.

168.787 Voting machines; keyboard concealed.

Sec. 787. The front of the voting machine shall be in full view of the inspectors and bystanders at all times during the election, and the machine shall be so placed or equipped that the keyboard of the machine shall be concealed from the view of all persons, except the voter, so that the voting of each voter shall be in secrecy.

HISTORY: New 1954, p. 267, Act 116, Eff. Jun. 1, 1955.

168.788 Voting machines; locking.

Sec. 788. An inspector of election shall attend to the locking and unlocking of the machine and it shall be his duty to prevent said machine from being unlocked at any time during said election, except when a voter is within for the purpose of voting, and whenever a voter has voted the inspector shall lock the machine and it shall remain so until another voter enters for the purpose of voting.

HISTORY: New 1954, p. 267, Act 116, Eff. Jun. 1, 1955.

168.789 Voting machines; election inspectors, instructions to voter, assistance to incapacitated voter.

Sec. 789. In case any elector, after entering the voting machine booth, shall ask for further instructions concerning the manner of voting, 2 inspectors shall give such instructions to him, but no inspector or other election officer or person assisting at any election shall set such machines for any such elector, or move, turn or operate any lever or other part or mechanism of such machine for such elector, or in any manner request, suggest, or seek to persuade or induce any such elector to vote any particular ticket, or for any particular candidate, or for or against any particular amendment, question, or proposition. After receiving such instructions, such elector shall be left

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alone in the voting machine booth and shall vote as in the case of an unassisted voter, and no inspector or other election officer or person assisting at any election shall be present in such voting machine booth when any such elector sets or operates such machine. When an elector shall make oath that because of physical disability he cannot set or operate such machine, or when such disability shall be made manifest to said inspectors, such machine shall be set and operated for him and in accordance with the manner in which he wishes to vote by 2 inspectors designated by the board for that purpose.

HISTORY: New 1954, p. 267, Act 116, Eff. Jun. 1, 1955.

168.790 Voting machines; defacing, altering or injuring machine or labels.

Sec. 790. No voter or other person shall deface, alter or injure the voting machine or change position of the ballot labels thereon. It shall be the duty of the inspectors of election to enforce the provisions of this section. The inspectors of election shall, at such intervals as they may deem proper or necessary, examine the face of the machine to ascertain whether it has been defaced, altered or injured, to detect the wrongdoer and to repair any injury.

HISTORY: New 1954, p. 267, Act 116, Eff. Jun. 1, 1955;—Am. 1957, p. 179, Act 159, Eff. Sep. 27.

168.791 Voting machines; sealing against voting; reading and announcement of vote; tally of absent voters' ballots; locking of machines.

Sec. 791. As soon as the polls of election are officially closed and the last voter has voted, the inspectors of election shall seal the operating lever of the machine, if any, against voting, with the numbered metal seal provided for that purpose and open the counter compartment in the presence of the challengers and all other persons lawfully within the polling place, giving full view of all the counter numbers. The chairman of the board shall then under the scrutiny of another member, in the order of the offices as their titles appear on the machine, read and announce in a distinct voice the candidate's name or the designating number and letter, if any, of each counter for each candidate's name and the number of votes shown on said counter, and shall then in like manner read and announce the vote on each constitutional amendment, proposition or other question. He shall also announce the vote as recorded for each office on the irregular ballots, if any. The candidate counters shall be read consecutively along the row or column and the votes as registered and announced shall be entered in ink by members of the board, directly into the inspectors' statement of returns, in the space which has the same candidate's name or designating number and letter, if any. After recording on the inspectors' statement of returns, the vote as shown by the counters, the figures shall be verified by being called off in the same manner from the counters of the machine by another inspector. At least 2 copies of the statement of returns shall be made simultaneously.

Absent voters ballots; legality; counting; returns statement.

When absent voters' ballots have been returned to the city clerk and delivered to the precinct board of election inspectors such election inspectors shall determine the legality of such ballots as prescribed in this act, and shall count and tally the votes on such ballots on 2 separate tally sheets which shall be provided by the county clerk. The canvass will be performed in the same manner as is provided for paper ballot precincts. The totals from this canvass shall be entered separately on the statement of returns and also included in the total precinct vote as shown on the statement.

Completion of returns; inspection; availability; closing machine.

The counter compartment of the voting machine shall remain open until the statement of returns and other records, if any, have been fully completed and signed by the election board. During such time any challenger of any party, duly accredited as provided by the election law, who may desire to be present shall be admitted to the poll-

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ing place. Immediately after the canvass has been completed, the results, stating the total number of votes received by each person voted for in said precinct for any office and the number of votes for and the number of votes against any proposed constitutional amendment or other submitted proposition, shall be made available to interested persons who may be present. Ample opportunity shall be given to any person lawfully present to compare the results with the counterdials of the machine and any necessary corrections shall then and there be made by the election board, after which the doors of the voting machine shall be closed and locked.

Absent voters ballots; sealing; certificate.

When absent voters' ballots have been cast in the voting precinct, the machine shall not be closed and locked until such ballots, from which the perforated numbered corners have been detached, have been sealed in an envelope provided for that purpose or wrapped and tied in the manner provided at elections where voting machines are not used, and placed inside the machine, after which the doors shall be securely closed and locked. On the envelope or wrapper shall be printed a certificate which shall be signed by all members of the election board certifying that the absent voters' ballots contained therein have been properly recorded on the absent voters' tally sheet and the statement of returns.

Sealing and locking machine; duration.

Such machines shall remain sealed or locked and shall not be operated subsequent to any primary or election until the day following the last day for filing petitions for recount of any votes cast on such machines, after which period the seals may be broken and machines released, unless a recount petition has been filed and the recount not completed, or the release of the machine has been stayed by a court order. In any case, the seals shall be broken and machines released not less than 20 days preceding an election at which such machines are to be used. In city, village and township elections, the legislative body may, if not prohibited by the charter of such city, village or township, provide for a different period during which the machine shall remain sealed or locked.

HISTORY: New 1954, p. 267, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 631, Act 271, Imd. Eff. Jun. 30;—Am. 1965, p. 634, Act 331, Imd. Eff. Jul. 23;—Am. 1970, p. 9, Act 2, Imd. Eff. Feb. 10.

168.791a Printer type voting machines; definition, operation.

Sec. 791a. "Printer type voting machine" as used in this act means a voting machine which prints the reading upon each of the respective candidate and proposition counters directly upon one or more sheets of paper and shows the counter reading as appearing upon such machine both before the opening of the polls and after the last vote is recorded. If a printer type voting machine is used in a precinct at an election, the board of election inspectors of the precinct shall not have a key to the counter compartment of the machine, nor open the same at any time. All of the other provisions of this act relating to the conduct of elections through the use of voting machines shall be applicable to such machines, except that the counter readings shall be taken from the printed sheets rather than from the respective counters, and such sheets shall be subject to inspection the same as the counters would otherwise be. At the conclusion of the precinct canvass, one sheet showing the reading upon each of the respective counters after the last vote is recorded upon each of such machines used in the precinct, shall be included with the returns to the county board of canvassers, and one sheet from each of such machines shall be included with the returns to the local clerk. One of such sheets from each machine, and one sheet showing the counter reading as

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appearing before the opening of the polls, shall be locked in the machine from which the same was taken. Such sheets shall be initialed by each of the members of the precinct board of election inspectors before completing the returns.

HISTORY: Add. 1963, p. 235, Act 171, Eff. Sep. 6.

168.792 Voting machines; discrepancy in return; investigation, re-canvass procedure, petition.

Sec. 792. Whenever it shall appear that there is a discrepancy in the returns of any election district, the board of canvassers of the county, if it be a general election at which county or state officers are elected, or the board of canvassers of the city, village or township, if it be a city, village or township election at which city, village or township officers only are elected, or the authorized representatives of such board of canvassers, shall make a record of the number of the seal, if any, the number on the protective counter, if one is provided, and shall open the counter compartment of said machine, and without unlocking the machine against voting, shall re-canvass the vote cast thereon. Before making such re-canvass, the said board of canvassers shall give sufficient notice in writing to the clerk of the time and place where said re-canvass is to be made. If upon such re-canvass it shall be found that the original canvass of the returns has been correctly made from the machine, and that the discrepancy still remains unaccounted for, the clerk or authorized assistant, in the presence of the inspectors of election and the said board of canvassers, shall unlock the voting and counting mechanism of said machine and shall proceed to thoroughly examine and test the machine to determine and reveal the true cause or causes, if any, of the discrepancy in the return from said machine. Before testing the machine, the counters in the party row or column in which the discrepancy is alleged to have occurred shall be set at zero after which each of such counters shall be operated at least 100 times. After the completion of said examination, the clerk or authorized assistant shall then and there prepare a statement in writing giving the result thereof, and said statement shall be witnessed by the persons present and shall be filed with the board of canvassers. Any candidate voted for at any election who conceives himself aggrieved on account of any fraud, error or mistake in the canvass of the vote by the inspectors or in the returns made by the inspectors of election, may file a written petition for a recount with the board of canvassers, as provided in cases where voting machines are not used.

HISTORY: New 1954, p. 268, Act 116, Eff. Jun. 1, 1955.

168.792a Absent voters' counting boards; establishment; powers and duties.

Sec. 792a. (1) In any community using voting machines, the absent voters' ballots shall be counted by absent voters' counting boards except that in communities with 2 precincts or less and prior to July 1, 1972, in cities of over 500,000 population the election commission may determine if the absent voter ballots shall be counted by absent voter counting boards or in the manner provided in section 791. Such boards shall be established by the election commission. The number of such boards established, the number of voting machines or the number of ballot boxes and the number of inspectors of election to be used in each of said boards shall be determined and the inspectors appointed by the election commission at least 10 days prior to the primary or election at which they shall be used. In no case shall more than 1,000 ballots be counted by a single counting board. Combined ballots shall be regarded as the number of ballots as there are sections to the ballot. If more than 1 counting board is to be used the election commission shall also determine to which counting board the absent voters' ballots for the several precincts shall be assigned for counting. In any governmental unit using counting boards as herein provided, all absent voters' ballots shall be

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counted in the manner provided in this section and no absent voters' ballots shall be delivered to the polling places.

Counting places.

(2) In any governmental unit where absent voters' ballots are counted by absent voters' counting boards, the election commission shall provide places where the boards shall count the absent voters' ballots. The places shall be designated as absent voters' counting places. All applicable laws relating to paper ballot precincts, including laws relating to the appointment of election inspectors, shall apply to absent voters' counting places except that in counting places using voting machines, as hereinafter provided, the provisions of this section relating to placing of absent voters' ballots on voting machines shall apply. No limit shall exist as to the number of such boards which may be located in 1 building.

Supplies.

(3) The clerk of any governmental unit using absent voters' counting boards shall supply each board with such supplies as are necessary to carry out the provisions of this act. The supplies shall be furnished to the clerk in the same manner and by the same persons or agencies as the supplies are furnished to the clerk for other precincts.

Delivery of ballots, time; rejected ballots.

(4) All absentee ballots received by the clerk prior to election day shall be delivered to the absent voters' counting board by the clerk at the time the inspectors of election of the boards report for duty, which time shall be established by the election commission. Absent voters' ballots received by the clerk on election day shall be delivered to the boards prior to the time set for the closing of the polls. Absent voters' ballots shall be delivered to the absent voters' counting boards in the sealed envelopes in which they were returned to the clerk by the voters. Written or stamped on each of the envelopes shall be a statement by the clerk that the signatures of the voters on the envelopes have been checked and found to agree with the signatures of the voters on the registration cards. If the signatures on the registration card and on the envelope do not agree, or if the voter has failed to sign the envelope, or if the statement of the voter is not properly executed, the clerk shall mark the envelope "rejected" and the reason therefor and shall place his name under the notation. Envelopes so marked shall not be delivered to the counting board but shall be preserved by the clerk until other ballots are destroyed.

Registration card; notation.

(5) At the time of issuing or mailing absentee ballots to qualified applicants, the clerk of each governmental unit using absent voters' counting boards shall mark the letters "A.V." and the date of election on the registration card of the applicant in the precinct registration file.

Absent voter voting in person; procedure.

(6) The provisions of this chapter shall not be construed so as to prohibit any absent voter returning to his place of residence, from voting in person on a voting machine within his precinct at any election, notwithstanding that he may have made application for an absent voters' ballot and the same may have been mailed to him. The voter shall return the ballots, if received, to the board of inspectors in his precinct. If any absent voters' ballot is so returned, the envelope containing the ballots shall be marked "cancelled" by the board and shall be returned to the clerk at the close of the polls, which clerk shall preserve such cancelled ballots for 2 years. If any absent voter shall not have received his ballot and desires to vote in person, he shall sign a sworn affidavit to that effect before 1 of the members of the board. Any voter voting at any election, both in person and by means of an absent voters' ballot, or who shall attempt so to vote, is guilty of a felony.

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Processing of ballots; oath; tallying; disposition.

(7) The absent voters' counting boards shall process the ballots and returns in as nearly as possible the same manner as ballots are processed in paper ballot precincts. The poll book may be combined with absent voter list required by section 760, and the applications for absent voter ballots may be used as the poll list. The processing of absent voters' ballots may commence at 9 a.m. on election day, but no tallying of votes shall commence prior to 7 p.m. except that prior to July 1, 1971, tallying may commence at 3 p.m. on election day.

Every person including election inspectors in attendance at any absent voter counting place at any time after the processing of ballots has been started shall take and sign the following oath which may be administered by the chairman or a member of the absentee counting board:

"I (name of person taking oath) do solemnly swear (or affirm) that I shall not communicate in any way any information relative to the processing or tallying of votes that may come to me while in this counting place until after the polls are closed."

These oaths will be placed in an envelope provided for the purpose and sealed with the red state seal. Following the election the oaths will be delivered to the local clerk. No person in attendance at the absent voter counting place shall leave that place after the tallying has begun and before the polls close. Anyone who causes the polls to be closed or discloses any election result in any voting precinct, including absent voter counting boards, before the time the polls can be legally closed on election day is guilty of a felony under this act.

At the time the election commissions provide for the use of absent voters' counting boards, they may provide that such boards shall record the votes contained on absent voters' ballots on voting machines.

Such recording of ballots shall be done by the chairman of the board or another member designated by him and the act of casting such votes shall be performed in the presence and under the careful observation and full view of all members of the board, party challengers, and any other persons lawfully present, and the vote as indicated by the voting pointers shall not be recorded until each member of the board is satisfied that the arrangement of such voting pointers fully carries out the intent of the voter as shown by the cross marks on the paper ballot, and certificate to that effect shall be made on the inspectors' statement of returns.

As soon as the ballots have been cast on the voting machine, but in no case before 8 p.m., the inspectors shall seal the operating lever of the machine against voting and shall then proceed to determine and record the votes cast in the manner provided above.

Voted absent voters' ballots shall be placed in a ballot bag and a ballot box and the ballot bag and ballot box shall be sealed in the manner provided by law for paper ballot precincts. The seal numbers shall be recorded on the statement sheet and in the poll book.

Challenged voters; procedure.

(8) In governmental units where challenged voters are required to vote on absent voters' ballots, each challenged voters' ballot and his application for ballot, after having been voted and properly identified, shall be placed by the voter in an absent voter envelope. The applicable information required on the back of the envelope shall be completed by the board. The envelope shall be signed by the challenged voter and by the chairman of the precinct board. The word "challenged" shall be written across the front of the envelope. The envelope and application for ballot shall be sealed and delivered to the absent voter precinct by the clerk of the governmental unit. Immediately after the closing of the polls, the chairman of each precinct board shall notify the

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clerk of the governmental unit of any remaining challenged voter ballots to be delivered to the absent voter precinct. In those governmental units using voting machines where absent voter counting boards are not used, challenged ballots shall be counted and tallied in the precincts, in the same manner that absent voter ballots are tallied and counted as provided in section 791 of this act.

HISTORY: Add. 1961, p. 404, Act 230, Eff. Sep. 8;—Am. 1965, p. 635, Act 331, Imd. Eff. Jul. 23;—Am. 1970, p. 10, Act 2, Imd. Eff. Feb. 10.

168.793 Voting machines; inspectors' statement forms.

Sec. 793. The proper board of election commissioners shall furnish the necessary inspectors' statement of returns sheets and the certificates and envelopes suitable to the machine used, together with ballot labels and other election supplies for each election, to be delivered to the respective boards of election inspectors to make returns where voting machines are to be used. The form of the inspectors' statement of returns sheets shall be suitable to the type of machine used and the inspectors' certificate contained therein shall in addition certify to the machine number, the number on the protective counter, if any, the number on the seal, and that all candidate counters, question counters and the public counter registered zero before the polls opened; also the record on the protective counter and on the seal, if any, with which the machine is sealed by the inspectors, the number on the public counter and the number of names on the poll list after the polls close; also a record of the disposition of the absent voters' ballots as provided in section 791 of this act. As soon as the names of all candidates for the several offices to be elected at that election are filed as required by law, the board or official whose duty it is to prepare the ballot labels for the machine, shall forthwith have the names of each regularly nominated candidate, together with the designating number and letter, if any, corresponding to each of the candidate's counter on the voting machine, printed in the space provided therefor: Provided, That in case of the death, resignation or failure to qualify of any of such candidates after such inspectors' statement of returns are printed, a slip may be furnished giving the name, designating number and letter, if any, of the candidate substituted therefor and same shall be pasted, before the delivery of the inspectors' statement of returns to the board of inspectors, over the candidate's name who died, resigned or failed to qualify.

HISTORY: New 1954, p. 269, Act 116, Eff. Jun. 1, 1955.

168.794 Electronic voting systems; definitions.

Sec. 794. As used in sections 794 to 799:

(a) "Automatic tabulating equipment" means apparatus which automatically examines and counts votes recorded on ballots and tabulates the results.

(b) "Ballot" means a tabulating card, ballot label, paper ballot or envelope on which votes are recorded.

(c) "Ballot label" means the page, card or material containing the names of offices and candidates or the statements of measures to be voted on, which is placed on the voting device.

(d) "Counting center" means 1 or more locations selected by the board of election commissioners of the city, county, township or village at which ballots are counted by means of automatic tabulating equipment.

(e) "Electronic voting system" means a system in which votes are recorded on ballots, and such votes are subsequently counted and tabulated by automatic tabulating equipment at a counting center.

(f) "Voting device" means an apparatus which the voter uses to record his votes on a ballot.

HISTORY: Add. 1967, p. 212, Act 155, Imd. Eff. Jun. 30.

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168.794a Electronic voting systems; authorization of use, acquisition, abandonment.

Sec. 794a. The board of supervisors of a county, the legislative body of a city or village, or the township board of a township in this state, by a majority vote, may authorize, acquire by purchase, lease or otherwise, adopt, experiment with or abandon any electronic voting system approved for use in the state, in any election or primary or combination thereof, and may use such system in all or a part of the precincts within its boundaries, or in combination with paper ballots or voting machines.

HISTORY: Add. 1967, p. 213, Act 155, Imd. Eff. Jun. 30.

168.794b Electronic systems; manner of payment.

Sec. 794b. The board of supervisors of a county, the legislative body of a city or village or the township board of a township, on the adoption and acquisition of an electronic voting system, shall provide for payment therefor in the same manner as is provided for the purchase and payment of voting machines in section 774 of this act.

HISTORY: Add. 1967, p. 213, Act 155, Imd. Eff. Jun. 30.

168.794c Applicability and construction of provisions; promulgation of rules by secretary of state.

Sec. 794c. The provisions of sections 794 to 799 shall control with respect to elections where electronic voting systems are used, and shall be liberally construed so as to carry out the purpose thereof. Any provision of law relating to the conduct of elections which conflicts with such sections shall not apply to the conduct of elections with an approved electronic voting system. The secretary of state shall promulgate rules to implement the provisions of sections 794 to 799, in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: Add. 1967, p. 213, Act 155, Imd. Eff. Jun. 30.

168.795 Electronic systems; specifications.

Sec. 795. An electronic voting system, consisting of a voting device in combination with automatic tabulating equipment, acquired or used in accordance with sections 794 to 799 shall:

(a) Provide for voting in secrecy, except in the case of voters who have received assistance as provided by this act.

(b) Permit each elector to vote at an election for all persons and offices for whom and for which he is lawfully entitled to vote; to vote for as many persons for an office as he is entitled to vote for; to vote for or against any question upon which he is entitled to vote; and the automatic tabulating equipment shall reject all choices recorded on his ballot for an office or a measure if the number of choices exceeds the number which he is entitled to vote for on such office or on such measure.

(c) Permit an elector, at a presidential election, by 1 mark or punch to vote for the candidates of a party for president, vice-president and presidential electors.

(d) Permit an elector at other than a primary election to vote for all of the candidates of a political party by a single mark or punch, or to vote a split or mixed ticket.

(e) Permit an elector in a primary election to vote for the candidates in the party primary of his choice, and the automatic tabulating equipment shall reject any ballot on which votes are cast for candidates on more than 1 political party.

(f) Prevent an elector from voting for the same person more than once for the same office.

(g) Be suitably designed for the purpose used, of durable construction, and usable safely, efficiently and accurately in the conduct of elections and counting of ballots.

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(h) Record correctly and count accurately every vote properly cast.
HISTORY: Add. 1967, p. 213, Act 155, Imd. Eff. Jun. 30.

168.795a Electronic systems; approval by board of state canvassers; improvement and changes, reapproval.

Sec. 795a. No electronic voting system may be used in an election in this state unless it has been approved by the board of state canvassers as meeting the requirements of sections 794 and 795. When such electronic voting system has been approved, any improvement or change which does not impair its accuracy, efficiency or ability to meet such requirements shall not require a reexamination or reapproval thereof.
HISTORY: Add. 1967, p. 214, Act 155, Imd. Eff. Jun. 30.

168.795b Electronic systems; ballot labels, materials, form, contents.

Sec. 795b. Ballot labels shall be printed in plain, clear type in black ink and of such size and arrangement as to fit the construction of the voting device. They shall be printed on clear, white material or amendments, propositions and questions may be printed on red tinted material and the names of candidates for nonpartisan offices on blue tinted material. In a primary election to identify each political party the titles of offices and the names of candidates may be arranged in vertical columns or in a series of separate pages. The office title with a statement of the number of candidates to be voted for shall be printed above or at the side of the names of the candidates for that office. The names of candidates shall be printed in the order provided by law, or if no such provision is made, in the order prescribed by the board of election commissioners of the city, village or township. If there are more candidates for an office than can be printed in 1 column or on 1 ballot page, the ballot label shall be clearly marked that the list of candidates is continued on the following column or page, and so far as possible, the same number of names shall be printed on each column or page. Arrows may be used to indicate the place to vote for each candidate and on each measure.
HISTORY: Add. 1967, p. 214, Act 155, Imd. Eff. Jun. 30.

168.795c Ballots; differentiation of parts, voting straight party ticket or split ticket.

Sec. 795c. The different parts of the ballot, such as partisan, nonpartisan and measures, shall be prominently indicated on the ballot labels, and, if practicable, each part shall be placed on a separate page. If 2 or more elections are held on the same day, the ballot labels shall be clearly marked to indicate the ballot for each election, and, if practicable, the ballot labels for each election shall be placed upon separate pages, and labels of a different color or tint may be used for each election. In partisan elections the ballot labels shall include a voting square or position whereby the voter may by 1 mark or punch record a straight party ticket vote for all the candidates of 1 party, or may vote a split or mixed ticket.
HISTORY: Add. 1967, p. 214, Act 155, Imd. Eff. Jun. 30.

168.796 Sample ballots; posting; provision for write-in votes.

Sec. 796. (1) Sample ballots, which shall be facsimile copies of the official ballot or ballot labels, shall be provided as required by law. At least 2 copies shall be posted in each polling place on election day. Sample ballots may be printed on a single page or on a number of pages stapled together.

(2) In an election in which voters are authorized to vote for persons whose names do not appear on the ballot, write-in provisions shall be provided. Such provisions shall be subject to the approval of the board of state canvassers.
HISTORY: Add. 1967, p. 214, Act 155, Imd. Eff. Jun. 30.

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168.796a Electronic systems; voting equipment and supplies.

Sec. 796a. Prior to an election at which electronic voting devices are used the board of election commissioners of the city, village or township, shall have the voting devices prepared for the election. The board shall provide the election board of each voting precinct with voting devices, voting booths, ballot boxes, ballots, "write-in" ballots and other records and supplies as required. At least 1 voting device shall be provided for each 200 registered voters in each precinct. Ballots shall be of the size, design and stock suitable for processing by automatic data processing machines. Ballots shall have an attached numbered perforated stub, which shall be removed by an election inspector before the ballot is deposited in the ballot box. The name of the county or other local governmental unit, the designation and date of the election may be printed on the ballot card stub. Unless the voting device enables the elector to mark his choices in secret, the board shall provide a sufficient number of voting booths for each voting district or precinct, which shall be of a size and design to enable the voter to make his ballot in secret.

Prior to an election the board of election commissioners of the county, city, village or township shall establish 1 or more counting centers as needed for the counting of voted ballots.

HISTORY: Add. 1967, p. 214, Act 155, Imd. Eff. Jun. 30.

168.796b Election inspectors; instruction; emergencies.

Sec. 796b. An inspector of election shall not serve in an election at which a voting device is used unless he has received instruction as provided in section 683 and is fully qualified to perform his duties as required by this chapter. This does not prevent the appointment of an inspector of election to fill a vacancy in an emergency.

HISTORY: Add. 1967, p. 215, Act 155, Imd. Eff. Jun. 30.

168.797 Election inspectors; duties.

Sec. 797. Thirty minutes before the opening of the polls the inspectors of election shall arrive at the polling place, place the voting devices in position for voting, and examine them to see that they have the correct ballot labels by comparing them with the sample ballots and are in proper working order. They shall open and check the ballots, supplies, records and forms, and post the sample ballots and instructions to voters.

HISTORY: Add. 1967, p. 215, Act 155, Imd. Eff. Jun. 30.

168.797a Electronic systems; instructions for electors; marked ballots, deposit in ballot box; spoiled ballots.

Sec. 797a. Each elector shall be offered instruction in the operation of the voting device before he enters the voting booth. If he needs additional instruction after entering the voting booth, 2 election inspectors may, if necessary, enter the booth and give him additional instructions. After the elector has marked his ballot, he shall return it to an election inspector, who shall remove the stub and deposit the ballot in the ballot box. No ballot from which the stub has been detached shall be accepted by the election inspector in charge of the ballot box, but it shall be marked and placed in the spoiled ballot container. An elector who spoils his ballot may return it and secure another. The word "spoiled" shall be written across the face of the ballot which shall be placed in the spoiled ballot container.

HISTORY: Add. 1967, p. 215, Act 155, Imd. Eff. Jun. 30.

168.797b Unused ballots; opening ballot box; counting write-in votes; excessive votes for an office; voted ballots and voting devices, disposition.

Sec. 797b. As soon as the polls are closed and the last qualified elector has voted, unused ballots shall be placed in a container and sealed for return to the clerk. The ballot box shall be opened and write-in votes shall be counted after they are compared

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with votes cast on the ballot for the same office. If the elector has cast more votes for an office than he is entitled to vote for that office, the ballot shall be void as to that office. The voted ballots shall next be placed in the ballot container for delivery to the counting center, and the voting devices shall be placed in their containers and locked or sealed for returning to the board of election commissioners.

HISTORY: Add. 1967, p. 215, Act 155, Imd. Eff. Jun. 30.

168.797c Precinct election inspectors; report of votes cast and ballot container, disposition.

Sec. 797c. The precinct election inspectors shall prepare a report of the number of electors who have voted, as indicated by the poll list. They shall place the original copy of the report in the ballot container for delivery to the counting center, which thereupon shall be sealed with a metal seal so that no additional ballots may be deposited or removed. The duplicate copy of the report shall be returned to the clerk with other records. Two election inspectors shall forthwith deliver the ballot container to the counting center or other designated place.

HISTORY: Add. 1967, p. 215, Act 155, Imd. Eff. Jun. 30.

168.798 Electronic systems; automatic tabulating equipment, testing, notice, method.

Sec. 798. Prior to beginning the count of ballots, the board of election commissioners shall have the automatic tabulating equipment tested to ascertain that it will accurately count the votes cast for all offices and on all measures. Public notice of the time and place of the test shall be given at least 48 hours prior thereto by publication in the county, city, village or township where such equipment is used, if a newspaper is published therein, otherwise in a newspaper of general circulation therein. The test shall be conducted by processing a preaudited group of ballot cards so marked or punched as to record a predetermined number of valid votes for each candidate and on each measure, and shall include for each office 1 or more ballots which have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject such votes. In such test a different number of valid votes shall be assigned to each candidate for an office, and for and against each measure. If an error is detected, its cause shall be ascertained and the error corrected and an errorless count shall be made and certified to by the board before the count is started. The tabulating equipment shall pass the same test at the conclusion of the count before the election returns are approved as official. On completion of the count, the programs, test materials and ballot cards arranged by precincts shall be sealed and retained as provided for paper ballots.

HISTORY: Add. 1967, p. 216, Act 155, Imd. Eff. Jun. 30.

168.798a Electronic systems; counting center proceedings, direction, method.

Sec. 798a. Proceedings at the counting center shall be under the direction of the clerk or persons designated by him. They shall be conducted under observation by the public, but no persons except those authorized for the purpose shall touch any ballot or return. Persons who engage in processing and counting of the ballots shall be deputized and take an oath that they will faithfully perform their assigned duties. If any ballot is damaged or defective so that it cannot properly be counted by the automatic tabulating equipment, a true duplicate copy shall be made and substituted for the damaged or defective ballot. All duplicate ballots shall be clearly labeled "duplicate", and shall bear a serial number which shall be recorded on the damaged or defective ballot.

HISTORY: Add. 1967, p. 216, Act 155, Imd. Eff. Jun. 30.

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168.798b Electronic systems; unofficial and official counts and returns; manual and mechanical counting.

Sec. 798b. The clerk, prior to the conduct of the official count, may conduct an unofficial count in order to provide early unofficial returns to the public. Upon completion of the count the official returns shall be open to the public. The return of the automatic tabulating equipment, to which have been added the write-in and absentee votes, shall constitute, after being duly certified, the official return of each precinct or election district. If it becomes impracticable to count all or a part of the ballots with tabulating equipment, the clerk may direct that they be counted manually, following as far as practicable the provisions governing the counting of paper ballots.

HISTORY: Add. 1967, p. 216, Act 155, Imd. Eff. Jun. 30.

168.798c Electronic systems; absentee votes; absent voters' ballots, counting, recounting, voting, processing.

Sec. 798c. (1) Absentee votes may be cast on paper ballots or tabulating cards or both. Absent voter ballots may be counted in the various voting precincts or may be counted by absent voter counting boards. Absentee votes cast on paper ballots may be recorded by election inspections on tabulating cards for counting by tabulating equipment.

(2) In case of a recount the ballots shall be recounted in the manner provided by this section unless the state or county board of canvassers ordering the recount directs that they be counted manually.

(3) In any election held under the provisions of this act, absent voters' ballots may be voted and processed in the manner provided by this chapter.

HISTORY: Add. 1967, p. 216, Act 155, Imd. Eff. Jun. 30;—Am. 1969, p. 365, Act 186, Imd. Eff. Aug. 5.

168.799 Electronic systems; injury, alteration or defacement of voting devices or records prohibited; examination, repair.

Sec. 799. No person shall wilfully injure any voting device, ballot or other records or equipment or interfere or attempt to interfere with the correct operation of such equipment and the inspectors of the election shall enforce the provisions of this section. The inspectors of election, at such intervals as they deem proper, shall examine any voting device, ballots or other equipment used in the election to ascertain whether it has been injured, altered or defaced, to detect the wrongdoer and repair the injury.

HISTORY: Add. 1967, p. 216, Act 155, Imd. Eff. Jun. 30.

CHAPTER XXIX.

CANVASS BY THE PRECINCT INSPECTORS

168.801 Canvass of votes by precinct inspectors; public access.

Sec. 801. Immediately on closing the polls, the board of inspectors of election in each precinct shall proceed to canvass the vote. Such canvass shall commence by a comparison of the poll lists and a correction of any mistakes that may be found therein until they shall be found or made to agree. Such canvass shall be public and the doors to the polling places and at least 1 door in the building housing the polling places and giving ready access to them shall not be locked during such canvass.

HISTORY: New 1954, p. 289, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 632, Act 271, Imd. Eff. Jun. 30;—Am. 1963, p. 81, Act 67, Eff. Sep. 6.

168.802 Excess ballots; disposition.

Sec. 802. When the board is ready to proceed with the counting of any kind of ballots, the box containing such ballots shall be opened and the whole number of ballots counted. If the ballots shall be in excess of the number of the electors voting according to the poll lists, the ballots shall be replaced in the box and 1 of the inspectors shall

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publicly draw out and destroy so many ballots therefrom unopened as shall be equal to such excess.

HISTORY: New 1954, p. 269, Act 116, Eff. Jun. 1, 1955.

168.803 Canvass; rules for counting and recounting of votes.

Sec. 803. The following rules shall govern the counting and recounting of votes:

(1) Where it is clearly evident from an examination of any ballot that the same has been mutilated for the purpose of distinguishing it or that there has been placed thereon some mark, printing or writing for the purpose of distinguishing it, then such ballot shall be void and shall not be counted.

(2) A cross, the intersection of which shall be within or on the line of the proper circle or square, shall be valid. Crosses otherwise located on the ballot shall be void.

(3) Marks other than crosses used to designate the intention of the voter shall not be counted.

(4) A cross shall be valid even though 1 or both lines thereof shall be duplicated, provided that the lines intersect within or on the line of the square or circle.

(5) Two lines meeting within or on the line of the square or circle, although not crossing each other, shall be deemed to be a valid cross where it is apparent that the voter intended to make a cross. This provision shall not be construed as validating so-called "check marks".

(6) A failure to properly mark a ballot as to 1 or more candidates shall not of itself invalidate the entire ballot if the same has been properly marked as to other candidates, unless such improper marking shall constitute a distinguishing mark as herein defined.

(7) Erasures and corrections on a ballot made by the elector in a manner frequently used for such purpose shall not be deemed distinguishing marks or multilations [sic].

(8) Any ballot or part of a ballot from which it is impossible to determine the elector's choice of candidate shall be void as to the candidate or candidates thereby affected.

(9) Any votes cast for a deceased candidate shall be void and not counted, except that votes cast for a candidate for governor who has died and for whom a replacement has not been made, shall be counted for the candidate for lieutenant governor of that party.

(10) All ballots cast which are not counted shall be marked by the inspector "not counted", kept separate from the others by being tied or held in 1 package, and placed in the ballot box with the counted ballots.

(11) No vote shall be counted for any candidate unless a cross has been placed by the voter in the circle at the head of the party ticket, if any, on which the name of the candidate has been printed, written or placed or unless a cross has been placed by the voter in the square before the space in which the name of the candidate has been printed, written or placed.

HISTORY: New 1954, p. 270, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 632, Act 271, Imd. Eff. Jun. 30;—Am. 1957, p. 245, Act 195, Eff. Sept. 27;—Am. 1967, p. 56, Act 37, Eff. Nov. 2.

This section was amended by P.A. 1964, No. 240, p. 335, but that act was disapproved by the voters at the November, 1964, election.

168.804 Canvass; tallying.

Sec. 804. In the canvass of votes cast for candidates for public office, the board shall first select and count the straight tickets and shall cause to be credited on the tally sheets the number to each candidate voted for on a straight ticket. All other ballots

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shall be counted and tallied in such manner as will best insure accuracy and promptness in determining the result, and the inspectors of election shall see that proper credit is given on the tally sheets to the candidates voted for on such ballots. All computations and tallies shall be made upon the tally sheets used at such election.

HISTORY: New 1954, p. 270, Act 116, Eff. Jun. 1, 1955.

This section was amended by P.A. 1964, No. 240, p. 335, but that act was disapproved by the voters at the November, 1964, election.

168.805 Ballots; packaging, marking; placement in ballot box.

Sec. 805. After the ballots of each kind are counted, they shall be securely tied in packages or rolls, and said board of inspectors of election shall cause to be indorsed and attached to each of such ballot bags a statement showing the number and kind of ballots included in such package, which statement shall be securely attached to the outside of the bag, as shall be prescribed by the secretary of state. After all ballots are tied in packages or rolls, they shall, be placed in ballot bags approved by the secretary of state. The bags shall then be sealed with the official self-sealing metal seal which shall be furnished with the election supplies. The bags shall then together with 1 tally sheet, when not combined with the statement of returns, be placed in the ballot box provided for such ballots which shall be securely fastened and sealed with the official self-sealing metal seal furnished with the election supplies, such metal seal to be affixed in such manner as to render it impossible to open such ballot box without breaking such seal. The ballot box shall then be delivered to the township or city clerk.

HISTORY: New 1954, p. 270, Act 116, Eff. Jun. 1, 1955;—Am. 1965, p. 366, Act 208, Imd. Eff. Jul. 16.

168.806 Duplicate statements of returns; contents, certificate of accuracy.

Sec. 806. The inspectors shall then prepare duplicate statements of the returns showing the whole number of votes cast for all offices voted for which are to be canvassed by the board of county canvassers, the names of the persons for whom such votes were given and the number each person received, and shall also prepare duplicate statements of the results on any proposed constitutional amendment or other propositions submitted to the voters at the election which are to be canvassed by the board of county canvassers, showing the whole number of votes cast, the number of votes cast for and the number of votes cast against the proposed constitutional amendment or other proposition. Each member of the board of election inspectors shall sign the certificate on the statement of returns as to the correctness of the returns and that the ballots have been packaged, sealed and indorsed in the manner therein specified. Separate duplicate returns shall be completed for all offices, propositions or questions which are to be canvassed by a city or township board of canvassers.

HISTORY: New 1954, p. 271, Act 116, Eff. Jun. 1, 1955;—Am. 1968, p. 106, Act 65, Eff. July 1, 1968, except in any county with a population of 400,000 or more it shall take effect on July 1, 1970.

168.807 Election results; availability.

Sec. 807. Immediately after the canvass has been completed, the result, stating the total number of votes received by each person voted for in said precinct for any office and the number of votes for and the number of votes against any proposed constitutional amendment or other submitted proposition, shall be made available to interested persons who may be present.

HISTORY: New 1954, p. 271, Act 116, Eff. Jun. 1, 1955.

168.808 Statement of returns; failure to sign certificate, falsification, penalty.

Sec. 808. Any member of the board of inspectors who fails to sign said certificate shall, upon conviction thereof, be deemed guilty of a misdemeanor. Should any member of the board of election inspectors subscribe to any statement in said certificate which is untrue, he shall, upon conviction thereof, be deemed guilty of a misdemeanor. Should any member of the board of inspectors knowingly subscribe to any

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statement in said certificate which is untrue, he shall, upon conviction thereof, be deemed guilty of a felony. Any person convicted of a misdemeanor under the provisions of this section shall be punished by a fine of not more than $100.00, or by imprisonment in the county jail for not more than 90 days, or by both such fine and imprisonment in the discretion of the court. Any person convicted of a felony under the provisions of this section shall be punished by a fine of not more than $1,000.00 or by imprisonment in a state penal institution for not more than 4 years.

HISTORY: New 1954, p. 271, Act 116, Eff. Jun. 1, 1955.

168.809 Election returns and records; delivery; unofficial tabulation.

Sec. 809. One of the statements and 1 of the tally sheets or the combined tally return sheet shall be sealed with a red state election seal in an envelope and addressed to the board of county canvassers, in care of the judge of probate. The envelopes shall be delivered by the inspectors to the clerk of the township or city who shall immediately deliver the envelope to the person to whom addressed. The judge of probate shall deliver the envelope received by him to the board of county canvassers when it meets to canvass the returns. The other statement or combined tally and statement, together with the poll list, shall be sealed in an envelope addressed to the county clerk and shall be delivered to the clerk by the inspectors immediately upon completion of the count. The county clerk shall open the envelope at that time, compile and make returns therein available to the public. The office of the county clerk shall be open on election day for election purposes and shall remain open until the last returns have been received and the clerk completes an unofficial tabulation. In city or township elections to be canvassed by a board of city or township canvassers which are held at a time at which no election returns must be forwarded to the board of county canvassers all poll books, tally sheets and returns shall be returned to the city or township clerk and the clerk shall perform the duties herein required of the county clerks. In local elections to be canvassed by the board of county canvassers which are not held in conjunction with a county or state election, the election inspectors shall deliver both sealed envelopes to the local clerk who shall deliver them to the county clerk prior to 11 a.m. on the day following the election. In city or township elections, in cities and townships of more than 5 precincts held in conjunction with an election to be canvassed by the board of county canvassers, the duplicate returns required by section 806 shall be delivered by the inspectors to the city or township clerk.

HISTORY: New 1954, p. 271, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 632, Act 271, Imd. Eff. Jun. 30;—Am. 1968, p. 108, Act 65, Eff. July 1, 1968, except in any county with a population of 400,000 or more it shall take effect on July 1, 1970;—Am. 1969, p. 467, Act 241, Eff. Mar. 20, 1970.

168.810 Poll list; delivery to clerk.

Sec. 810. One of the poll lists shall be delivered to the clerk of the township or city, as the case may be, and shall be by him filed in his office.

HISTORY: New 1954, p. 271, Act 116, Eff. Jun. 1, 1955.

168.811 Election returns and records; preservation, destruction, time.

Sec. 811. All election returns, including poll lists, statements, tally sheets, absent voters' applications, absent voters' return envelopes bearing the statement required by section 761, absent voters' records required by section 760 and other returns made by the inspectors of election of the several precincts shall be carefully preserved and may be destroyed after the expiration of 2 years following the primary or election at which the same were used. All ballots used at any primary or election may be destroyed after 7 days following the final determination of the board of canvassers with respect to such primary or election unless a petition for recount has been filed and not completed or unless their destruction is stayed by an order of a court.

HISTORY: New 1954, p. 272, Act 116, Eff. Jun. 1, 1955;—Am. 1963, p. 170, Act 122, Imd. Eff. May 10.

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CHAPTER XXX.

THE COUNTY CANVASS

168.821 Board of county canvassers; meeting time and place.

Sec. 821. The board of county canvassers shall meet at the office of the county clerk on the day succeeding the day of any November general or August primary election in the county at 1 p.m. For other elections the board shall meet within 5 days following the election.

HISTORY: New 1954, p. 272, Act 116, Eff. Jun. 1, 1955;—Am. 1969, p. 286, Act 138, Imd. Eff. Jul. 31.

168.822 Board of county canvassers; canvass of returns, conclusion.

Sec. 822. (1) The board shall then proceed without delay to canvass the returns of votes cast for all candidates for offices voted for and all questions voted on at said election, according to the precinct returns filed with the probate judge or presiding probate judge by the several city and township clerks, or in case of local elections according to the precinct returns filed with the county clerk, and shall conclude such canvass at the earliest possible time and in every case within 14 days.

(2) Should the board fail to certify the results of any election for any officer or proposition within the 14 days as provided, or fail to certify results forwarded to them from any city or township election, as provided in section 30e, within 7 days of the receipt of that record, they shall immediately deliver to the secretary of the state board of canvassers all records and other information pertaining thereto. The board of state canvassers shall meet forthwith and make the necessary determinations and certify the results within the 10 days immediately following the receipt of the records from the county board. The cost of such canvass shall be borne by the county involved.

HISTORY: New 1954, p. 272, Act 116, Eff. Jun. 1, 1955;—Am. 1958, p. 229, Act 192, Eff. Sep. 13;—Am. 1963, 2nd Ex. Ses., p. 46, Act 38, Imd. Eff. Dec. 27;—Am. 1968, p. 106, Act 65, Eff. July 1, 1968, except in any county with a population of 400,000 or more it shall take effect on July 1, 1970.

168.823 Board of county canvassers; power to summon and open ballot boxes; correction of errors; summoning of election inspectors.

Sec. 823. If it is found, upon the convening of the board of canvassers, that the returns from any of the boards of election inspectors of the several election precincts are missing, incomplete or incorrect, or for any other reason it is found necessary, then the board of county canvassers shall have power to adjourn from day to day until the returns shall have been procured or corrected. The board of canvassers are empowered to summon the persons having the boxes containing the ballots cast at the election and the keys and seals of the boxes, or having the returns or the poll lists or tally sheets used and made at the elections, to bring the boxes, keys, seals, returns, poll lists and tally sheets before the board, and the board of canvassers are authorized to open the boxes and take therefrom any books or papers bearing upon the count and return of the election inspectors of the election precincts, but they shall not remove or mark the ballots therein. The board of canvassers shall correct obvious mathematical errors in the tallies and returns and, when deemed necessary for a proper determination, may summon the election inspectors before them, and require them to count any ballots which they failed to count, to make correct returns in case, in the judgment of the board of canvassers after examining the returns, poll lists or tally sheets, the returns already made are incorrect or incomplete, and the board of canvassers shall canvass the votes from the corrected returns. When the examination of the papers is completed, or the ballots have been counted, they shall be returned to the ballot boxes or delivered to the persons entitled by law to their custody, and the boxes shall be locked and sealed and delivered to the legal custodians thereof.

HISTORY: New 1954, p. 272, Act 116, Eff. Jun. 1, 1955;—Am. 1968, p. 107, Act 65, Eff. July 1, 1968, except in any county with a population of 400,000 or more it shall take effect on July 1, 1970.

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168.824 Board of county canvassers; statement of votes, preparation.

Sec. 824. When said canvass shall have been completed, the said board of county canvassers shall prepare a statement in detail of the number of votes cast for each office, the names of the persons for whom such votes were given and the number of votes given to each person, as shown by the returns of the boards of inspectors of election of the various voting precincts of the county. The board of county canvassers shall also prepare a statement in detail of the number of votes cast on any proposed constitutional amendment or other proposition submitted to the electors at such election and the number of votes cast in favor of and the number of votes cast against such proposed amendment or other proposition, as shown by such returns.

HISTORY: New 1954, p. 272, Act 116, Eff. Jun. 1, 1955.

168.825 Statements of votes; contents, certification, filing.

Sec. 825. In said statements, the whole number of votes given for each office, the names of the candidates and the number of votes given to each, the whole number of votes given on any proposed constitutional amendment or other proposition submitted to the electors at such election, and the number of votes given for and the number of votes given against such proposed amendment or other proposition shall be written out in words at length, and the number of votes shall in each case be also stated in figures. Each such statement shall be certified to by the said board of county canvassers, under their hands and the seal of the circuit court of the county, and shall be attested by the clerk of said board. Thus certified and attested, each such statement shall be filed with the county clerk and kept by him in his office.

HISTORY: New 1954, p. 273, Act 116, Eff. Jun. 1, 1955.

168.826 Board of county canvassers; determination of election results; exception; publication, certificate of election.

Sec. 826. The board of county canvassers shall determine and declare the result of the election for county and local officers, and for all county and local propositions, except that in cities or townships having more than 5 precincts the board of city or township canvassers shall canvass votes for city or township officers and propositions. In each county which alone constitutes 1 or more congressional, senatorial or representative districts, the board of county canvassers shall determine and declare the result of the election for such offices. The board shall make and subscribe a certificate of such determination and deliver the certificate to the county clerk, who shall file the same in his office. The county clerk shall cause a statement of the total county or district votes cast for the various candidates and the total vote cast for and against the various propositions at the election to be published in at least 1 newspaper printed or circulated in the county. The county clerk shall forthwith make and cause to be delivered to each person so declared to be elected a certificate of his election.

HISTORY: New 1954, p. 273, Act 116, Eff. Jun. 1, 1955;—Am. 1958, p. 229, Act 192, Eff. Sept. 13;—Am. 1968, p. 107, Act 65, Eff. July 1, 1968, except in any county with a population of 400,000 or more it shall take effect on July 1, 1970.

168.827 Certificate of determination to secretary of state.

Sec. 827. The county clerk of each county which alone constitutes 1 or more senatorial or representative districts shall, upon suitable blank forms furnished by the secretary of state, transmit by mail, without delay, to the secretary of state a copy of such certificate of determination certified by said county clerk under his hand and seal of office. The said county clerk shall at the same time report to the secretary of state the postoffice address of each person elected in said county to any county office or to the office of state senator or representative in the legislature.

HISTORY: New 1954, p. 273, Act 116, Eff. Jun. 1, 1955.

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168.828 Statements of votes; certified copy to secretary of state.

Sec. 828. The clerk of the board of county canvassers forthwith, and in no case later than 24 hours after the completion of the canvass, upon forms provided by the secretary of state, shall deliver in person or send to the secretary of state, by registered or certified mail with return receipt demanded, a certified copy of each of the statements prepared by the board as required by section 824 of this act, so far as such statements shall relate to the vote for any state office, electors of president and vice-president of the United States, United States senator, representative in congress, circuit judges, state senators and representatives in the state legislature, and any proposed amendment to the constitution or other question or proposition submitted at such election to the electors of the state at large, together with a certificate of authenticity signed by himself and the chairman of the board of canvassers.

HISTORY: New 1954, p. 273, Act 116, Eff. Jun. 1, 1955;—Am. 1956, p. 365, Act 190, Imd. Eff. Apr. 26;—Am. 1958, p. 230, Act 192, Eff. Sep. 13.

168.829 Board of county canvassers; meeting for canvass of special election.

Sec. 829. In case of a special election held to fill a vacancy in the office of state senator or of representative in the state legislature during a session of the legislature, the board of county canvassers shall meet on the Thursday next succeeding the day on which the election is held, and the board of state canvassers shall meet on the seventh day succeeding the day on which the election is held and shall make the canvass and declare the result of such election as now provided by law in case of general elections in this state.

HISTORY: New 1954, p. 273, Act 116, Eff. Jun. 1, 1955.

168.830 County canvassers and county clerk; compensation.

Sec. 830. Each county canvasser and county clerk shall receive such reasonable compensation for services performed pursuant to the provisions of this act as shall be allowed by the board of supervisors or county auditors, which compensation shall be paid out of the treasury of the county.

HISTORY: New 1954, p. 274, Act 116, Eff. Jun. 1, 1955.

CHAPTER XXXI.

THE STATE CANVASS

168.841 Board of state canvassers; duties.

Sec. 841. The board of state canvassers shall canvass the returns and determine, as hereinafter provided, the result of all elections for electors of president and vice-president of the United States, state officers, United States senators, representatives in congress, circuit judges, senators and representatives in the state legislature elected by a district, the limits of which are greater than those of a county, and such other officers as shall by law be referred to them, and shall also determine, as hereinafter provided, the result of any election on any proposed amendment to the constitution or on any other proposition which has been submitted, pursuant to law, to the qualified and registered electors of the state at large for ratification or rejection.

HISTORY: New 1954, p. 274, Act 116, Eff. Jun. 1, 1955.

168.842 Board of state canvassers; meeting; time and place, notice, adjournment.

Sec. 842. The board of state canvassers, for the purpose of canvassing the returns and ascertaining and determining the result of any such election, shall meet at the office of the secretary of state on or before the twentieth day after such election. The secretary of state shall appoint the day of such meeting and shall notify the other members of the board thereof. The board shall have power to adjourn from time to

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time to await the receipt or correction of returns, or for other necessary purposes, but shall complete the canvass and announce their determination thereof not later than the fortieth day after such election: Provided, That the board may at the time of its meeting, or an adjournment thereof, canvass the returns for any office where the complete returns for that office have been received.

HISTORY: New 1954, p. 274, Act 116, Eff. Jun. 1, 1955.

168.843 Statements of votes; filing and preservation by secretary of state; certified copies.

Sec. 843. The secretary of state, on the receipt of the certified copies of the statements of votes given in the several counties directed by law to be sent to him by the county clerks, shall place on file and preserve such certified copies in his office. If from any county clerk such certified copies shall not have been received by the secretary of state on or before the fifteenth day after any election, the secretary of state shall communicate with such county clerk by telephone, telegraph or mail, requesting that such certified copies be immediately forwarded and such county clerk shall forthwith forward such certified copies to the secretary of state. When the board of state canvassers meets to canvass the returns and determine the result of any election, the secretary of state shall lay before the board the statements received by him of the votes given at such election in the several counties.

HISTORY: New 1954, p. 274, Act 116, Eff. Jun. 1, 1955.

168.844 Statements of votes; examination, preparation of statement of totals by board of state canvassers.

Sec. 844. The board of state canvassers shall examine the statements received by the secretary of state of the votes cast in the several counties and prepare a statement showing the total number of votes cast for all candidates for each office, the names of the persons for whom such votes were cast, the number of votes cast for each of such persons, the total number of votes cast on each constitutional amendment and proposition which may have been submitted, and the number of votes cast for and the number of votes cast against each such constitutional amendment and proposition.

HISTORY: New 1954, p. 274, Act 116, Eff. Jun. 1, 1955.

168.845 Board of state canvassers; statement of votes, certificate of determination, delivery, publication.

Sec. 845. The members of the board of state canvassers shall certify as to the correctness of the statement provided for in section 844 of this act and subscribe their names thereto; and they shall determine which persons have been duly elected to each office and which constitutional amendments and propositions, if any, have been approved or rejected. The said board shall certify such determinations and deliver said statement and certificate of determinations to the secretary of state, who shall file and preserve the same in his office and without delay execute and cause to be delivered a certificate of election to each person elected. The secretary of state shall also cause any amendment to the constitution which has been approved and ratified to be published with the laws enacted by the legislature at its next succeeding session.

HISTORY: New 1954, p. 274, Act 116, Eff. Jun. 1, 1955;—Am. 1956, p. 45, Act 37, Imd. Eff. Mar. 28.

168.846 Board of state canvassers; tie vote, certification to legislature, determination.

Sec. 846. In case 2 or more persons have an equal and the highest number of votes for any office, as canvassed by the board of state canvas-

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sers shall certify the result of the canvass as to such office to the legislature and the legislature in joint convention shall choose 1 of said persons to fill such office. When the determination of the board of state canvassers is contested, the legislature in joint convention shall decide which person is elected.

HISTORY: New 1954, p. 275, Act 116, Eff. Jun. 1, 1955.

CHAPTER XXXII.

DETERMINATION OF ELECTION BY LOT

168.851 Tie vote; determination of election by lot, procedure; drawing for state legislature.

Sec. 851. If it shall appear on the canvass of the votes polled at any election canvassed by the board of county canvassers that 2 or more persons have received an equal number of votes for the same office, and that a failure to elect to any office is caused thereby, the election to the office shall be determined in the following manner: The board of canvassers for the county in which such election was held shall appoint a day for the appearance of all affected persons before the county clerk for the purpose of determining by lot among such persons the right to the office, and shall cause notice thereof to be given to all the persons interested. The county clerk shall prepare as many slips of paper as there are such persons, and write the word "elected" on as many slips of paper as there are offices to be filled, and the words "not elected" on the remaining slips, and fold the same so as to conceal the writing and so that they may appear as near alike as possible. The slips shall be placed in a box and, at the time and place appointed for the drawing of the lots, each of the persons aforesaid may draw 1 of the slips from the box, and any person drawing a slip on which is written the word "elected" shall be deemed legally elected to the office in question and the county clerk shall forthwith give him a certificate of election. The county clerk may appoint any person present to draw a slip for any affected person who fails to appear at the time specified in the notice. If the office of county clerk is in question, the drawing shall take place before the sheriff of the county. Such determination, however, shall not preclude the right of a defeated candidate to a recount of the votes cast as provided in chapter 36.

HISTORY: New 1954, p. 275, Act 116, Eff. Jun. 1, 1955;—Am. 1968, p. 107, Act 65, Eff. July 1, 1968, except in any county with a population of 400,000 or more it shall take effect on July 1, 1970.

168.852 Procedure when no provision for determination of tie vote, right to recount.

Sec. 852. In case it shall appear that 2 or more persons have an equal number of votes for the same office for which but 1 person is to be nominated or elected and the same shall be the highest number of votes cast therefor, and no other provision is made in this act for determination of such tie, the board of canvassers, after notice to each of such candidates of a time and place therefor, shall determine the successful candidate by lot and shall declare and certify the same accordingly. Such determination, however, shall not preclude the right of a defeated candidate to a recount of the votes cast as provided in chapter 36 of this act.

HISTORY: New 1954, p. 275, Act 116, Eff. Jun. 1, 1955.

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CHAPTER XXXIII.
RECOUNTS
COUNTY, CITY, TOWNSHIP AND VILLAGE BOARDS OF CANVASSERS

168.861 Fraudulent or illegal voting, or tampering with ballots or ballot boxes; remedy by quo warranto.

Sec. 861. For fraudulent or illegal voting, or tampering with the ballots or ballot boxes before a recount by the board of county canvassers, the remedy by quo warranto shall remain in full force, together with any other remedies now existing.

HISTORY: New 1954, p. 276, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 46, Act 38, Imd. Eff. Dec. 27.

168.862 Recount of votes; petition by candidate.

Sec. 862. Any candidate for any office, at any primary or election, conceiving himself aggrieved on account of any fraud or mistake in the canvass of the votes by the inspectors of election, or in the returns made thereon by the inspectors, may petition for a recount of the votes cast for such office in any precinct or precincts as in this chapter provided.

HISTORY: New 1954, p. 276, Act 116, Eff. Jun. 1, 1955;—Am. 1958, p. 230, Act 192, Eff. Sep. 13.

168.863 Recount of votes for proposed local amendment or question; petition by elector.

Sec. 863. Any qualified and registered elector voting in any city, township or village at the last preceding election who believes there has been fraud or error committed by the inspectors of election in their canvass or returns of the votes cast at said election, upon any proposed amendment to the charter of any city or village or any other proposition which shall be submitted to the voters of any county, city, township or village, may petition for a recount of the votes cast in any precinct or precincts of said county, city, township or village, upon such proposed amendment or other proposition.

HISTORY: New 1954, p. 276, Act 116, Eff. Jun. 1, 1955.

168.864 Recount of votes; petition by candidate for legislature, deposit; non-legislative recount in same precinct.

Sec. 864. Any candidate at any general or special election for a seat in the legislature petitioning for a recount shall file the petition with the clerk of the house or the secretary of the senate in accordance with the rules involving recounts of either house of the legislature. The petitioner shall make the deposit of money required by this act with the clerk of the house or the secretary of the senate. A copy of the petition shall also be filed with the secretary of state and the county clerk or clerks of the legislative district involved. No paper ballots or voting machines in any legislative district, any precinct of which has been petitioned for recount in any legislative contest, shall be recounted for that office by any board of canvassers but shall be preserved until the contest is disposed of under the rules of the legislative body concerned. Upon receipt of a petition for recount, the clerk of the house or the secretary of the senate shall take all steps necessary to insure the security of the paper ballots and voting machines in all the precincts of the district involved. Should another recount be petitioned for in any of the precincts of a district involved in a legislative recount, no such precincts may be recounted prior to the legislative recount unless a time for the nonlegislative recount shall have been set by the board of state canvassers. The nonlegislative recount shall proceed only at a time established by and under the supervision of the board of state canvassers or their representative, who shall see that all records and ballots of the precincts so recounted are preserved, properly sealed and secured, in such manner that the legislative recount may be subsequently held in the precincts. Nothing in this section shall be construed to prohibit the recounting of ballots contained in ballot boxes other than the ballot box containing the ballots of the contested legislative contest without supervision by the board of state canvassers.

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Same; primary election for legislative office, board of canvassers.

Recounts in primary elections involving contests for the nomination of candidates for legislative offices shall be conducted by the board of canvassers which made the final canvass of the vote of the primary election.

HISTORY: New 1954, p. 276, Act 116, Eff. Jun. 1, 1955;—Am. 1958, p. 230, Act 192, Eff. Sep. 13.

168.865 Recount petition; contents.

Sec. 865. Such petition shall be sworn to and shall set forth as near as may be the nature of the mistakes or frauds complained of and the city, ward, township, village and precinct in which they are alleged to have occurred, and shall ask for a correction thereof.

HISTORY: New 1954, p. 276, Act 116, Eff. Jun. 1, 1955.

168.866 Recount petition; filing, deadline; copy, filing.

Sec. 866. Such petitions for recount, be such for an office or proposition, other than those filed with the state board of canvassers, shall be filed with the clerk of the board of canvassers, which board originally conducted the canvass. In all cases, such petitions shall be filed within 6 days after the original canvass has been completed by the county, city, township, village or district board of canvassers. A copy of any such petition shall also be filed with the secretary of state within 2 days after the time the original petition is filed with the board of county canvassers as provided in this section. In case the office or proposition in question be a city, ward, township, village or district office or proposition, a copy of such petition shall not be filed with the secretary of state, but a copy shall be transmitted within 24 hours to the clerk of the board of county canvassers by the appropriate local clerk if the recount fee has been paid.

HISTORY: New 1954, p. 276, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 47, Act 38, Imd. Eff. Dec. 27.

168.867 Recount petition; deposit, amount, disposition.

Sec. 867. The candidate or elector filing such recount petition with the clerk of the correct board of canvassers shall at the same time deposit with such officer the sum of $5.00 for each and every precinct referred to in his petition. If, by reason of such recounts, the petitioner succeeds in establishing sufficient fraud or mistake as set forth in his petition to change the result of the election and receives a certificate of election or establishes sufficient fraud or mistake to change the result, upon any amendment or proposition, the votes for and against, which were recounted, the money deposited by him shall be refunded. In case such petitioner does not establish a fraud or mistake as set forth in his petition, the sum so deposited shall be paid by the clerk of the board of county, city, township or village canvassers to the treasurer of the county, city, township or village, as the case may be.

HISTORY: New 1954, p. 277, Act 116, Eff. Jun. 1, 1955.

168.868 Recount petition; notice to opposing candidates; counter petition, filing, time, deposit, copy.

Sec. 868. The clerk of the board of canvassers after a candidate has filed a petition and made the deposit herein required shall give notice thereof to the opposing candidate within 24 hours after filing same by delivering to such candidate a copy of such petition, or, if such candidate cannot be found, by leaving such copy at his last known place of residence with some member of his immediate family of suitable age, or, if no such member of his family can be found, then by posting it in a conspicuous place at his last known place of residence. In no case shall it be necessary to give notice to other candidates than the 2 candidates who, according to the return of the board of canvassers, received the lowest number of votes among those candidates who were nominated or elected, and the 2 candidates who, according to the return of the board of canvassers, received the highest number of votes among those candidates who were not nominated or elected. Any counter petition shall be filed within 48 hours after the

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original recount petition was filed and at the same time a deposit of money shall be made as hereinbefore stipulated for the original petitioner. The counter petitioner shall be entitled to have all his deposit money refunded if the original petitioner does not establish fraud or receive a certificate of election. A copy of such counter petition shall also be filed with the secretary of state within 4 days after the time the original petition is filed with the proper board of canvassers as provided in this section. In case the office or proposition in question be a city, township, ward, village or district office or proposition, a copy of such petition shall not be filed with the secretary of state. In case the time designated for filing such petitions shall fall on a Saturday, Sunday or holiday, such petitions may be filed on the next succeeding business day. Failure of the clerk of the board of canvassers or the secretary of state to give notice to the opposing candidate shall not affect the results of the recount.

HISTORY: New 1954, p. 277, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 633, Act 271, Imd. Eff. Jun. 30;—Am. 1959, p. 22, Act 24, Eff. Mar. 19, 1960;—Am. 1963, 2nd Ex. Ses., p. 47, Act 38, Imd. Eff. Dec. 27;—Am. 1969, p. 366, Act 188, Imd. Eff. Aug. 5.

168.869 Recount petition; investigation, delay; expenses of local recount.

Sec. 869. Upon the filing of a petition for recount, and the giving of notice, if notice is required to be given, the board of county canvassers shall be summoned by the clerk of the board and here make an investigation of the facts set forth in the petition. Should the recount involve a county or district office or proposition, the recount shall not be commenced until the board shall determine by communicating with the secretary of state that no petition has been filed requesting a recount by the board of state canvassers of ballots cast in the same district. In case said board shall be advised by the secretary of state that a petition has been filed with him praying for a recount by the board of state canvassers of the ballots cast in the same county or district, then no action shall be taken upon the recount until the county board shall receive instructions from the board of state canvassers. Nothing herein contained shall act to delay any recount of the ballots cast at any city, ward, township or village election if the ballots cast at such election are not sealed in the same ballot boxes with the state and county offices. With respect to any recount of ballots cast in any city, ward, township, village, school or district election, the board of county canvassers shall charge the appropriate local unit the actual and necessary expenses of conducting the recount, and the local unit shall pay such charges to the county treasurer.

HISTORY: New 1954, p. 277, Act 116, Eff. Jun. 1, 1955;—Am. 1963, 2nd Ex. Ses., p. 47, Act 38, Imd. Eff. Dec. 27.

168.870 Board of canvassers; investigation of recount.

Sec. 870. For the purpose of such investigation, the clerk, if no meeting be already appointed, shall call a meeting of such board of canvassers and the said board shall have power to issue subpoenas requiring the person in charge thereof to bring before it the ballot boxes used in the election precinct or precincts referred to in the petition, as well as the poll lists, tally sheets, statements of returns and such other documents or reports as may be deemed necessary. Said board shall safely guard such ballots, poll lists, tally sheets and returns and when no longer required shall deliver them to the officials charged with the custody thereof. Whoever, being so subpoenaed, shall fail to appear or shall fail to produce any such box, shall be deemed guilty of a misdemeanor. The persons who are required to appear before the board of canvassers shall be paid the same fees and mileage as are paid circuit court witnesses in the county. They shall be paid by the political subdivision before whose board of canvassers they appear.

HISTORY: New 1954, p. 278, Act 116, Eff. Jun. 1, 1955.

168.871 Recount; counting of ballots, procedure.

Sec. 871. (1) Upon a recount before any board of canvassers, ballots in packages or ballot bags, secured and sealed so that no ballots may be removed or inserted only if they correspond in number with the poll list delivered to the proper clerk, by the

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board of inspectors, shall be counted even though the ballot box is not securely sealed with the seal of record. If, upon a recount before any board of canvassers, it shall be found that the ballot box is securely sealed with the seal of record, the ballots only if they correspond in number with the poll list delivered to the proper clerk by the board of inspectors, shall be recounted even though the ballots are not secured and sealed in packages or ballot bags. If, upon a recount before any board of canvassers, it is found that the ballot box is not securely sealed or if the seal thereon is not the seal of record and that the ballots in packages or ballot bags are not secured and sealed so that no ballots may be removed or inserted, the ballots may not be recounted and the original count of such ballots as reported by the board of inspectors shall stand as the correct count.

Voting machines; exceptions.

(2) Upon a recount before any board of canvassers in precincts in which voting machines are used, all machines used in the precincts petitioned for shall be recounted with the following exceptions:

(a) No machines in a precinct shall be recounted if the sum of the numbers appearing on the public counters of all machines used in a precinct is in excess of the total of the number of voters who voted in the precinct as shown by the poll book, and the number of times the machine was operated by the inspectors and custodians, as shown by the record of the election inspectors, unless the reason for such excess can be satisfactorily explained to the board of canvassers by the election inspectors of that precinct.

(b) If a voting machine is not sealed with the seal of record in such a manner as to render it impossible to vote on the machine or to otherwise change the totals appearing on the individual candidate or proposition counters, that voting machine shall not be recounted.

(c) If the number appearing on the protective counter of a machine at the time of the recount does not equal the total of the number appearing on the protective counter at the opening of the polls as shown by the certificate of election inspectors, and the number appearing on the public counter at the time of the recount that voting machine shall not be recounted.

If one or more voting machines in a precinct can not be recounted, the original return of the election inspectors for such machine or machines shall be taken as correct.

In any machine precinct which can not be recounted, absent voters ballots tallied in such precinct shall not be recounted unless recorded separately.

Nothing in this section shall prevent the recounting of absent voters ballots tallied in a counting board precinct or in a precinct in which one or more machines are recountable if the ballots are securely packaged and sealed.

HISTORY: New 1954, p. 278, Act 116, Eff. Jun. 1, 1955;—Am. 1965, p. 129, Act 96, Imd. Eff. Jun. 28.

168.872 Board of canvassers; investigation, report to prosecutor and circuit judge.

Sec. 872. Whenever a petition has been filed for a recount by any person conceiving himself aggrieved on account of any fraud, wrongdoing or violation of the law perpetrated or committed by any election inspector or inspectors or any other person in respect to said election for which said recount has been petitioned, in any primary or election, and it shall appear to the board of canvassers having jurisdiction over said recount that there is probably cause to believe that there has been fraud, wrongdoing or a violation of the law in respect to said election for which said recount has been petitioned, the said canvassers shall make full and complete investigation of the same. Said canvassers shall have full power and authority to subpoena witnesses and to open any ballot box, regardless of the condition in which the same may be found, and may break

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open, if sealed, the seal thereon and examine the ballots contained therein. If, after the investigation, said board has good reason to believe that any fraud, wrongdoing or a violation of the law has been committed in respect to said election, then said board of canvassers shall forthwith make a written report of their findings to the prosecuting attorney and to the circuit judge or judges of the county where the petitioner resides if it be a county, city, township or village election, and to the attorney general and to the circuit judge of the county of Ingham if it be a district or state election. Said reports shall be signed by each of the canvassers having jurisdiction of said recount, or a majority thereof. Pending the making of such report, the board of canvassers having jurisdiction of such recount shall carefully preserve and safeguard the ballot boxes and the ballots contained therein until an order of the court, to which said report was submitted, is made authorizing the disposition of the same. Any action taken in such investigation shall not preclude any official recount of the ballots cast at any such election, if otherwise allowed by the general election laws. The powers of investigation referred to in this section shall terminate with the completion of the recount.

HISTORY: New 1954, p. 278, Act 116, Eff. Jun. 1, 1955;—Am. 1965, p. 113, Act 82, Imd. Eff. Jun. 24.

168.873 Recount; misconduct of employees, felony.

Sec. 873. Any officer, assistant, clerk or employee engaged in the conduct of a recount who shall wilfully commit any act which shall interfere with a fair and impartial recount of the votes cast for a contested office, amendment or proposition shall be deemed guilty of a felony and subject to the penalties thereof.

HISTORY: New 1954, p. 278, Act 116, Eff. Jun. 1, 1955.

168.874 Recount; return of ballots; manner of counting votes.

Sec. 874. The board thereupon shall reject all previous returns from such precincts, townships or wards, except the returns from any precinct, the ballots of which cannot for any reason be recounted as to such candidates or proposition, and, in some public place where such candidates or persons interested in such proposition and their counsel may be present, if they so desire, shall proceed forthwith to open the ballot boxes from such precincts, townships or wards, and the rolls or packages of ballots therein, and to make a recount thereof as to such candidates, question or proposition, and make a full, complete and correct return in writing, showing the full number of votes given to each, or the total number of votes cast for and against any such proposition, written out in words and figures. The recount shall be conducted in such a manner that the complete procedure may be observed and noted by the candidates or persons who may be affected thereby, their counsel and not to exceed 1 watcher and 1 tallier at each table to check the work of the recount clerks. All votes cast, whether for candidates, amendments or propositions, shall be recounted in the following manner: The ballots from any given precinct shall first be counted and the total compared with the number of ballots issued on election day as shown by the poll list, after which they shall be placed face up on the table and 1 recount clerk shall call the votes for each candidate, amendment or proposition involved in the recount, and such votes shall be recorded simultaneously by 2 tally clerks on proper forms provided for that purpose. The interested candidates, their counsel, watchers and talliers shall be afforded an opportunity to observe each ballot as it is called, and to make such notations as may be considered desirable for their own records. Any ballot counted or rejected under protest shall be identified by an exhibit number and a record kept thereof.

HISTORY: New 1954, p. 279, Act 116, Eff. Jun. 1, 1955.

168.875 Recount; completion.

Sec. 875. All recounts shall be completed for a primary election not later than the twentieth day and for an election not later than the thirtieth day immediately following the last day for filing counter petitions or the first day that such recounts may law-

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fully begin. As soon as the recount is completed, said board shall at once return the ballots properly wrapped, tied, sealed and indorsed to their respective boxes, carefully lock and seal the boxes and deliver them and the keys and election seals to the officer or officers having the care and custody thereof.

HISTORY: New 1954, p. 279, Act 116, Eff. Jun. 1, 1955;—Am. 1965, p. 114, Act 82, Imd. Eff. Jun. 24.

168.876 Recount; returns by board of canvassers, withdrawal of petition; final report open to public inspection.

Sec. 876. The returns made by the said board of canvassers upon recount shall be deemed to be correct, anything in the previous returns from such city, township, ward or precinct to the contrary notwithstanding: Provided, however, That if the person petitioning for such recount shall withdraw his petition or discontinue the recount before the completion thereof, then in such event the original return shall be deemed to be correct regardless of any change shown by the recount at the time of the withdrawal of the petition or the discontinuance of such recount: Provided further, That the final report on the results of any recount shall be open to public inspection immediately following its certification by the board of canvassers.

HISTORY: New 1954, p. 279, Act 116, Eff. Jun. 1, 1955.

168.877 Review of apparent error by certiorari.

Sec. 877. Any candidate for a county, city, ward, township or village office not receiving a certificate of election, or any qualified and registered elector voting at the last preceding election when any amendment or proposition has been voted on, may, for error apparent upon the face of the returns, have the same examined and corrected upon certiorari to the circuit court of the county, according to the rules and practices applicable to such writs.

HISTORY: New 1954, p. 279, Act 116, Eff. Jun. 1, 1955.

STATE CANVASSERS

168.878 Construction of sections; action against board of state canvassers by mandamus.

Sec. 878. Nothing in the following sections of this chapter contained shall be construed to repeal any action or remedy which may now exist by reference of any controversy to the courts, except that any proceeding intended to restrain, enjoin, modify, control or otherwise interfere with the action of the board of state canvassers, the board of county canvassers or any other representative of the board of state canvassers operating under the provisions of the following sections of this chapter, shall be instituted only against the board of state canvassers and by no other action than mandamus.

HISTORY: New 1954, p. 280, Act 116, Eff. Jun. 1, 1955.

168.879 Recount of votes; petition by candidate, deadline, contents; candidate for legislature, deposit, additional copies, preservation of ballots.

Sec. 879. Any candidate voted for at any election for an office, the votes for which are canvassed by the board of state canvassers, who considers himself aggrieved on account of any fraud or mistake in the canvass of the votes by the inspectors of election or the returns made by said inspectors, or of any county canvassing board, may, not later than 48 hours following the completion of the canvass of votes cast at an election, present to and file with the secretary of state a written or printed petition which shall be sworn to by such candidate, setting forth as nearly as may be the nature and character of the fraud or mistakes complained of and the counties, cities or townships or the precincts thereof in which they exist, which petition shall pray for a correction thereof by a recount of the votes cast therein: Provided, That any candidate at any general or special election for a seat in the legislature, intending to file a contest in ac-

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cordance with the rules of either house of the legislature, shall make the deposit of money required by this act with the clerk of the house or the secretary of the senate, as the case may be, and shall file 2 additional copies of any petition required by this act with the clerk of the house or the secretary of the senate, as the case may be, and the ballots in any precinct petitioned for recount in any legislative contest shall not be recounted for that office by any board of canvassers but shall be preserved until the contest is disposed of under the rules of the legislative body concerned.

HISTORY: New 1954, p. 280, Act 116, Eff. Jun. 1, 1955.

168.880 Recount of votes; petition by elector on constitutional amendment or question, deadline, contents.

Sec. 880. Any elector in this state who believes that there has been fraud or error committed by the inspectors of election in the return made by said inspectors or of any county canvassing board in the canvass of votes cast upon the question of a proposed amendment to the constitution or any other question or proposition, the votes for which are canvassed by the board of state canvassers, may, not later than 2 days after final certification and determination by the board of state canvassers of the canvass of votes cast at an election, present to and file with the secretary of state a written or printed petition which shall be sworn to by the elector presenting the same and which shall set forth as nearly as may be the nature and character of the fraud or error of which the complaint is made and the counties, cities or townships or the precincts thereof in which it is believed that the fraud or error occurred, and such petition shall contain a prayer that a correction thereof be made by a recount of the votes cast therein.

HISTORY: New 1954, p. 280, Act 116, Eff. Jun. 1, 1955.

168.880a Recount of votes; grounds; notice to candidates; elections involving propositions procedures.

Sec. 880a. (1) A recount of all precincts in the state shall be conducted at any time a statewide primary or election shall be certified by the board of state canvassers as having been determined by a vote differential of 2,000 votes or less. This section shall not apply to partisan offices to which more than 1 person is to be elected.

(2) If the election is an election involving candidates, the board of state canvassers forthwith shall notify all candidates whose vote could be affected by the recount that a recount shall be conducted and of the time and place the board of state canvassers will meet to determine recount procedures.

(3) If the election involves a proposition, the board of state canvassers shall meet on the seventh day following certification at the office of the secretary of state for the purpose of determining procedures. Persons or groups interested in being authorized to have challengers and observers at the recount shall petition the board at that meeting to be considered interested parties for such purpose. The board at that meeting shall determine which persons or groups shall be considered interested parties for the recount of the proposition.

HISTORY: Add. 1969, p. 503, Act 268, Eff. Mar. 20, 1970.

168.881 Recount petition; deposit, refund.

Sec. 881. The candidate or elector presenting such petition to the secretary of state shall at the same time deposit with such officer the sum of $5.00 for each precinct in which a recount of the votes is demanded. If, by reason of such recount, the petitioner succeeds in establishing fraud or mistake as set forth in his petition and receives a certificate of election or establishes sufficient fraud or mistake to change the result, upon any amendment or proposition, the votes for and against, which were recounted, the money deposited by him shall be refunded.

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In event no refund is made as herein required, then the secretary of state shall pay to the treasurer of each county its proportionate share of such deposit based upon the number of precincts in such county in which the votes were counted.

HISTORY: New 1954, p. 280, Act 116, Eff. Jun. 1, 1955.

168.882 Recount petition; notice to opposing candidate; counter petitions, filing, time, deposit.

Sec. 882. The secretary of state after a candidate has filed a petition and the deposit herein required shall give notice thereof to each opposing candidate within 24 hours after filing same by delivering to each such candidate a copy of such petition, or, if such candidate cannot be found, by leaving such copy at his last known place of residence with some member of his immediate family of suitable age, or, if no such member of his family can be found, then by posting it in a conspicuous place at his last known place of residence. Any counter petition shall be filed in like manner as the original petition within 48 hours after the first petition has been filed with the secretary of state, and at the same time a deposit of money shall be made as herein stipulated for the original petitioner. The counter petitioner shall be entitled to have all his deposit money refunded if the original petitioner does not establish fraud or receive a certificate of election.

HISTORY: New 1954, p. 281, Act 116, Eff. Jun. 1, 1955;—Am. 1955, p. 633, Act 271, Imd. Eff. Jun. 30;—Am. 1969, p. 367, Act 188, Imd. Eff. Aug. 5.

168.883 Recount petition; notice to county clerk; preservation of ballots; investigation and recount by state canvassers.

Sec. 883. The secretary of state, upon receipt of any such petition for recount, shall immediately notify the county clerk of each county in which are located any precincts included in such petition for recount that a petition for such recount by the board of state canvassers has been filed and the ballots for such precincts shall be carefully preserved. Ballots and boxes shall remain in the possession of city or township clerks until requisitioned by the canvass board. The board of state canvassers, at as early a date as possible after the receipt of such petition and the deposit required, shall investigate the facts set forth in said petition and cause a recount of the votes cast in the several precincts included in the petition.

HISTORY: New 1954, p. 281, Act 116, Eff. Jun. 1, 1955.

168.884 Boards of county canvassers; clerks and assistants for conduct of recount.

Sec. 884. The boards of county canvassers shall employ such assistants and clerks as shall be deemed necessary for the conduct of any such recount.

HISTORY: New 1954, p. 281, Act 116, Eff. Jun. 1, 1955.

168.885 Boards of state and county canvassers; right to subpoena witnesses; noncompliance, penalty.

Sec. 885. The board of state canvassers or any member or representative thereof and the county boards of canvassers shall each have the right to subpoena any inspector of election, county officer or other person to appear before it or him for any purpose as may be desired in connection with the matter of such recount. Whoever being so subpoenaed shall fail to obey same shall be deemed guilty of a misdemeanor.

HISTORY: New 1954, p. 281, Act 116, Eff. Jun. 1, 1955.

168.886 Witnesses; compensation and mileage.

Sec. 886. The persons who are subpoenaed to appear as herein required shall receive the same compensation and mileage therefor as is prescribed by law for witnesses in the circuit courts of this state.

HISTORY: New 1954, p. 281, Act 116, Eff. Jun. 1, 1955.

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168.887 Recount of votes; misconduct of employees, felony.

Sec. 887. Any officer, assistant, clerk or employee engaged in the conduct of a recount who shall wilfully commit any act which shall interfere with a fair and impartial recount of the votes cast for a contested office, amendment or proposition shall be deemed guilty of a felony and subject to penalties thereof.

HISTORY: New 1954, p. 281, Act 116, Eff. Jun. 1, 1955.

168.888 Board of state canvassers; return of ballot boxes, poll books, tally sheets, and statements of votes; concurrent recount.

Sec. 888. The board of state canvassers shall have the right and authority to demand and cause the ballot boxes, poll books, tally sheets, the statement of votes returned in connection with any such election, and such other documents and reports as may be deemed necessary, to be brought before the several boards of county canvassers, and shall order that a concurrent recount of the votes upon any office or proposition petitioned for under the provisions of sections 861 et seq. hereof, where such votes appear upon the same ballots as those which are to be recounted by the board of state canvassers, be conducted, which concurrent recount shall be under the exclusive jurisdiction and control of the said board of state canvassers. All ballots, poll lists, tally sheets, returns and reports shall be safely guarded and when no longer required shall be delivered to the officials charged with the custody thereof.

HISTORY: New 1954, p. 281, Act 116, Eff. Jun. 1, 1955.

168.889 Board of state canvassers; time and place, rules and regulations for recounts in counties.

Sec. 889. All recounts provided for in sections 878 et seq. of this act shall be conducted in the several counties wherein the votes to be counted were cast by the respective boards of county canvassers in each of the several counties, subject to the direction, supervision and control of the said board of state canvassers. The said board of state canvassers shall prescribe the time and the place in each county where the recount of any votes shall be conducted, which recount shall be in public. Said board shall provide each board of county canvassers with such rules and regulations as in the opinion of the said board of state canvassers shall be necessary to conduct such recount in a fair, impartial and uniform manner in the said several counties. Observance of such rules and regulations shall be enforced by said board or its representatives hereinafter provided for.

HISTORY: New 1954, p. 282, Act 116, Eff. Jun. 1, 1955.

168.890 Board of state canvassers; authority of members as to supervision of recounts in counties.

Sec. 890. It shall not be necessary for all of the members of the said board of state canvassers to direct, supervise or control in person the recount in the said several counties, but each member thereof or any state officer or state employee or a member of the board of county canvassers shall have the right to direct, supervise and control any such recount when properly designated by the said board of state canvassers, to the end that fairness, impartiality and uniformity in the conduct of such recount may be obtained and the result of the election determined at the earliest possible moment. Any member of the board of state canvassers or any representative of said board herein provided for shall have the same authority as the said board of state canvassers to enforce and carry out the rules and regulations provided for such recount by said board.

HISTORY: New 1954, p. 282, Act 116, Eff. Jun. 1, 1955.

168.891 Recounts; manner of conduct under board of state canvassers.

Sec. 891. Any recount conducted under the direction, supervision and control of the state board of canvassers, unless otherwise herein provided, shall be conducted in the

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same manner as is provided in sections 861 et seq. for the conduct of recounts by county boards of canvassers, so far as the provisions thereof are applicable.

HISTORY: New 1954, p. 282, Act 116, Eff. Jun. 1, 1955.

168.892 Board of state canvassers; recounts in counties, certification of results.

Sec. 892. Whenever a recount in any county shall be completed, it shall be the duty of the county boards of canvassers to return forthwith the results of such recount to the board of state canvassers, which board shall compile said returns and certify the result. The returns made by the said boards of county canvassers of any recount shall be deemed to be correct, anything in the previous return of any board of election inspectors or any county canvassing board to the contrary notwithstanding. The final report on the results of any recount shall be open to public inspection immediately following its certification by the board of canvassers.

HISTORY: New 1954, p. 282, Act 116, Eff. Jun. 1, 1955.

168.893 Discontinuance of recount; original return deemed correct.

Sec. 893. If the person petitioning for such recount shall withdraw his petition or discontinue the recount before the completion thereof, then in such event the original return shall be deemed to be correct regardless of any change shown by the recount at the time of the withdrawal of the petition or the discontinuance of such recount.

HISTORY: New 1954, p. 282, Act 116, Eff. Jun. 1, 1955.

168.894 Recounts in counties; expenses, payment.

Sec. 894. All expenses incurred in the conduct of the recount of such votes in any county shall be paid by the county. All expenses in connection with the direction, supervision and control of such recount by the board of state canvassers shall be paid from the general fund of the state on vouchers to be approved and audited by the state board of canvassers.

HISTORY: New 1954, p. 283, Act 116, Eff. Jun. 1, 1955.

CHAPTER XXXIV.

CAMPAIGN EXPENSES

168.901 Campaign expenses; definitions.

Sec. 901. Terms used in this chapter shall be used as follows, unless other meaning is clearly apparent from the language or context, or unless such construction is inconsistent with the manifest intent of the law:

1. "Candidate" shall apply to any person whose name is printed on an official ballot for public office or whose name has been presented for public office, with his consent, for nomination or election;

2. "Political committee" or "committee" shall apply to every combination of 2 or more persons who shall aid or promote the success or defeat of a candidate, or a political party or principle or measure; and

3. "Public office" shall apply to any national, state, county or city ward, village or township office which is filled by the voters of this state, as well as to the office of presidential elector and United States senator.

HISTORY: New 1954, p. 283, Act 116, Eff. Jun. 1, 1955.

168.902 Campaign expenses of candidates; limitation.

Sec. 902. No sums of money shall be paid and no expenses authorized or incurred by or on behalf of any candidate to be paid by him in order to secure or aid in securing his nomination to any public office or his position in this state in excess of the amount computed at the rate of $40.00 for each 1,000 votes cast at the general November election in the last preceding presidential year for the office of governor in the state or

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political subdivision thereof in which he is a candidate for nomination: Provided, That no candidate shall be restricted to less than 25% of 1 year's compensation, nor in any case to less than $100.00 in his campaign for such nomination. No sums of money shall be paid and no expenses authorized or incurred by or on behalf of any candidate who has received the nomination to any public office or position in this state in excess of the amount to which expenditures for his nomination to such office or position are limited under the provisions of this section. No sum of money shall be paid and no expenses authorized or incurred by or on behalf of any candidate contrary to the provisions of this act.

HISTORY: New 1954, p. 283, Act 116, Eff. Jun. 1, 1955;—Am. 1958, p. 33, Act 28, Imd. Eff. Apr. 3.

168.903 Political committee treasurer; appointment, duties.

Sec. 903. Every political committee shall appoint a treasurer who shall receive, keep and disburse all sums of money which may be collected or received by such committee or any of its members for election expenses; and unless such treasurer is first appointed it shall be unlawful for a political committee or any of its members to collect, receive or disburse money for any such purpose.

HISTORY: New 1954, p. 283, Act 116, Eff. Jun. 1, 1955.

168.904 Campaign expenses; lawful items.

Sec. 904. No candidate and no treasurer of any political committee shall pay, give or lend, or agree to pay, give or lend, either directly or indirectly, any money or other valuable thing for any nomination or election expenses whatever, except for the following purposes:

First, For traveling expenses and personal expenses incident thereto, for printing, stationery, advertising, postage, expressage, freight, telegraph, telephone and public messenger services;

Second, For dissemination of printed information to the public;

Third, For political meetings, demonstrations and conventions;

Fourth, For the rent, maintenance and furnishing of offices;

Fifth, For the payment of clerks, typists, stenographers, janitors and messengers actually employed;

Sixth, For the employment of challengers at primaries and elections to the number allowed by law as such;

Seventh, For the payment of public speakers and musicians at public meetings and their necessary traveling expenses;

Eighth, For copying and classifying of election registers or poll lists and investigating the right to vote of the persons listed or registered therein, and conducting proceedings to purge the registers and lists and prevent improper or unlawful registration or voting;

Ninth, For making canvasses of voters;

Tenth, For conveying infirm or disabled voters to and from the polls; and

Eleventh, For employing as counsel, attorneys licensed to practice in accordance with the laws of the state, and for the necessary expenses of such counsel.

None of the provisions of this chapter shall be construed as relating to the rendering of services by speakers, writers, publishers or others for which no compensation is asked or given.

HISTORY: New 1954, p. 283, Act 116, Eff. Jun. 1, 1955.

168.905 Campaign contributions; payable to candidates or committee.

Sec. 905. No person who is not a candidate or the treasurer of a political committee shall pay, give or lend, or agree to pay, give or lend, any money whether contributed

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by himself or by any other person for any election expenses whatever, except to a candidate or to a political committee.

HISTORY: New 1954, p. 284, Act 116, Eff. Jun. 1, 1955.

168.906 Campaign expense accounts; filing, contents; proof copy of ballot, filing; duplicates.

Sec. 906. Every candidate and every treasurer of a political committee shall, within 10 days after any primary election, caucus or convention, and again within 20 days after any general election, whether state, county, city, municipal, township or district election, prepare and file in the office of the county clerk of the county in which such candidate or treasurer resides, a full, true and detailed account and statement subscribed and sworn to by him before an officer authorized to administer oaths, setting forth each and every sum of money received or disbursed by him for nomination or election expenses, the date of each receipt, the name of the person from whom received or to whom paid, and the person to whom and object or purpose for which disbursed. Such statements shall also set forth the unpaid debts and obligations, if any, of such candidate or committee, incurred for the purposes set forth in section 904 of this act, with the nature and amount of each, and to whom owing, in detail. If there are no receipts, disbursements or unpaid debts or obligations of such candidate or committee, such statement shall state such fact. The clerk of each city, village or township in the several counties of this state shall, within 5 days after any primary or general election, file with the county clerk a list containing the names and addresses of all candidates in their respective districts and a proof copy of the official ballot used in such primary or general election. Any candidate whose nomination or election is certified by the secretary of state shall file duplicate expense statements with the county clerk of the county in which he resides and such county clerk shall forthwith deliver 1 of such copies to the secretary of state by registered or certified mail.

HISTORY: New 1954, p. 284, Act 116, Eff. Jun. 1, 1955;—Am. 1956, p. 45, Act 37, Imd. Eff. Mar. 28;—Am. 1958, p. 231, Act 192, Eff. Sep. 13.

168.907 Campaign expense accounts; public inspection, preservation.

Sec. 907. All such accounts shall be open to public inspection in the offices where they are filed and shall be carefully preserved there for a period of 1 year, and it shall be the duty of the officers having custody of the same to give certified copies in like manner as of other public records.

HISTORY: New 1954, p. 284, Act 116, Eff. Jun. 1, 1955.

168.908 Campaign expense accounts; official inspection, notice to delinquents.

Sec. 908. The several officers with whom statements are required to be filed shall inspect all statements of accounts and expenses relating to nominations and elections filed with them within 10 days after the same are filed; and if, upon examination of the official ballot, it appears that any person has failed to file a statement as required by law, or if it appears to any such officer that the statement filed with him does not conform to law, or upon complaint in writing by a candidate or by a voter that a statement filed does not conform to law or to the truth, or that any person has failed to file a statement which he is by law required to file, said officer shall forthwith in writing notify the delinquent person to comply with the requirements of this chapter.

HISTORY: New 1954, p. 284, Act 116, Eff. Jun. 1, 1955.

168.909 Campaign expense accounts; failure to file, report to prosecuting attorney or attorney general.

Sec. 909. Upon the failure of any person to file a statement within 10 days after receiving such notice, or if any statement filed discloses any violation of any provisions of this act, the county clerk, if the statement is required to be filed with him, shall

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forthwith notify the prosecuting attorney of the county where said violation occurred, or the secretary of state, if the statement is required to be filed with him, shall forthwith notify the attorney general of the violation. The county clerk or the secretary of state shall furnish the prosecuting attorney or the attorney general with copies of all papers relating thereto, and said prosecuting attorney or attorney general shall, on such complaint or the complaint of any other person, forthwith enter the name in a docket kept for that purpose in his office, and within 20 days thereafter examine every such case, and if the evidence seems to him to be sufficient under the provisions of this chapter he shall, in the name of the people of the state, forthwith institute such civil or criminal proceedings as may be appropriate to the facts.

HISTORY: New 1954, p. 285, Act 116, Eff. Jun. 1, 1955;—Am. 1958, p. 231, Act 192, Eff. Sep. 13.

168.910 Immunity of witnesses.

Sec. 910. No person otherwise competent as a witness shall be excused from answering any question, in any proceedings under this chapter, on the ground that such answer would tend to incriminate him; but no prosecution can afterwards be had against such witness for any such offense concerning which he testified for the prosecution except in an action for perjury in giving such testimony.

HISTORY: New 1954, p. 285, Act 116, Eff. Jun. 1, 1955.

168.911 Campaign expense accounts; blank forms.

Sec. 911. The secretary of state shall, at the expense of the state, furnish to the proper county, city, village or township clerks blanks in a form approved by the attorney general, suitable for the statements hereinbefore required.

HISTORY: New 1954, p. 285, Act 116, Eff. Jun. 1, 1955.

168.912 Employer intimidation of employees prohibited.

Sec. 912. It shall be unlawful for any employer, either corporation, association, company, firm or person, in paying the salary or wages of any of its, their or his employees, to enclose in their pay envelopes, upon which there is written or printed any political notice, device or argument, containing any threat, expressed or implied, intended or calculated to influence the political opinion, views or actions of such employees so paid. Nor shall it be lawful for any employer, either corporation, association, company, firm or person, within 90 days of any election or primary election provided by law, to put up or otherwise exhibit in its, their or his factory, workshop, mine, mill, boarding house, office or other establishment or place where its, their or his employees may be working or be present in the course of such employment, any handbill, notice or placard containing any threat, notice or information that in case any particular ticket or candidate shall be nominated or elected, work in its, their or his place or establishment will cease, in whole or in part, or its, their or his establishment will be closed or the wages of its, their or his workmen shall be reduced; or any other threats, expressed or implied, intended or calculated to influence the political opinion or acts of its, their or his employees.

HISTORY: New 1954, p. 285, Act 116, Eff. Jun. 1, 1955.

168.913 Solicitation of donations from candidates prohibited.

Sec. 913. No person or organization shall ask, demand or request of or from any candidate for any public office subsequent to any public announcement of the candidacy for any nomination for such office, any donation, gift or contribution, purchase of tickets or similar demands. This section shall be held to include religious, charitable or social organizations or any person working in their behalf. Except for religious, charitable or educational purposes, no person, firm, association or corporation or any person working in their behalf shall ask, request or demand within any building or on any property which is exempt from the general property tax of this state, any donation, gift, contribution, pledge, purchase of tickets or similar demand for the purpose of fur-

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thering or defeating the candidacy of any candidate for public office or any proposed law, or other measure that may be submitted to popular vote.

HISTORY: New 1954, p. 285, Act 116, Eff. Jun. 1, 1955.

168.914 Paid advertisements for candidates; marking; payment for editorials prohibited.

Sec. 914. No publisher of a newspaper or other periodical and no director or person responsible for the operation of any other advertising medium shall insert, either in its advertising or reading columns or cause or permit to be disseminated any paid matter which is designed or tends to aid, injure or defeat any candidate or political party or organization, or proposition before the people, unless it is stated therein that it is a paid advertisement. No person shall pay the owner, editor, publisher or agent of any newspaper, periodical or other advertising medium to induce him to editorially advocate or oppose any candidate for nomination or election, and no such owner, editor, publisher or agent shall accept such payment.

HISTORY: New 1954, p. 286, Act 116, Eff. Jun. 1, 1955.

168.914a Paid advertisements for proposed amendments or questions; marking, name of sponsor.

Sec. 914a. No publisher of a newspaper or other periodical and no director or person responsible for the operation of any other advertising medium shall insert, either in his advertising or reading columns, or cause or permit to be disseminated, any paid matter which is designed or tends to support or oppose any proposed amendment or amendments to the constitution of this state, or proposition before the people, unless it is stated therein that it is a paid advertisement, and stating the name or names of the persons, organization or organizations paying for such advertisement.

HISTORY: Add. 1955, p. 293, Act 192, Eff. Oct. 14.

168.915 Publication or circulation of false statement; penalties.

Sec. 915. If any letter, circular, poster, bill, publication or placard or any other advertising medium shall contain any false statement or charges reflecting on any candidate's character, morality or integrity, the author thereof and every person knowingly assisting in the circulation thereof, shall, upon conviction thereof, be subject to the penalties provided for the violation of this act: Provided, That this shall in nowise deprive the injured party of any other action for libel given by law.

HISTORY: New 1954, p. 286, Act 116, Eff. Jun. 1, 1955.

168.916 Campaign expense account; administration of oath of office before filing prohibited.

Sec. 916. It shall be unlawful to administer the oath of office or to issue a commission or certificate of nomination or election to any person nominated or elected to any public office until he has filed an account as required by this act, which account shall upon its face be complete and show a lawful compliance with this chapter, and no such person shall enter upon the duties of his office until he has filed such account, nor shall he receive any salary or fees for any period prior to the filing of the same.

HISTORY: New 1954, p. 286, Act 116, Eff. Jun. 1, 1955.

168.917 Anonymous contributions; prohibition.

Sec. 917. No person shall make a payment of his own money or of another person's money to any person in connection with a nomination or election in any other name than that of the person who in truth supplies such money; nor shall any person knowingly receive such payment or enter or cause the same to be entered in his accounts or records in another name than that of the persons by whom it was actually furnished.

HISTORY: New 1954, p. 286, Act 116, Eff. Jun. 1, 1955.

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168.918 Anonymous contributions; disbursement prohibited.

Sec. 918. It shall be unlawful for any candidate or treasurer of a political committee, or person acting as such treasurer, to disburse money received from any anonymous source.

HISTORY: New 1954, p. 286, Act 116, Eff. Jun. 1, 1955.

168.919 Corporate contributions; prohibition.

Sec. 919. No officer, director, stockholder, attorney, agent or any other person, acting for any corporation or joint stock company, whether incorporated under the laws of this or any other state or any foreign country, except corporations formed for political purposes, shall pay, give or lend, or authorize to be paid, given or lent, any money belonging to such corporation to any candidate or to any political committee for the payment of any election expenses whatever.

HISTORY: New 1954, p. 286, Act 116, Eff. Jun. 1, 1955.

168.920 Violation of chapter; penalty.

Sec. 920. Any person who shall incur any illegal election expenses or otherwise violate any of the provisions of this chapter shall, upon conviction thereof, be punished by a fine of not more than $1,000.00 or by imprisonment for not more than 2 years, or by both such fine and imprisonment in the discretion of the court.

HISTORY: New 1954, p. 286, Act 116, Eff. Jun. 1, 1955.

CHAPTER XXXV.

OFFENSES AND PENALTIES

168.931 Statutory provisions; violation, misdemeanor.

Sec. 931. Any person who violates any of the following statutory provisions shall, on conviction, be deemed guilty of a misdemeanor:

(a) No person shall, either directly or indirectly, give, lend or promise any money or valuable consideration to or for any person as an inducement to influence the manner of voting by any person relative to any candidate or proposition or as a reward for his refraining from voting. The term "valuable consideration" as used in this section shall be construed to include any money, gift, fee, loan, office, position, appointment or employment.

(b) No person shall, either before, on or after any election for himself or on behalf of any other person, receive, agree or contract for any valuable consideration for:

(1) Voting or agreeing to vote, or inducing or attempting to induce another to vote in a particular manner at any election or primary election;

(2) Refraining or agreeing to refrain, or inducing or attempting to induce another to refrain from voting at any election or primary election;

(3) Doing anything prohibited by this act;

(4) Doing, agreeing to do, or having done any campaign work, electioneering, soliciting of votes for any question or any candidate on or before any election or primary election day.

(c) No person shall solicit from any candidate for nomination for or election to any office, included in the provisions of this act, any money or other property. The provisions of this section shall not apply to requests for contributions of money by or to an authorized representative of the political party committee of the organization to which such candidate belongs, and shall not apply to any regular business transaction between any such candidate and any other person which is not intended for or connected with the securing of votes or the influencing of voters in connection with such nomination or election.

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(d) No person shall, either directly or indirectly, discharge or threaten to discharge any person who may be in his employ for the purpose of influencing his vote for any election or primary election.

(e) No priest, pastor, curate or other officer of any religious society shall impose or threaten to impose any penalty of excommunication, dismissal or expulsion, or command or advise, under pain of religious disapproval, for the purpose of influencing any voter at any election or primary election.

(f) No person shall at any election or primary election falsely impersonate and vote or attempt to vote under the name of any other person or induce or attempt to induce any person to impersonate and vote or attempt to vote under the name of any other person.

(g) No person shall assume a false or fictitious name in order to vote or to offer to vote by that name, or enter or cause to be entered upon the registration book in any voting precinct as his own, a false name, or induce or attempt to induce any other person to assume a false or fictitious name in order to vote, or offer to vote by that name, or enter or cause to be entered upon the registration book of any voting precinct, a false name.

(h) No person who is not a qualified and registered elector shall wilfully offer or attempt to vote at any primary election or election sanctioned by the laws of this state; nor shall any person aid or counsel any person not a duly qualified elector to vote or offer to vote at the place where the vote is given during any election or primary election.

(i) No qualified and registered elector shall offer or attempt to vote in any voting precinct in which he does not reside except as otherwise provided in this act; nor shall any person procure, aid or counsel any person to go or come into any township, ward or voting precinct for the purpose of voting therein at any election or primary election knowing that such person is not duly qualified to vote in such township, ward or voting precinct.

(j) No person shall offer or attempt to vote more than once at the same election either in the same or in another voting precinct, nor shall he give 2 or more votes folded together.

(k) No person shall hire any carriage or other conveyance or cause the same to be done, for conveying voters, other than those physically unable to walk thereto, to any election or primary election.

(l) In cities having an election commission authorized to appoint inspectors of election, failure on the part of any inspector, clerk or election or primary election official, accepting an appointment as such, to report at the polling place designated on election or primary election morning, at the time specified, unless excused, shall be considered a misdemeanor and shall be punished by a fine of not to exceed $10.00, or imprisonment in the county jail for a period not exceeding 10 days, or both such fine and imprisonment in the discretion of the court: Provided, however, That should any inspector, clerk or election or primary election official notify the election or primary election commission or other officers in charge of elections or primary elections of his inability to serve at the time and place specified, at least 3 days prior to the holding of any election or primary election or shall be excused from duty by the said election or primary election commission, board or officers in charge of elections or primary elections for cause shown, then such inspector, clerk or election or primary election official shall not be liable for such fine or imprisonment.

(m) No person shall wilfully fail to perform any duty enjoined upon him by this act or disobey any lawful instruction or order of the secretary of state as chief state election officer or of any county or city board of elections.

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(n) No delegate or member of any convention shall solicit any candidate for nomination before such convention for money, reward, position, place or preferment for his support in such convention, nor shall any candidate or other person promise or pay to any such delegate money, reward, position, place or preferment for his support or vote, in such convention.

(o) No person elected a delegate to any convention shall accept or receive any money or valuable thing as a consideration for his vote as such delegate.

(p) No person shall, while the polls are open, at any polling place on any primary or election day, solicit votes in the said polling place or within 100 feet from any entrance to the building in which said polling place is located.

(q) No person shall keep any room or building for the purpose, in part or the whole, of recording or registering bets or wagers, or of selling pools upon the result of any political nomination, appointment or election, nor shall any person wager any property, money or thing, or be the custodian of any money, property or thing of value, staked, wagered or pledged, upon the result of any political nomination, appointment or election.

(r) Any person who violates any provision of this act, a penalty for which violation is not herein otherwise particularly provided, shall, on conviction, be deemed guilty of a misdemeanor.

(s) Any person or his agent who knowingly makes, publishes, disseminates, circulates or places before the public, or knowingly causes directly or indirectly to be made, published, disseminated, circulated or placed before the public, in this state, either orally or in writing, an assertion, representation or statement of fact concerning a candidate for public office at a primary or general election in this state, which is false, deceptive, scurrilous or malicious, without the true name of the author subscribed thereto, if written, or announced if unwritten, shall be guilty of a misdemeanor.

HISTORY: New 1954, p. 287, Act 116, Eff. Jun. 1, 1955.

168.932 Statutory provisions; violation deemed felony.

Sec. 932. Any person who violates any of the following statutory provisions shall, on conviction, be guilty of a felony:

Corrupt influence of elector.

(a) No person shall, by means of bribery, menace or other corrupt means or device whatever, either directly or indirectly, attempt to influence any elector in giving his vote, or to deter him from, or interrupt him in giving the same at any election or primary election held pursuant to law.

Unauthorized breaking open of seal or locks on ballot boxes or voting machines.

(b) No person not duly authorized by law shall, during the progress of any election or primary election or after the closing of the polls and before the final results of such election have been ascertained, break open or violate the seals or locks of any ballot box or voting machine used or in use at such election; nor shall any person wilfully damage or destroy any ballot box or voting machine; nor shall any person obtain undue possession of such ballot box or voting machine; nor shall any person conceal, withhold or destroy the same, or fraudulently or forcibly add to or diminish the number of ballots legally deposited in the box or the totals on the voting machine; nor shall any person aid or abet in the same.

Destruction, mutilation, fraud or concealment as to election records by custodian.

(c) No inspector of election, clerk or other officer or person having custody of any record, election list of voters, affidavit, return or statement of votes, certificates, poll book, or of any paper, document or vote of any description, in this act directed to be

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made, filed or preserved, shall wilfully destroy, mutilate, deface, falsify or fraudulently remove or secrete the whole or part thereof, or fraudulently make any entry, erasure or alteration therein, or permit any other person to do so.

Disclosure of contents of ballots; obstruction of electors.

(d) No person shall disclose to any other person the name of any candidate voted for by any elector, the contents of whose ballots shall have been seen by such person, nor shall any person in any manner obstruct or attempt to obstruct any elector in the exercise of his duties as such elector under this act.

HISTORY: New 1954, p. 288, Act 116, Eff. Jun. 1, 1955;—Am. 1957, p. 280, Act 220, Eff. Sep. 27.

168.933 Perjury; definition.

Sec. 933. Any person who makes a false affidavit or swears falsely while under oath for the purpose of securing registration or for the purpose of voting at any election or primary election shall be deemed guilty of perjury.

HISTORY: New 1954, p. 289, Act 116, Eff. Jun. 1, 1955.

168.934 Misdemeanor; penalty.

Sec. 934. Any person who shall be found guilty of a misdemeanor under the provisions of this act shall, unless herein otherwise provided, be punished by a fine of not exceeding $500.00, or by imprisonment in the county jail for a term not exceeding 90 days, or both such fine and imprisonment in the discretion of the court.

HISTORY: New 1954, p. 289, Act 116, Eff. Jun. 1, 1955.

168.935 Felony; penalty.

Sec. 935. Any person found guilty of a felony under the provisions of this act shall, unless herein otherwise provided, be punished by a fine not exceeding $1,000.00, or by imprisonment in the state prison for a term not exceeding 5 years, or by both such fine and imprisonment in the discretion of the court.

HISTORY: New 1954, p. 289, Act 116, Eff. Jun. 1, 1955.

168.936 Perjury; penalty.

Sec. 936. Any person found guilty of perjury under the provisions of this act shall, unless herein otherwise provided, be punished by a fine not exceeding $1,000.00, or by imprisonment in the state prison for a term not exceeding 5 years, or by both such fine and imprisonment in the discretion of the court.

HISTORY: New 1954, p. 289, Act 116, Eff. Jun. 1, 1955.

168.937 Forgery; penalty.

Sec. 937. Any person found guilty of forgery under the provisions of this act shall, unless herein otherwise provided, be punished by a fine not exceeding $1,000.00, or by imprisonment in the state prison for a term not exceeding 5 years, or by both such fine and imprisonment in the discretion of the court.

HISTORY: New 1954, p. 289, Act 116, Eff. Jun. 1, 1955.

168.938 Candidate convicted of felony; election void quo warranto.

Sec. 938. If any candidate for any public office at any election in this state shall be convicted of a felony, as defined in this act, the election of such candidate, if he has been elected, shall be void; and if he shall enter into the office for which he was elected, an information in the nature of a quo warranto to oust him from such office may be filed in the supreme court or the proper circuit court.

HISTORY: New 1954, p. 289, Act 116, Eff. Jun. 1, 1955.

168.939 Election inspector; duty to furnish information to prosecuting attorney.

Sec. 939. It shall be the duty of every inspector of election, knowing, or having reason to believe, that an offense punishable under the provisions of this act has been

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committed, to give information thereof to the prosecuting attorney without delay, and such prosecuting attorney shall adopt effective measures for the prosecution of all persons believed to be guilty of such offense.

HISTORY: New 1954, p. 289, Act 116, Eff. Jun. 1, 1955.

168.940 Prosecuting attorney; duty to prosecute.

Sec. 940. It is hereby made the duty of every prosecuting attorney, whenever he shall receive credible information that any such offense has been committed, to cause the same to be prosecuted.

HISTORY: New 1954, p. 290, Act 116, Eff. Jun. 1, 1955.

168.941 Peace officers; duty to institute proceedings.

Sec. 941. It is hereby made the duty of any police, sheriff or other peace officer, present and having knowledge of any violation of any of the provisions of this act, to forthwith institute criminal proceedings for the punishment of such offender.

HISTORY: New 1954, p. 290, Act 116, Eff. Jun. 1, 1955.

168.942 Prosecution; time limitations; fraudulent registrations; immunity of witnesses.

Sec. 942. No prosecution for any offense mentioned in this act other than fraudulent registration shall be maintained unless it shall be commenced within 1 year after the date of the registration, primary or election in connection with which the offense is alleged to have been committed. No prosecution for fraudulent registration shall be maintained unless it shall be commenced within 2 years after the time the offense is alleged to have been committed. Neither the complaining witness nor any other person who may be called to testify in behalf of the people in any such proceeding shall be liable to criminal prosecution under this act for any offense in respect to which he shall be examined or to which his testimony shall relate, except to prosecution for perjury committed in such testimony.

HISTORY: New 1954, p. 290, Act 116, Eff. Jun. 1, 1955.

168.943 Recorder's court; jurisdiction; circuit courts, jurisdiction.

Sec. 943. The recorder's court in the city of Detroit shall have cognizance and jurisdiction of all offenses under this act committed within the limits of said city, and the offender may in all cases be there proceeded against by information, as provided by the charter of said city or any other statute applicable thereto. In all other cases, the circuit court for the proper county shall have cognizance of such offenses committed within the county, and in cases where the punishment is by such fine or such imprisonment, 1 or both, as the justice's court may impose. The proper justice's court shall have cognizance and jurisdiction thereof.

HISTORY: New 1954, p. 290, Act 116, Eff. Jun. 1, 1955.

168.944 False designation of incumbency; misdemeanor.

Sec. 944. Any candidate for public office who advertises or uses in any campaign material, including radio, television, newspapers, circulars, cards or stationery, the words incumbent, re-elect, re-election, or otherwise indicates, represents or gives the impression that he is the incumbent, when in fact the candidate is not the incumbent is guilty of a misdemeanor punishable as provided in section 934.

HISTORY: Add. 1959, p. 113, Act 109, Eff. Mar. 19, 1960;—Am. 1963, p. 219, Act 155, Eff. Sep. 6.

168.945 Inducing improper applications to vote as absentee voter; misdemeanor.

Sec. 945. Any person who induces or attempts to induce another to make an application to vote as an absent voter, knowing that the person is not qualified to so vote is guilty of a misdemeanor punishable as provided in section 934.

HISTORY: Add. 1967, p. 142, Act 113, Eff. Nov. 2.

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168.947 Possession of master keys for voting machines; misdemeanor; master keys, definition.

Sec. 947. A person who has a master key for any voting machine or device in his possession is guilty of a misdemeanor. As used in this section, "master key" means a key which is designed to open locks on more than 1 voting machine or device, but excludes keys supplied with the voting machine or device by the manufacturer or dealer or the exact duplicate of such keys, and excludes keys supplied with replacement locks or the exact duplicate of such keys.

HISTORY: Add. 1967, p. 73, Act 56, Eff. Nov. 2.

CHAPTER XXXVI.

RECALL

168.951 Officers subject to recall; recall petition, circulation, time.

Sec. 951. Every elective officer in the state of Michigan, except judges of courts of record and courts of like jurisdiction, is subject to recall by the legal voters of the state or of the electoral district in which he is elected as hereinafter provided: Provided, That no petition shall be circulated against any officer until he has actually performed the duties of his office for a period of 45 days for a legislative office and 3 months for any other office: Provided further, That any officer sought to be recalled shall continue to perform duties of his office until the result of said election is declared.

HISTORY: New 1954, p. 290, Act 116, Eff. Jun. 1, 1955.

168.952 Recall petitions; form, contents.

Sec. 952. All petitions for the recall of an officer shall be in substantially the following form, shall be printed or typewritten and shall state clearly the reason or reasons for said demand:

We, the undersigned qualified and registered electors of the city of ....., or the township of ....., in the county of ..... and state of Michigan, hereby petition for the calling of an election to recall (name person sought to be recalled) from the office of (name office) for the following reason or reasons:

.....

Name, residence (street and house number in cities having same, otherwise postoffice address). Date of signing.

HISTORY: New 1954, p. 290, Act 116, Eff. Jun. 1, 1955.

168.953 Recall petitions; form, modification.

Sec. 953. In case the electoral district of the official sought to be recalled is a village, ward or school district, the form of said petition shall be modified to show that the signers are qualified and registered electors of such electoral district. In case the electoral district of the official sought to be recalled includes a part only of any city or township, then the petitions circulated in such city or township shall recite that the persons signing the same are qualified and registered electors of that portion of such city or township lying within such electoral district.

HISTORY: New 1954, p. 291, Act 116, Eff. Jun. 1, 1955.

168.954 Recall petitions; eligibility of signers.

Sec. 954. The petitions shall be signed by registered and qualified electors of the electoral district of the official whose recall is sought: Provided, That in any school district where school electors are not required to be registered, then in such case the signers of such petition shall not be required to be such registered electors and the term "registered and qualified electors" shall be considered to mean "qualified electors". Each signer of the petition shall affix his signature, place of residence, which shall be his street address and house number in locations having same, otherwise his

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postoffice address, and the date of signing. The persons signing said petitions shall be registered and qualified electors of the governmental subdivision designated in the heading of the petitions.

HISTORY: New 1954, p. 291, Act 116, Eff. Jun. 1, 1955.

168.955 Recall petitions; signatures; number, time limit.

Sec. 955. The petitions shall be signed by registered and qualified electors equal to at least 25% of the number of votes cast for candidates for the office of governor at the last preceding general election in the electoral district of the official sought to be recalled. Any signatures obtained more than 90 days before the filing of such petition shall not be counted.

HISTORY: New 1954, p. 291, Act 116, Eff. Jun. 1, 1955;—Am. 1967, p. 251, Act 188, Eff. Jul. 1.

168.956 Recall petitions; village, signatures required.

Sec. 956. The petitions shall be signed by registered and qualified electors of the village equal in number to 25% of the votes cast for all candidates for village president at the last election, and in case of officials of fractional school districts, by 25% of the number of qualified electors assessed for school taxes.

HISTORY: New 1954, p. 291, Act 116, Eff. Jun. 1, 1955.

168.957 Recall petitions; circulator, qualifications; affidavit, contents; falsification, perjury.

Sec. 957. Each person actually circulating a petition shall be a qualified and registered elector in the electoral district of the official sought to be recalled and shall attach thereto his affidavit stating that he is such a qualified and registered elector and shall state the city or village in which he resides, together with his street address, if any, and, if not a resident of a city or village, the township wherein he resides and his postoffice address; further, that signatures appearing upon said petitions were not obtained through fraud, deceit or misrepresentation and that he has neither caused nor permitted any person to sign said petition more than once and has no knowledge of any person signing said petition more than once; that all signatures to said petition were affixed in his presence; and further, that to the best of his knowledge, information and belief, the signers of said petition are qualified and registered electors and the signatures appearing thereon are the genuine signatures of the persons of whom they purport to be. Any person knowingly making any false statement in the affidavit hereby required shall be deemed guilty of perjury and upon conviction thereof shall suffer the pains and penalties provided therefor by law.

HISTORY: New 1954, p. 291, Act 116, Eff. Jun. 1, 1955.

168.958 Recall petitions; separate circulation in cities and townships.

Sec. 958. Separate petitions shall be circulated in each city and township in the electoral district.

HISTORY: New 1954, p. 291, Act 116, Eff. Jun. 1, 1955.

168.959 Recall petitions for United States and state legislators and elective officers, filing.

Sec. 959. Petitions demanding the recall of United States senators, members of congress, state senators and representatives in the state legislature and elective state officers, except the secretary of state, shall be filed with the secretary of state; petitions for the recall of the secretary of state shall be filed with the governor.

HISTORY: New 1954, p. 291, Act 116, Eff. Jun. 1, 1955.

168.960 Recall petitions for elective county, township, city, village or school officers; filing.

Sec. 960. Petitions demanding the recall of any elective county, township, city, village or school official shall be filed with the clerk thereof, or, if there is no such officer

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in such governmental unit, then with the officer whose duties correspond to those of the clerk; petitions demanding the recall of the clerk or corresponding official shall be filed with the chief executive officer of such unit of government, except that in case it is sought to recall the county clerk, the petitions shall be filed with the presiding or senior judge of probate.

HISTORY: New 1954, p. 292, Act 116, Eff. Jun. 1, 1955.

168.961 Recall petitions; verification of signatures, striking of names.

Sec. 961. Whenever petitions signed as provided in sections 954, 955 or 956 of this act are filed against any officer, the official with whom such petitions are filed shall immediately cause the same to be checked with the registration lists to ascertain whether the signatures to said petitions are those of registered electors as stated therein and, if the official with whom such petitions are filed is not the custodian of the registration lists, then he shall have access to said lists for the purpose of making such check: Provided, That if the electoral district of the officers sought to be recalled is constituted of more than 1 city or township, then before such petitions are filed there shall be attached to the same the certificates of the clerks of the several cities and townships showing that the signers to said petitions are registered and qualified electors of the respective cities and townships. The clerk of each city and township before attaching such certificate shall have authority to strike out the names of all persons who are not registered electors of the city or township.

HISTORY: New 1954, p. 292, Act 116, Eff. Jun. 1, 1955;—Am. 1956, p. 45, Act 37, Imd. Eff. Mar. 28.

168.962 Recall petitions; insufficiency, notice to sponsor.

Sec. 962. If it shall be found that the petitions do not contain the signatures of a sufficient number of qualified and registered electors, then the official with whom such petitions shall be filed shall notify the person or organization sponsoring such recall and additional petitions may be filed within 10 days thereafter: Provided, That it shall not be necessary to give such notification unless the persons or organization sponsoring such recall shall file with the officer with whom such petitions are filed a written notice of such sponsorship and his or its mailing address.

HISTORY: New 1954, p. 292, Act 116, Eff. Jun. 1, 1955.

168.963 Recall petitions; sufficiency, election, time; additional petitions, effect.

Sec. 963. Immediately upon ascertaining that the petitions are sufficient, but in no case later than 30 days from the date of filing of such petitions, the officer with whom such petitions are filed shall call a special election to be held within 35 days after the calling thereof to determine whether the electors will recall the officer whose recall is sought: Provided, That if any general, special or primary election is to be held in the electoral district within 90 days and within such time that the clerk may check the petitions as herein provided, and preparation may be made for the election by election officials as provided by law after the filing of the petitions, then such recall election shall be held on the same date as such general, special or primary election. In the event of filing of additional petitions containing sufficient additional signatures of registered and qualified electors as above provided, then such election shall be called within 10 days after such additional petitions are filed as hereinbefore provided.

HISTORY: New 1954, p. 292, Act 116, Eff. Jun. 1, 1955.

168.964 Recall election; procedure, notice, ballots, supplies.

Sec. 964. The procedure governing the election on the question of the recall of any officer shall be the same, so far as possible and unless otherwise provided in this act, as that by which the officer is elected to office. If the official with whom the petition is filed be not an officer charged with the duty of giving notice of an election concerning the office in question, he shall notify the official or officials upon whom the duty rests

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under the general election laws or the school laws of this state or any city charter, and such official or officials shall proceed to give notice of the election, cause the ballots to be printed, provide election supplies and do all things necessary to conduct the election in the manner herein provided. Fewer precinct election officials than the number required under the general election laws of the state may be assigned to duty if it should appear that the votes to be cast will not necessitate the usual complement thereof.

HISTORY: New 1954, p. 292, Act 116, Eff. Jun. 1, 1955.

168.965 Recall of officer with election duties; appointment of impartial public officer.

Sec. 965. In the event that a petition for the recall of an officer having duties to perform in connection with the election on such question is filed, the official with whom the petition is filed shall appoint some other impartial public officer having knowledge of the election laws involved and such officer thereupon shall discharge the election duties only of the officer sought to be recalled until the result on the question of the recall is finally determined; the public officer so appointed to act shall receive no additional compensation for his services.

HISTORY: New 1954, p. 293, Act 116, Eff. Jun. 1, 1955.

168.966 Recall ballot; contents.

Sec. 966. The recall ballot used at said election shall have printed thereon, in not more than 200 words, the reason or reasons for demanding the recall of said officer as set forth in said petition, and, in not more than 200 words, the officer's justification of his conduct in office. If the statement of reason or reasons set forth in said petition shall contain more than 200 words, then the same shall be condensed by the sponsor of said petition for use on the ballot. If such sponsor shall fail to furnish such condensed statement upon demand, then such statement shall be condensed by the official or officials preparing the ballots. The statement or statements "Vote no on the recall" or "Vote yes on the recall" or words of similar import shall not be permitted on such ballot and no part of the reason or reasons for demanding the recall of said officer or his justification of his conduct in office shall be emphasized by italics, underscoring or in any other manner. There shall be printed on the recall ballot the following question:

Shall (Name the person against whom the recall petition is filed) be recalled from the office of (title of the office)?

Printed below said question in separate lines in easily legible type shall be the words "Yes ☐ " and "No ☐ " or in such form as may be prescribed by the secretary of state.

HISTORY: New 1954, p. 293, Act 116, Eff. Jun. 1, 1955.

168.967 Recall election; payment of expenses.

Sec. 967. The expenses of the recall election shall be payable in the same manner as are the costs of a regular election to fill the office in question.

HISTORY: New 1954, p. 293, Act 116, Eff. Jun. 1, 1955.

168.968 Recall election; certification of result.

Sec. 968. If, upon a canvass of the votes cast upon the question of the recall of such officer, a majority of such votes shall be in favor of such recall, the board of canvassers shall certify such result as soon as may be to the officer with whom the recall petition was filed, and upon said certification said office shall be deemed to be vacant.

HISTORY: New 1954, p. 293, Act 116, Eff. Jun. 1, 1955.

168.969 Further recall petition; filing, condition.

Sec. 969. After filing such recall petition and after such special election, no further recall petition shall be filed against the same incumbent of such office during the term for which he is elected unless such further petitioners shall first pay into the public

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treasury, which has paid such election expenses, the whole amount of election expenses for the preceding special election held for the recall of said incumbent.

HISTORY: New 1954, p. 293, Act 116, Eff. Jun. 1, 1955.

168.970 Recall of officer; vacancy.

Sec. 970. Upon the filing of the certificate of the canvassing board showing the recall of the officer as herein provided, the officer empowered by law to perform the duties of such recalled official, in the event of such officer's absence, death, illness or inability to act, shall perform and discharge the duties of the office so vacated until the successor to fill such vacancy is duly elected and qualified as herein provided or until the vacancy is temporarily filled. Where power to fill a vacancy by appointment exists, then in such case such office shall be filled in the same manner by temporary appointment effective until a successor shall be duly elected and qualified as herein provided, otherwise, the governor of the state may fill such vacancy until said recalled officer's successor is elected and qualified.

HISTORY: New 1954, p. 293, Act 116, Eff. Jun. 1, 1955.

168.971 Recall of officer; election to fill vacancy.

Sec. 971. If the recall was successful, the officer with whom the [sic] the recall petition shall have been filed shall, within 5 days after receiving said certification, call a special election to be held within 45 days for the filling of such vacancy: Provided, That if any primary or election is to be held in such electoral district within 4 months of such certification and at such a time as will permit preparation for the election by election officials as provided by law, the election to fill the vacancy shall be held concurrently therewith. The same provisions made in section 964 for calling and conducting of the special recall election shall govern in the calling and conducting of such second special election, except as otherwise provided in this section.

HISTORY: New 1954, p. 294, Act 116, Eff. Jun. 1, 1955.

168.972 Election to fill vacancy; candidates, nomination by petition.

Sec. 972. Candidates for the office may be nominated and voted for in such special elections by filing with the officer with whom the recall petition has been filed a petition, within 15 days after said special election is called, signed by not less than 3% of the registered and qualified electors of the electoral district, and said candidate so filing said petition shall be considered nominated for said office.

HISTORY: New 1954, p. 294, Act 116, Eff. Jun. 1, 1955.

168.973 Election to fill vacancy; party candidates, nomination.

Sec. 973. Party candidates shall be nominated as follows: In case the vacancy to be filled be in a state office or that of United States senator, the state central committee of each political party shall nominate a candidate therefor; in case such vacancy be in a county office or in a district office within an electoral district of 1 county, the county committee of each political party shall nominate a candidate therefor; in case such vacancy be in a district office within an electoral district less than 1 county, the members of the county committee of each political party residing in such electoral district shall nominate the candidate therefor; if the office to be filled be a district office having an electoral district in more than 1 county, the members of the several county committees of each political party residing in those parts of such counties which are in such district shall nominate a candidate for the office; and if such vacancy be in a ward or township office, the committee of each political party thereof shall nominate a candidate for such office. All nominations by such committee shall be certified to the officer with whom the recall petitions were filed within 15 days after the calling of the special election.

HISTORY: New 1954, p. 294, Act 116, Eff. Jun. 1, 1955.

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168.974 Recalled officer; ineligibility.

Sec. 974. No recalled officer shall be a candidate to fill the vacancy created by his recall nor shall he be appointed to fill such vacancy pending the election of his successor.

HISTORY: New 1954, p. 294, Act 116, Eff. Jun. 1, 1955.

168.975 Candidate deemed elected.

Sec. 975. The candidate receiving the highest number of votes for the vacancy created on such recall should be considered duly elected for the remainder of the term.

HISTORY: New 1954, p. 294, Act 116, Eff. Jun. 1, 1955.

168.976 Recall election; laws governing.

Sec. 976. The laws relating to nominations and elections shall govern all nominations and elections under this act insofar as is not in conflict herewith.

HISTORY: New 1954, p. 294, Act 116, Eff. Jun. 1, 1955.

CHAPTER XXXVII.

REPEALS AND MISCELLANEOUS

168.991 Repeals.

Sec. 991. The following sections and acts and all acts and parts of acts amendatory thereto, and all acts and parts of acts inconsistent with or contravening the provisions of this act, are hereby repealed, namely: Sections 4, 6, 12 and 13 of chapter 15 of the Revised Statutes of 1846, being sections 201.4, 201.6, 201.12 and 201.13, respectively, of the Compiled Laws of 1948; sections 11, 46 and 47 of chapter 16 of the Revised Statutes of 1846, being sections 41.11, 41.46 and 41.47, respectively, of the Compiled Laws of 1948; Act No. 159 of the Public Acts of 1851, being section 201.41 of the Compiled Laws of 1948; Act No. 79 of the Public Acts of 1871, being section 201.81 of the Compiled Laws of 1948; section 28 of Act No. 44 of the Public Acts of 1899, being section 24.28 of the Compiled Laws of 1948; Act No. 325 of the Public Acts of 1913, being sections 201.101 to 201.108, inclusive, of the Compiled Laws of 1948; Act No. 156 of the Public Acts of 1915, being sections 3.1 to 3.4, inclusive, of the Compiled Laws of 1948; section 40 of Act No. 314 of the Public Acts of 1915, being section 602.40 of the Compiled Laws of 1948; Act No. 211 of the Public Acts of 1917, being sections 200.81 to 200.86, inclusive, of the Compiled Laws of 1948; Act No. 3 of the Public Acts of 1919, being sections 200.91 to 200.102, inclusive, of the Compiled Laws of 1948; Act No. 400 of the Public Acts of 1921, being sections 200.31 to 200.44, inclusive, of the Compiled Laws of 1948; sections 2, 3, 4 and 6 of Act No. 199 of the Public Acts of 1923, being sections 201.32, 201.33, 201.34 and 201.36, respectively, of the Compiled Laws of 1948; Act No. 351 of the Public Acts of 1925, being sections 145.1 to 199.1, inclusive, of the Compiled Laws of 1948; Act No. 211 of the Public Acts of 1929, being sections 201.61 to 201.65, inclusive, of the Compiled Laws of 1948; Act No. 265 of the Public Acts of 1931, being sections 551.291 and 551.292 of the Compiled Laws of 1948; section 395 of Act No. 328 of the Public Acts of 1931, being section 750.395 of the Compiled Laws of 1948; Act No. 246 of the Public Acts of 1941, being sections 200.1 to 200.14, inclusive, of the Compiled Laws of 1948; and Act No. 65 of the Public Acts of 1951, being sections 11.131 to 11.134, inclusive, of the Compiled Laws of 1948.

HISTORY: New 1954, p. 295, Act 116, Eff. Jun. 1, 1955.

168.992 Effective date of act.

Sec. 992. This act shall become effective on June 1, 1955.

HISTORY: New 1954, p. 295, Act 116, Eff. Jun. 1, 1955.

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MICHIGAN ELECTION LAW
Act 351 of 1925

171.1-199.1 Repealed.

171.1-199.1 Repealed. 1954, p. 295, Act 116, Eff. Jun. 1, 1955.
Sections related to Michigan Election Law of 1925.

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CHAPTER 200. MISCELLANEOUS ELECTION ACTS

INITIATORY PETITIONS

Act 246 of 1941

200.1-200.14 Repealed.

CONVENTION DELEGATES AND PARTY COMMITTEES

Act 400 of 1921

200.31-200.44 Repealed.

ELECTION DATES FOR 1964

Act 280 of 1964

200.51-200.59 Expired.

VILLAGE OFFICERS, PRIMARY NOMINATION

Act 144 of 1921

200.61 Primary elections for nomination of village officers; referendum on act.
200.62 Village caucus; time, vote by ballot, general election law applicable.
200.63 Separate party ballots; nomination petitions.
200.64 Candidates declared nominees.
200.65 Return to former system of nomination.

CONGRESSMAN, CONTESTED ELECTION

Act 211 of 1917

200.81-200.86 Repealed.

U.S. SENATOR, CONTESTED ELECTION

Act 3 of 1919

200.91-200.102 Repealed.

ORGANIZATIONS FORMED TO INITIATE LEGISLATION

Act 204 of 1923

200.121 Organizations formed to initiate legislation or constitutional amendment; certificate of organization, filing, contents.
200.122 Anonymous contributions; unlawful disbursement.
200.123 Petition for amendment; duty of city, village or township clerk.
200.124 Treasurer's statement; filing, contents.
200.125 Treasurer's statement; failure to file, complaint, duty of prosecutor.
200.126 Blank forms; distribution.
200.127 Unlawful acts; penalty.

CONVENTION, REVISION OF CONSTITUTION

Act 292 of 1947

200.201-200.204 Repealed.

CONSOLIDATION OF PRECINCTS

Act 43 of 1954

200.251 Consolidation of precincts.
200.252 Act supplemental.
200.253 Effective date.

BOARD OF STATE CANVASSERS

Act 239 of 1955

200.301 Board of state canvassers; duties, membership, appointment.
200.302 Board of state canvassers; terms of office.
200.303 Board of state canvassers; qualifications, oath.
200.304 Board of state canvassers; meetings, officers, quorum.
200.305 Board of state canvassers; vacancies.
200.306 Board of state canvassers; expenses.
200.307 Board of state canvassers; expense of services performed by secretary of state.

200.1-200.14 Repealed. 1954, p. 295, Act 116, Eff. Jun. 1, 1955.

Sections regulated initiatory and referendum petitions.

200.31-200.44 Repealed. 1954, p. 295, Act 116, Eff. Jun. 1, 1955.

Sections provided for nomination and election of delegates to political conventions, selection of party committees, and officers, and regulated primaries in counties of not less than 500,000.

200.51-200.59. Expired.

Sections provided for the adjustment of election dates for the year 1964.

Act 144, 1921, p. 305; Eff. Aug. 18.

AN ACT to provide a primary election system for the nomination of village officers.

The People of the State of Michigan enact:

200.61 Primary elections for nomination of village officers; referendum on act.

Sec. 1. The village council of any village in the state, upon petition of 10 per centum of the qualified voters thereof, shall submit the question as to whether said village

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shall come under the provisions of this act and if adopted by a majority vote of the qualified voters participating in said election then this act shall be in force and effect and the nomination of all candidates of all political parties or organizations for village offices shall be conducted as herein provided.

HISTORY: CL 1929, 2966;—CL 1948, 200.61.

200.62 Village caucus; time, vote by ballot, general election law applicable.

Sec. 2. The caucus for such nomination shall be open from 2 o'clock p.m. to 8 o'clock p.m. on the day designated therefor. All votes cast at such caucus shall be by ballot, and all laws applicable to the furnishing of ballots and the depositing, counting, and canvassing of the same, provided by general law for the election of such village officers are hereby made applicable for such caucus: Provided, That the village council may direct that the polls of said caucus be held open from 8 o'clock a.m. until 8 o'clock p.m. on the day designated therefor.

HISTORY: CL 1929, 2967;—CL 1948, 200.62.

200.63 Separate party ballots; nomination petitions.

Sec. 3. There shall be separate ballots for the nomination of candidates for each political party or organization in such village. In order to secure the placing of his or her name upon any ballot it shall be necessary for such candidate to file with the village clerk, not less than 10 days before the date designated for the holding of such caucus, a petition signed by not less than 1 nor more than 4 per centum of the electors of such village as shown by the registration books thereof, asking that his or her name be placed upon such ballot and designating the office and the political party or organization upon whose ballot he or she desires to have such name so placed.

HISTORY: CL 1929, 2968;—CL 1948, 200.63.

200.64 Candidates declared nominees.

Sec. 4. The candidates receiving the highest number of votes on each political party ballot, for the office designated, shall be declared the nominees for such offices of such party at the ensuing annual village election.

HISTORY: CL 1929, 2969;—CL 1948, 200.64.

200.65 Return to former system of nomination.

Sec. 5. Any village adopting the provisions of this act may at any time thereafter return to the system of nominating candidates for office as provided under the general election laws of the state by following the same procedure as provided in this act for adopting the provisions thereof: Provided, That such action to return to the system of nominating candidates under the general election law shall be made only upon a petition signed by 10 per centum of the qualified electors of such village.

HISTORY: CL 1929, 2970;—CL 1948, 200.65.

200.81-200.86 Repealed. 1954, p. 295, Act 116, Eff. Jun. 1, 1955.

Sections provided for preservation of congressional election ballots in cases of contested elections for office of congressman.

200.91-200.102 Repealed. 1954, p. 295, Act 116, Eff. Jun. 1, 1955.

Sections provided for preservation of ballots for U.S. senator in cases of contest or of judicial proceedings instituted preliminary to contesting the election.

Act 204, 1923, p. 316; Eff. Aug. 30.

AN ACT to require committees, clubs and other organizations formed for the purpose of initiating legislation or any constitutional amendment by petition, to file certain reports and to regulate the conduct of such committees, clubs or organizations.

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The People of the State of Michigan enact:

200.121 Organizations formed to initiate legislation or constitutional amendment; certificate of organization, filing, contents.

Sec. 1. It shall be unlawful for any committee, club or other organization to circulate or cause to be circulated, any petition to initiate legislation or for any constitutional amendment without first having filed with the secretary of state a certificate subscribed and sworn to by the secretary and president of such committee, club or other organization, setting forth the purpose of such committee, club or organization and the name and address of each of the officers thereof, and of each of the separate units or branches thereof.

HISTORY: CL 1929, 3326;—CL 1948, 200.121.

200.122 Anonymous contributions; unlawful disbursement.

Sec. 2. It shall be unlawful for any such committee, club or organization to disburse for any purpose any money received from any anonymous source.

HISTORY: CL 1929, 3327;—CL 1948, 200.122.

200.123 Petition for amendment; duty of city, village or township clerk.

Sec. 3. Before any petition for any constitutional amendment shall be filed with the secretary of state it shall be presented to the proper city, village or township clerk or clerks whose duty it shall be to compare the names appearing thereon as being the names of qualified legal voters residing in such clerk's city, village or township with the registration book in his office and to attach to said petition his certificate to the effect that he has made such comparison and that the persons whose names appear thereon are qualified legal voters of his city, village or township, as the case may be, or if the said clerk finds that some of the names appearing thereon are not the names of qualified legal voters of his city, village or township, he shall certify to such fact naming such persons.

HISTORY: CL 1929, 3328;—CL 1948, 200.123.

200.124 Treasurer's statement; filing, contents.

Sec. 4. Within 20 days after the filing of any petition to initiate legislation or for a constitutional amendment, the committee, club or organization having charge of the circulation thereof, shall file with the secretary of state, a full, true and detailed account and statement, subscribed and sworn to by the treasurer thereof, setting forth each and every sum of money received or disbursed by the said committee, club or organization or by any unit or branch thereof, for such purpose, the date of each receipt, the name of the person from whom received or to whom paid, and the object or purpose for which disbursed. Such statement shall also set forth the unpaid debts and obligations, if any, of such committee, club or organization, and of each unit or branch thereof, circulating such petition with the nature and amount of each and to whom owing in detail, and if there are no such unpaid debts or obligations of such committee, club or organization, or of any unit or branch thereof, such statement shall state the fact.

HISTORY: CL 1929, 3329;—CL 1948, 200.124.

200.125 Treasurer's statement; failure to file, complaint, duty of prosecutor.

Sec. 5. Upon the failure of the treasurer of any such committee, club or organization to file such statement within said 20 days, or if any statement filed discloses any violations of this act, the secretary of state shall immediately notify the prosecuting attorney of the county where such violation occurred, and shall furnish him with copies of all papers relating thereto, and said prosecuting attorney shall, on said complaint, or the complaint of any other person, investigate every such offense occurring within his

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county, and if the evidence seems to him to be sufficient, he shall forthwith institute such proceedings as may be appropriate to the facts.

HISTORY: CL 1929, 3330;—CL 1948, 200.125.

200.126 Blank forms; distribution.

Sec. 6. The secretary of state shall furnish to such committees, clubs and other organizations, blanks, in form approved by the attorney general, suitable for the statements hereinbefore required.

HISTORY: CL 1929, 3331;—CL 1948, 200.126.

200.127 Unlawful acts; penalty.

Sec. 7. Every officer or agent of any committee, club or organization which shall incur any illegal expense, or shall make false statements concerning the purpose, scope or effect of any proposed legislation or constitutional amendment, as inducement to secure signatures to any petition to initiate legislation or for a constitutional amendment, or violate any of the provisions of this act shall, upon conviction thereof, be punished by a fine of not more than 1,000 dollars, or by imprisonment for not more than 2 years, or either or both at the discretion of the court.

HISTORY: CL 1929, 3332;—CL 1948, 200.127.

Sec. 8. (This was a severing clause section.)

HISTORY: CL 1929, 3333;—Rep. 1945, p. 413, Act 287, Imd. Eff. May 25.

200.201-200.204 Repealed. 1962, p. 67, Act 81, Eff. Mar. 28, 1963.

Sections provided for submission to electors the question of calling constitutional convention.

Act 43, 1954, p. 51; Eff. Jun. 1, 1955.

AN ACT to consolidate certain election precincts in Leelanau county; and to declare the effect of this act.

The People of the State of Michigan enact:

200.251 Consolidation of precincts.

Sec. 1. Precinct No. 2 of Leland township and Precinct No. 2 of Glen Arbor township of Leelanau county are hereby made a part of Precinct No. 1 of their respective townships for the purpose of this election law. The registration books and other election records of Precinct No. 2 of Leland township, Leelanau county, consisting of North Manitou Island, and of Precinct No. 2 of Glen Arbor township, Leelanau county, consisting of South Manitou Island, shall become a part of the records of Precinct No. 1 of their respective townships. Registered electors of North Manitou Island may vote in Precinct No. 1 of Leland township, Leelanau county, and registered electors of South Manitou Island may vote in Precinct No. 1 of Glen Arbor township, Leelanau county, either in person or by absent voter's ballot.

HISTORY: New 1954, p. 51, Act 43, Eff. Jun. 1, 1955.

200.252 Act supplemental.

Sec. 2. This act is hereby declared to be supplemental to the election law of the state.

HISTORY: New 1954, p. 51, Act 43, Eff. Jun. 1, 1955.

200.253 Effective date.

Sec. 3. This act shall become effective June 1, 1955.

HISTORY: New 1954, p. 51, Act 43, Eff. Jun. 1, 1955.

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Act 239, 1955, p. 382; Imd. Eff. Jun. 22.

AN ACT to create a board of state canvassers, and to prescribe its powers and duties; and to transfer the powers and duties of the bureau of elections thereto.

The People of the State of Michigan enact:

200.301 Board of state canvassers; duties, membership, appointment.

Sec. 1. A board of state canvassers as provided in section 7 of article 2 of the state constitution is hereby established. Such board shall determine the result of all elections for governor, lieutenant governor, state officers and such other officers as shall by law be referred to them, and shall perform such other duties as are or may hereafter be prescribed by law. Such board shall consist of 4 members appointed by the governor by and with the advice and consent of the senate. Two members shall be appointed from each of the 2 political parties casting the greatest number of votes for secretary of state for each general November election. Such parties are designated as the major political parties for purposes of this act. The state central committee of each of such parties shall, not later than the fifth day following the effective date of this act and not later than the tenth day of January in the year 1957 and the tenth day of January in each odd numbered year thereafter, submit to the governor the names of 3 persons for each position to which such party is entitled and the governor shall, within 10 days after such names shall have been submitted to him, appoint to each such position 1 of the 3 persons so nominated for that position.

HISTORY: New 1955, p. 382, Act 239, Imd. Eff. Jun. 22;—Am. 1963, 2nd Ex. Ses., p. 22, Act 12, Imd. Eff. Dec. 27.

200.302 Board of state canvassers; terms of office.

Sec. 2. Members of the board shall be appointed for terms of 4 years each subject to the limitations set forth in section 7 of article 2 of the constitution.

HISTORY: New 1955, p. 382, Act 239, Imd. Eff. Jun. 22;—Am. 1963, 2nd Ex. Ses., p. 22, Act 12, Imd. Eff. Dec. 27.

200.303 Board of state canvassers; qualifications, oath.

Sec. 3. Members of the board shall be qualified electors of this state. Such persons shall take and subscribe to the constitutional oath of office and shall hold office until appointment and qualification of their successors.

HISTORY: New 1955, p. 382, Act 239, Imd. Eff. Jun. 22.

200.304 Board of state canvassers; meetings, officers, quorum.

Sec. 4. The board shall meet as necessary to transact its business and in February in each odd numbered year shall elect from its members a chairman and vice-chairman. Any 3 members will constitute a quorum but no action shall become effective unless at least 1 member appointed from each major political party shall concur therein.

HISTORY: New 1955, p. 382, Act 239, Imd. Eff. Jun. 22;—Am. 1957, p. 285, Act 225, Eff. Sep. 27.

200.305 Board of state canvassers; vacancies.

Sec. 5. Whenever a vacancy shall occur in the membership of the board, other than a vacancy caused by the expiration of a term, the state central committee of the party entitled to fill the vacancy shall, within 10 days after such vacancy shall occur, nominate 3 persons for such vacancy and submit such list of nominees to the governor, and the governor shall appoint by and with the advice and consent of the senate 1 of the persons so nominated, within 30 days from the time such vacancy shall have occurred, to serve the balance of the unexpired term.

HISTORY: New 1955, p. 383, Act 239, Imd. Eff. Jun. 22.

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200.306 Board of state canvassers; expenses.

Sec. 6. The members of the board of state canvassers shall be entitled to actual and necessary expenses incurred in the performance of their official duties and shall receive no other compensation for such services.

HISTORY: New 1955, p. 383, Act 239, Imd. Eff. Jun. 22.

200.307 Board of state canvassers; expense of services performed by secretary of state.

Sec. 7. Any other provisions of law to the contrary notwithstanding, when authorized jointly by the secretary of state and the board of state canvassers, all expenses incurred for services performed by the office of the secretary of state for the board of state canvassers shall be charged against funds appropriated to the board of state canvassers and credited to the secretary of state.

HISTORY: Add. 1957, p. 285, Act 225, Eff. Sep. 27.

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CHAPTER 201. VACANCIES IN OFFICE

RESIGNATIONS, VACANCIES AND REMOVALS

Ch. 15, R.S. 1846

RESIGNATIONS

201.1 Resignation from public office; to whom made.
201.2 Resignation from public office; statement filed with secretary of state.

VACANCIES

201.3 Vacancies; creation.

REMOVALS FROM OFFICE

201.4 Repealed.
201.5 Vacancy appointee, removal by governor.
201.6 Repealed.
201.7 Inquiry by attorney general or prosecutor; procedure; compensation of nonresident probate judge.
Endorsement of witnesses on charges.
Grand jury testimony.
201.8 Subpoenas; issuance, enforcement, witness fees.
201.9 Subpoenas; accused entitled to.
201.10 Testimony; transcript, summary transmitted to governor and accused; fees.
201.11 Charges against prosecuting attorney; investigation, procedure.
201.12, 201.13 Repealed.

SUPPLYING VACANCIES

201.14 Governor may fill certain vacancies during recess of legislature, term.
201.15 Vacancies in certain county offices; temporary appointment.
201.16 Oaths and bonds of appointees.
201.17 Officers appointed by governor during recess, term.

FILLING OF VACANCIES

Act 199 of 1923

201.31 Vacancies in office; state officers; appointment by governor, term.
201.32-201.34 Repealed.
201.35 Vacancies in office; county officers; appointment, term.
201.36 Repealed.
201.37 Vacancies in office; village or city officers; filling.

VACANCIES IN CERTAIN STATE OFFICES

Act 159 of 1851

201.41 Repealed.

VACANCIES IN OFFICE OF JUSTICE OF PEACE

Act 76 of 1917

201.51 Vacancy in office of justice of the peace; appointment, term.
201.52 Designation of substitute municipal judges or justice.

ADDITIONAL JUSTICES OF PEACE

Act 211 of 1929

201.61-201.65 Repealed.

REMOVAL FOR DRUNKENNESS

Act 79 of 1871

201.81 Repealed.

NOTICES OF VACANCIES IN PUBLIC OFFICES

Act 190 of 1879

201.91 Vacancies; notice to appointing officer or body, to auditor general.

RECALL OF CERTAIN ELECTIVE OFFICERS

Act 325 of 1913

201.101-201.108 Repealed.

R.S. 1846, Ch. 15.

Resignations, Vacancies and Removals, and Supplying Vacancies.

RESIGNATIONS.

201.1 Resignation from public office; to whom made.

Sec. 1. Resignations shall be made as follows:

1. By officers appointed by the governor alone, or by the governor by and with the advice and consent of the senate, or both branches of the legislature, to the governor;

2. By all other officers holding their offices by appointment, and not by election, to the body, board, or officer that appointed them;

3. By all other officers holding their offices by election, to the governor, if the governor is authorized to fill the vacancy created by the resignation.

HISTORY: CL 1857, 473;—CL 1871, 615;—How. 647;—CL 1897, 1153;—CL 1915, 239;—CL 1929, 3348;—CL 1948, 201.1;—Am. 1954, p. 48, Act 40, Eff. Jun. 1, 1955;—Am. 1957, p. 244, Act 194, Eff. Sep. 27.

201.2 Resignation from public office; statement filed with secretary of state.

Sec. 2. It shall be the duty of all officers, bodies, or boards to whom the resignation of any office contemplated in the last preceding section, is authorized to be made, or

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who are authorized to fill any vacancy in any of said offices, or to order a special election therefor, when duly informed of the existence of such vacancy, to cause to be filed in the office of the secretary of state, a statement of the occurrence, with the date and cause of such vacancy.

HISTORY: CL 1857, 474;—CL 1871, 616;—How. 648;—CL 1897, 1154;—CL 1915, 240;—CL 1929, 3349;—CL 1948, 201.2.

VACANCIES.

201.3 Vacancies; creation.

Sec. 3. Every office shall become vacant, on the happening of any of the following events, before the expiration of the term of such office:

1. The death of the incumbent;

2. His resignation;

3. His removal from office;

4. His ceasing to be an inhabitant of this state; or, if the office be local, of the district, county, township, city, or village, for which he shall have been appointed, or within which the duties of his office are required to be discharged;

5. His conviction of any infamous crime, or of any offense involving a violation of his oath of office;

6. The decision of a competent tribunal, declaring void his appointment, or,

7. His refusal or neglect to take his oath of office, or to give, or renew any official bond, or to deposit such oath, or bond, in the manner and within the time prescribed by law.

HISTORY: Am. 1851, p. 278, Act 172, Imd. Eff. Jun. 27;—CL 1857, 475;—CL 1871, 617;—How. 649;—CL 1897, 1155;—CL 1915, 241;—CL 1929, 3350;—CL 1948, 201.3;—Am. 1954, p. 48, Act 40, Eff. Jun. 1, 1955.

REMOVALS FROM OFFICE.

201.4 Repealed. 1954, p. 295, Act 116, Eff. Jun. 1, 1955.

Section enumerated grounds for removal of certain officers.

201.5 Vacancy appointee, removal by governor.

Sec. 5. All officers who are or shall be appointed by the governor to fill a vacancy which shall have existed during the recess of the legislature, may be removed by the governor.

HISTORY: CL 1857, 477;—CL 1871, 619;—How. 652;—CL 1897, 1158;—CL 1915, 244;—CL 1929, 3352;—CL 1948, 201.5.

This section as originally enacted was numbered section 6.

201.6 Repealed. 1954, p. 295, Act 116, Eff. Jun. 1, 1955.

Section provided procedure for removal by governor of municipal officers.

201.7 Inquiry by attorney general or prosecutor; procedure; compensation of nonresident probate judge.

Sec. 7. The governor may direct the attorney general or the prosecuting attorney of the county in which such officer may be, unless such prosecuting attorney be the officer charged, to conduct an inquiry into the charges made, and the said attorney general or such prosecuting attorney shall thereupon give at least 8 days' notice to the officer accused of the time and place at which he will proceed to the examination of witnesses in relation to such charges before some circuit court commissioner or judge of probate for the same county, or any judge of probate who may be appointed by the governor for such purpose, and he shall also, at the time of giving such notice, serve upon the officer accused a copy of such charges. If the judge of probate so appointed resides other than in the county in which the accused resides, such judge of probate shall be paid by such county the sum of $10.00 per day and expenses for time actually used in such hearing.

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Endorsement of witnesses on charges.

Upon application of the accused officer, the commissioner or probate judge shall require the endorsement of witnesses on the charges in the same manner and subject to the same rules of law as is required in criminal cases.

Grand jury testimony.

In proceedings under this act originated by complaint filed by a grand juror acting pursuant to section 4 of chapter 7 of Act No. 175 of the Public Acts of 1927, as amended, being section 767.4 of the Compiled Laws of 1948, the testimony of a witness before the grand juror, if he is also a witness in the removal proceedings, shall be made available for the purpose of determining whether it is consistent with or different from the testimony before the grand juror. The commissioner or probate judge shall make a preliminary examination of the testimony given by the witness before the grand juror and shall limit the availability thereof to those portions relevant to the removal proceeding.

HISTORY: Am. 1853, p. 17, Act 19, Imd. Eff. Jan. 29;—CL 1857, 479;—Am. 1871, p. 77, Act 63, Eff. July 18;—CL 1871, 621;—How. 654;—CL 1897, 1160;—CL 1915, 246;—Am. 1923, p. 11, Act 8, Eff. Aug. 30;—CL 1929, 3354;—CL 1948, 201.7;—Am. 1960, p. 210, Act 145, Eff. Aug. 7.

This section as originally enacted was numbered section 8.

201.8 Subpoenas; issuance, enforcement, witness fees.

Sec. 8. The attorney general or prosecuting attorney may issue subpoenas, signed by him with his name of office, to compel the attendance of any witness whom he shall deem material, before said circuit court commissioner or judge of probate, and such commissioner or judge of probate shall have the same power to enforce obedience to such subpoena by attachment, and to commit any person who shall refuse to be sworn or to answer, as the circuit court would have in a civil cause pending therein, and the fees of such witnesses shall be the same as in civil cases, and shall be a charge against the county.

HISTORY: CL 1857, 480;—Am. 1871, p. 78, Act 63, Eff. July 18;—CL 1871, 622;—Am. 1879, p. 222, Act 243, Eff. Aug. 30;—How. 655;—CL 1897, 1161;—CL 1915, 247;—CL 1929, 3355;—CL 1948, 201.8.

This section as originally enacted was numbered section 9.

201.9 Subpoenas; accused entitled to.

Sec. 9. On the application of the officer accused to the prosecuting attorney, or to any justice of the peace, he shall be entitled to the like process of subpoena, obedience to which may be enforced in the same manner as provided in the last preceding section by the commissioner, or judge of probate, before whom the witness may be conducted.

HISTORY: CL 1857, 481;—Am. 1871, p. 78, Act. 63, Eff. July 18;—CL 1871, 623;—How. 656;—CL 1897, 1162;—CL 1915, 248;—CL 1929, 3356;—CL 1948, 201.9.

This section as originally enacted was numbered section 10.

201.10 Testimony; transcript, summary transmitted to governor and accused; fees.

Sec. 10. At the time and place there specified in the notice, the commissioner or judge of probate, before whom such inquiry shall be conducted, shall proceed to take the testimony of the witnesses produced before him by the attorney general or prosecuting attorney and by the officer accused, which witnesses shall be sworn by such commissioner or judge of probate and every answer given by them to any question, which either party shall require to be reduced to writing, shall be taken stenographically or in writing under the direction of such commissioner or judge of probate, and such testimony shall be certified by the commissioner or judge of probate, taking the same to be a correct transcript of all of the testimony so taken in said hearing. The commissioner or judge of probate shall observe the rules of evidence as are followed in chancery cases and shall have authority to rule on questions of procedural law. He may authorize the taking of depositions in the same manner as is provided for civil

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cases. Such testimony so taken and certified shall be delivered by said commissioner or judge of probate to such prosecuting attorney or attorney general, who shall transmit the same with a summary of such testimony to the governor, and the fees of the commissioner or other officer for the performance of such services shall be a charge against the county. If requested by the accused officer prior to the close of taking testimony, a copy of the summary shall be transmitted to him at the same time it is transmitted to the governor. The accused officer shall then be permitted to examine the transcript of testimony furnished to the governor and to prepare his own summary thereof and deliver it to the governor, with a copy to the prosecuting attorney or attorney general, not later than 15 days after the original summary was transmitted to the governor.

HISTORY: Am. 1853, p. 18, Act 19, Imd. Eff. Jan. 29;—CL 1857, 482;—Am. 1871, p. 78, Act 63, Eff. July 18;—CL 1871, 624;—Am. 1879, p. 223, Act 243, Eff. Aug. 30;—Am. 1883, p. 19, Act 27, Eff. Sept. 8;—How. 657;—CL 1897, 1163;—CL 1915, 249;—Am. 1923, p. 12, Act 8, Eff. Aug. 30;—CL 1929, 3357;—CL 1948, 201.10;—Am. 1960, p. 210, Act 145, Eff. Aug. 17.

This section as originally enacted was numbered section 11.

201.11 Charges against prosecuting attorney; investigation, procedure.

Sec. 11. Whenever charges shall be made against any prosecuting attorney as provided in section 7 (6) of this chapter, the governor shall direct the attorney general, or the prosecuting attorney of some county adjoining that in which the accused resides, or some other attorney at law, to conduct the inquiry into such charges, and such officer or attorney, when so directed, shall have and exercise the same powers to conduct such inquiry, and shall proceed therein in the same manner, as the prosecuting attorney of the proper county is authorized and required to do in other cases.

HISTORY: CL 1857, 483;—CL 1871, 625;—How. 658;—CL 1897, 1164;—CL 1915, 250;—CL 1929, 3358;—CL 1948, 201.11.

This section as originally enacted was numbered section 12.

The reference in parenthesis is the proper reference due to the renumbering of sections.

201.12, 201.13 Repealed. 1954, p. 295, Act 116, Eff. Jun. 1, 1955.

Sections provided for removal of county clerks and for declaration by governor of vacancies.

SUPPLYING VACANCIES.

201.14 Governor may fill certain vacancies during recess of legislature, term.

Sec. 14. When during the recess of the legislature there shall be in either of the offices to be appointed by the governor alone or by the governor, by and with the advice and consent of the senate, or of both branches of the legislature, or by the legislature without the concurrence of the governor no officer duly authorized to execute the duties thereof, some suitable person may be selected and appointed by the governor to perform the duties of either of said officers for the time being, and when during the recess of the legislature the term of office of any officer appointed by the governor alone, or by the governor with the advice and consent of the senate or of both branches of the legislature, or by the legislature, without the concurrence of the governor shall expire, the governor shall have power to appoint some suitable person to such office, and such person shall hold such office unless sooner removed by competent authority, until the close of the next session of the legislature or until his successor is appointed, or elected and qualified.

HISTORY: Am. 1851, p. 279, Act 172, Imd. Eff. June 27;—CL 1857, 486;—CL 1871, 628;—How. 662;—CL 1897, 1168;—CL 1915, 254;—CL 1929, 3361;—CL 1948, 201.14.

This section as originally enacted was numbered section 15.

201.15 Vacancies in certain county offices; temporary appointment.

Sec. 15. When at any time there shall be in either of the offices of county clerk or prosecuting attorney, no officer duly authorized to execute the duties thereof, the judge of the circuit court of the circuit in which the county where such vacancy exists shall be situated may appoint some suitable person to perform the duties of either of

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said officers for the time being; and when at any time there shall be in either of the offices of sheriff, coroner, register of deeds or county surveyor, no officer duly authorized to execute the duties thereof some suitable person may be appointed by the county clerk and prosecuting attorney of the county to perform the duties of either of said offices for the time being.

HISTORY: Am. 1851, p. 279, Act 172, Imd. Eff. June 27;—CL 1857, 487;—CL 1871, 629;—How. 663;—CL 1897, 1169;—CL 1915, 255;—CL 1929, 3362;—CL 1948, 201.15.

This section as originally enacted was numbered section 16.

VACANCY: For a similar provision, see Compilers' § 201.14.

201.16 Oaths and bonds of appointees.

Sec. 16. Each of the persons appointed in pursuance of either of the 2 last preceding sections, shall before proceeding to execute the duties assigned him, comply with such conditions and directions as shall be prescribed and given relative to oaths and bonds, by the officer or officers appointing him as aforesaid.

HISTORY: CL 1857, 488;—CL 1871, 630;—How. 664;—CL 1897, 1170;—CL 1915, 256;—CL 1929, 3363;—CL 1948, 201.16.

This section as originally enacted was numbered section 17.

201.17 Officers appointed by governor during recess, term.

Sec. 17. All officers appointed by the governor during the recess of the legislature, shall continue to exercise the duties of their respective offices, until the close of the next succeeding session, unless others shall be appointed in their stead by competent authority, and shall have entered upon the discharge of their respective duties.

HISTORY: CL 1857, 489;—CL 1871, 631;—How. 665;—CL 1897, 1171;—CL 1915, 257;—CL 1929, 3364;—CL 1948, 201.17.

This section as originally enacted was numbered section 18.

Act 199, 1923, p. 310; Eff. Aug. 30.

AN ACT to provide for the filling of vacancies in appointive and elective public offices.

The People of the State of Michigan enact:

201.31 Vacancies in office; state officers; appointment by governor, term.

Sec. 1. Whenever a vacancy shall occur in any elective or appointive state office, other than the office of senator or representative in the state legislature or representative or senator in congress or a judge of a court of record, the governor shall fill such vacancy by appointment for the remainder of the unexpired term of such office.

HISTORY: CL 1929, 3365;—CL 1948, 201.31.

FORMER LAW: This act supersedes Ch. IV of Act 203 of 1917 which however was not expressly repealed by this act. Sec. 4 of Ch. IV was amended by Act 12 of 1921, and Act 203 of 1917 was repealed by Act 351 of 1925.

201.32-201.34 Repealed. 1954, p. 295, Act 116, Eff. Jun. 1, 1955.

Sections provided for filling of vacancies in certain public offices.

201.35 Vacancies in office; county officers; appointment, term.

Sec. 5. When a vacancy shall occur in an elective or appointive county office, it shall be filled in the following manner:

1. If the vacancy shall be in the office of county clerk or prosecuting attorney it shall be filled by appointment by the judge or judges of that judicial circuit and the person appointed shall hold office for the remainder of the unexpired term.

2. If the vacancy shall be in any other county office, either elective or appointive, the judge of probate, the county clerk and the prosecuting attorney shall appoint some suitable person to fill such vacancy and the person so appointed shall hold such office for the remainder of the unexpired term.

HISTORY: CL 1929, 3366;—CL 1948, 201.35.

COUNTY OFFICES: Vacancy, in office of register of deeds, see Compilers' § 53.93; in office of county road commissioner, see Compilers' § 224.8.

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201.36 Repealed. 1954, p. 295, Act 116, Eff. Jun. 1, 1955.
Section provided for manner of filling vacancies in township offices.

201.37 Vacancies in office; village or city officers; filling.

Sec. 7. Whenever a vacancy shall occur in an elective or appointive village or city office, it shall be filled in the manner provided by the law or charter governing the filling of vacancies in the village or city in which the vacancy occurs.

HISTORY: CL 1929, 3371;—CL 1948, 201.37.
VILLAGE OFFICES: As to manner of filling vacancies in, see Compilers' § 62.13.
CITY OFFICES: As to manner of filling vacancies in fourth class cities, see Compilers' § 85.17.

201.41 Repealed. 1954, p. 295, Act 116, Eff. Jun. 1, 1955.
Section prescribed manner of filling vacancies in certain state offices.

Act 76, 1917, p. 143; Imd. Eff. Apr. 17.

AN ACT to authorize township boards of townships and legislative bodies of cities to fill vacancies in the office of justice of the peace; and to provide for designation of substitute municipal judges and justices of the peace. Am. 1945, p. 92, Act 96, Imd. Eff. Apr. 16.

The People of the State of Michigan enact:

201.51 Vacancy in office of justice of the peace; appointment, term.

Sec. 1. Whenever a vacancy shall occur, by reason of death, resignation, removal or otherwise, in the office of justice of the peace in this state, the township board of the township or the legislative body of the city shall be empowered to fill such vacancy and such appointee shall hold office by virtue of such appointment only until the next succeeding township or city election.

HISTORY: CL 1929, 3372;—CL 1948, 201.51.
VACANCIES: For filling vacancies in city and township offices, see Compilers' §§ 85.17 and 201.37.

201.52 Designation of substitute municipal judges or justice.

Sec. 2. When the judge of the municipal court or the justice of the peace in any city having only 1 municipal judge or justice of the peace, who is paid a salary in lieu of fees, is unable to perform the duties of his office by reason of illness or absence from the city, said judge, justice of the peace, or his chief clerk may designate any other justice of the peace or municipal judge of the same county to sit in the court of the municipal judge or justice of the peace who is absent or ill: Provided, That no justice of the peace or municipal judge shall be so designated unless qualified under the provisions of the city charter. The judge or justice of the peace so designated shall perform the duties and exercise all of the powers of the municipal judge or justice of the peace in whose court he is sitting during such absence or illness and his compensation shall be in the same amount and payable from the same fund as that paid to such absent or incapacitated judge.

HISTORY: Add. 1945, p. 92, Act 96, Imd. Eff. April 16;—CL 1948, 201.52.

201.61-201.65 Repealed. 1954, p. 295, Act 116, Eff. Jun. 1, 1955.
Sections provided for appointment or election of additional justices of the peace in certain cases.

201.81 Repealed. 1954, p. 295, Act 116, Eff. Jun. 1, 1955.
Section provided for removal from public office for drunkenness.

Act 190, 1879, p. 176; Eff. Aug. 30.

AN ACT in relation to removals from and filling vacancies in certain public offices. Am. 1915, p. 251, Act 149, Eff. Aug. 24.

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The People of the State of Michigan enact:

201.91 Vacancies; notice to appointing officer or body, to auditor general.

Sec. 1. That in case a vacancy shall occur in any public office, which vacancy may be filled by appointment by the governor or otherwise, notice of such vacancy and of the facts why the same exists, shall within 10 days after such vacancy shall occur, be given in writing to the officer, board or body, having power to fill such vacancy by appointment. Such notice shall be given as follows; If such vacancy shall be in any county office, excepting county clerk, by the clerk of the county wherein the same shall occur; if in the office of the circuit judge or judges or recorders of said city courts, by the clerk of the county wherein such officer may reside at the time the vacancy shall occur; if in the office of county clerk of any county, by the judge of probate of the same county; if in the office of secretary of state, by the state treasurer; and in all other cases by the secretary of state. In all cases where a vacancy may occur in an office the salary of the incumbent of which shall be paid in whole or part from the state treasury, the officer, board or body having the appointing power shall immediately after receiving notice of such vacancy notify the auditor general of such vacancy.

HISTORY: How. 650;—CL 1897, 1156;—CL 1915, 242;—CL 1929, 3380;—CL 1948, 201.91.

201.101-201.108 Repealed. 1954, p. 295, Act 116, Eff. Jun. 1, 1955.

Sections provided for recall of certain elective officers and for election to fill vacancy.

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CHAPTER 205. TAXATION—REVENUE DEPARTMENT

REVENUE DIVISION OF DEPARTMENT OF TREASURY

Act 122 of 1941

205.1 Revenue division of the department of treasury of the state; creation.
205.2 Commissioner of revenue; appointment, qualifications; deputies.
205.3 State commissioner of revenue; powers and duties; testimony, taking; procedure.
205.3a State commissioner of revenue; tax payment; demand, levy and sale; bids.
205.4 Repealed.
205.5 Repealed.
205.6 Repealed.
205.6a Compromise of tax liability.
205.7 State board of tax appeals; appeals, procedure, costs.
205.8 State board of tax appeals; members, appointment; term, salary.
205.9 State board of tax appeals; procedure following decision.
205.10 Repealed.
205.11 State revenue receipts, reports; divulgence of information by employees prohibited.
205.12 Official seal of department.
205.13 Administration of laws transferred to department of revenue.
205.14 Repealed.
205.15 Repealed.
205.16 Repealed.
205.17 Office space; branch offices; approval of board of state auditors.

COLLECTION OF MOTOR FUEL TAXES

Act 15 of 1959

205.41 Motor fuel taxes; collection transferred to department of revenue.
205.42 Motor fuel taxes; statutes.
205.43 Motor fuel taxes; transfer of staff, records, files and property.
205.44 Motor fuel taxes; hearings, orders, rules and regulations.
205.45 Motor fuel taxes; transfer of appropriations.
205.46 Continuance of services and functions.
205.47 Effective date of act.

GENERAL SALES TAX ACT

Act 167 of 1933

205.51 General sales tax act; definitions.
205.52 Sales tax; rate.
Separate accounting practices; penalty.
205.53 Sales taxpayer; license; bond or deposit; industrial processor, agricultural producer.
205.54 Deductions.
205.54a Deductible sales.
Schools, hospitals and certain nonprofit institutions; statement.
Churches; exceptions.
School books and food by nonprofit schools.
Nonprofit hospital or housing real estate improvements.
Commercial vessels, supplies and repairs.
Agricultural production; statement; exception.
Industrial processing; exclusions.
Newspapers, periodicals and films; exception.
Radio and television films, tapes and recordings.
Specially registered vehicles.
Artificial limbs or eyes.
Communication service equipment.
205.54b Deductible sales of gasoline; statement of transferee.
205.54c Exemptions of property affixed to real estate under certain contracts.
205.54d Tax exemption for existing contracts.
205.54e Sales of vehicles to servicemen; exemption.
205.55 Additional tax.
205.56 Tax; due date, return, signature.
Return and payment on other than monthly period.
205.57 Annual returns, contents, reconciliation with federal income tax return, exception; goods withdrawn for personal use; additional information; return prepared by other than taxpayer.
205.58 Consolidated returns.
205.59 Sales tax returns; examination, recomputation; deficiency assessments, penalties, interest; limitation of action; assignment; fraudulent concealment.
205.60 Remittances; ultimate payment in cash.
205.61 Failure to make return; assessment of tax; penalty.
205.62 Collection of sales tax due state; warrant; suit.
205.63 Tax lien; priority; sale of business, liability of purchaser.
205.64 Jeopardy assessment.
205.65 Corporation; dissolution, withdrawal.
205.66 Injunction for failure to pay tax or obtain license.
205.66a Duty of assessing officers.
205.67 Records, taxpayer to keep; sale for resale; sales to unlicensed person; records, retention; violations.
205.68 Records; examination; witnesses; enforcement.
205.69 Testimony; incriminating answers; immunity.
205.70 Reports; statistics; confidential information.
205.72 Hearing; appeal; correction of assessment; injunction.
205.73 Advertisement; reimbursement of taxpayer; brackets.
205.74 Offenses; penalties; suspension of licenses.
205.75 Sales tax revenues; collection costs; distribution, appropriated.
205.76 Repealed.
205.78 Short title; general sales tax act.

USE TAX ACT

Act 94 of 1937

205.91 Use tax act; short title.
205.92 Use tax act; definitions.

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205.93 Rate; presumption.
Motor vehicles, aircraft, transfer, exceptions.
Nontaxable transfers.
Services, information, or records furnished department of revenue.
205.93a Tax for use or consumption; services.
Telephone, telegraph, leased wire communications.
Lodging, definition, exception.
205.94 Use tax; exemptions.
Sales tax paid.
Constitutional prohibitions.
Driver training cars; demonstrators.
Nonresident's property.
Property taxed in other jurisdictions; reciprocity.
Agricultural production.
Industrial processing; exclusions.
Sales to United States, Red Cross, state or political subdivisions.
Schools, hospitals and certain nonprofit institutions.
Churches; exceptions.
Commercial vessels, supplies and repairs.
Nonprofit hospital or housing real estate improvements.
Out of state purchases.
Newspapers, periodicals and films; exceptions.
Radio and television films, tapes or recordings.
Automobile purchased by resident military personnel.
Specially registered vehicles.
Artificial limbs or eyes.
Water.
Communication service equipment.
205.94a Exemptions of property affixed to real estate under certain contracts.
205.94b Exemptions of property affixed to real estate under certain contracts.
205.94c Tax exemption for existing contracts.
205.95 Registration requirements; seller to collect tax from consumer.
Foreign corporation; certificate of authority to do business.
Corporations; dissolution, withdrawal.
205.96 Returns; contents; payment.
Return and payment on other than monthly period.
205.97 Liability of consumer for tax.
205.98 Remittances; ultimate payment in cash.
205.99 Personal liability of seller for failure to collect tax.
205.100 Returns; examination, recomputation, deficiency assessments, penalties, interest; limitation of action; assignment; fraudulent concealment.
205.101 Assessment, date due and payable; petition objecting, hearing.
205.101a Lien, extent, priority.
205.102 Demand on taxpayer for payment; warrant, sale of property, state bid; action to recover.
205.103 Member or employee of department; divulgence of facts or information; exception.
205.104 Inventory and records kept, time period; contents; sale to unlicensed person; return; assessment; burden of proof upon taxpayer.
205.105 Failing to register; penalty.
205.106 Seller's failure to comply with act; penalty.
205.107 Failure to make return; penalty.
205.108 Consumer's failure to comply with act; making false statement; penalty.
205.109 General violations; penalty.
205.110 Jeopardy assessment; warrant.
205.111 Deposit of receipts; appropriation.

INTANGIBLE PERSONAL PROPERTY, TAXATION

Act 301 of 1939

205.131 Intangible personal property taxes; definitions.
205.132 Intangible taxes; rate on accounts and notes receivable, deposits, building and loan association shares.
Face value, determination, retroactive date, true average.
Death or change of domicile of taxpayer, effect.
Exemption from general property tax.
205.132a Repealed.
205.133 Deductions and exemptions.
205.133a Tax; payment by bank or building and loan association; computation, declaration, payment.
205.134 Annual return; payment of tax, extension of time.
Property of others held for investment, reinvestment, return.
205.134a Trustees or agents; information return.
205.135 Examination of returns; determination of tax; refund of excess amount; deficiency assessments.
205.136 Remittances; lien against owner.
Bank deposits; stock of bank or trust company; distribution.
Distribution to county treasurers; to cities, townships and villages; uses.
205.137 Failure to make return or pay tax; penalty, interest.
205.138 Collection of tax; demand; failure to pay, action.
205.139 Jeopardy assessment.
205.139a Corporations; dissolution, withdrawal.
205.140 Taxpayers' records and special returns.
205.141 Examination of records and witnesses; subpoena.
205.142 Department of revenue; powers and duties, reports, confidential information.
Property factor.
Payroll factor.
Sales factor.
Alternative methods.
Staff and expenses; confidential information.

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Alternative methods.
Staff and expenses; confidential information.
Enforcement of proceedings.
205.143 Deficiency assessment; notice and hearing; payment and action by taxpayer to recover; injunction.
205.143a Closing agreements; conclusive except for fraud.
205.144 Offenses; penalty.
205.146 Catchline headings not part of act.
205.147 Severing clause.

TAXATION OF INHERITANCES

Act 188 of 1899

205.201 Inheritance taxes; transfers taxable.
Residents.
Nonresidents.
Transfer in contemplation of death, presumption.
Power of appointment.
Personal property, exemption, reciprocity.
Trusteed insurance payments; unincorporated foundation, cy pres winding up.
Exempt foreign benevolent, charitable, religious, or educational corporations, reciprocity.
Effective date of exemption, refund.
205.201a Death taxes of estates of non-resident decedents; executor or administrator, duties; definitions.
Filing of proof.
Notice of domiciliary state.
Allowance of final account, conditions.
Applicability of act.
Liberal construction.

EXCEPTIONS AND LIMITATIONS

205.202 Tax on certain transfers of property; exemptions; adopted children; transfer to husband or wife.
Same; tax rate on excess; widow's allowance.
Tax rate.
205.202b Additional inheritance tax.

LIEN OF TAX AND PAYMENT THEREOF

205.203 Tax lien; executor, personal liability; duties of officers; prerequisite to discharge of executor; due date.
Same; enforcement proceedings; parties to action.
Information, contents.
Evidence of determination of tax and nonpayment.
Service of process.
Same; on infant and incompetents.
Guardian ad litem.
Taxes unpaid; decree for sale; redemption.
Sale of property, court order.
Same; publication.
Same; report of sale.
Deeds; execution, contents, recording, when operative, title conveyed.
Proceeds of sale; redemption money; disposition.
Fees.
205.203a Application of statute of limitations.

DISCOUNT, INTEREST AND PENALTY

205.204 Payment of tax, discount; interest on nonpayment.

COLLECTION OF TAX BY EXECUTORS, ADMINISTRATORS AND TRUSTEES

205.205 Sale of property of estate to pay tax; collection from devisee; legacy not delivered until tax paid; money legacy.

REFUND OF TAX ERRONEOUSLY PAID

205.206 Tax refund.

DEFERRED PAYMENT

205.207 Election to make deferred payments; bond.

TAXES UPON DEVISES AND BEQUESTS IN LIEU OF COMMISSIONS

205.208 Bequest to executors or trustees subject to tax.

LIABILITY OF CERTAIN CORPORATIONS TO TAX

205.209 Notice to county treasurer of delivery of property of resident decedent; joint property excepted; treasurer to inventory.
205.209a Nonresident decedent; waiver of tax; notice to treasurer, delivery to personal representative.
205.209b Safe deposit box; opening in presence of treasurer, notice, inventory, fee, mileage; nonresident decedent; right of joint lessee.
205.209c Liability of safe deposit box lessor for delivery of property or access to box in violation of act.
205.209d Repealed.
205.209e Notice to department of revenue; waiver.
205.209f Notice to department of revenue; service in lieu of notice to county treasurer.

JURISDICTION OF THE PROBATE COURT

205.210 Inheritance tax; jurisdiction of probate court; determination and payment of tax required prior to closing estate.

APPOINTMENT OF APPRAISERS

205.211 Appraiser; appointment; appraisement of vested and contingent estates; insurance commissioner, duties; money legacy.

PROCEEDINGS BY APPRAISERS

205.212 Proceedings by appraisers, compensation, fees.

DETERMINATION BY JUDGE OF PROBATE

205.213 Report of appraisers; determination of value of estate and partial or final tax by probate judge; insurance commissioner, duties; notice of tax; rehearing.

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PROCEEDINGS FOR THE COLLECTION OF TAXES
205.214 Collection of unpaid taxes; estate closed without payment.

(RECEIPT) RECEIPTS FROM THE COUNTY TREASURER
205.215 Receipts of treasurer; certified copy, fee, recording.

FEES FOR COUNTY TREASURER
205.216 Additional fee; credit to general fund.

BOOKS AND FORMS TO BE FURNISHED BY THE AUDITOR GENERAL
205.217 Record books furnished by auditor general; contents, entries, form.

REPORTS OF PROBATE JUDGE AND REGISTER OF DEEDS
205.218 Order of determination, duties of probate judge; report of register of deeds; property of nonresident, waiver, fee; petition, contents; hearing, notice; redetermination.

REPORTS OF COUNTY TREASURER
205.219 Quarterly report by treasurer; interest on arrears; examiners appointed by auditor general, powers, compensation; appropriation; tax clause.

APPLICATION OF TAXES
205.220 Taxes; application.

DEFINITIONS
205.221 Inheritance taxes; definitions.

TAXABLE INHERITANCE JANUARY 1, 1905
Act 298 of 1909
205.251 Repealed.

SEVERANCE TAX ON OIL OR GAS
Act 48 of 1929
205.301 Severance tax on oil or gas.
205.302 Monthly reports; contents, form.
205.303 Tax rate; computation; payor; withholding and payment.
205.304 Production record, keeping, open to inspection; penalty.
205.305 Report, contents.
205.306 Commission, powers.
205.307 Failure to make report; penalty; computation.
205.308 Lien of state.
205.309 Tax lien.
205.310 Injunction.
205.311 Oil; definition.
205.312 Person and producer; definition.
Producer; defined.
205.313 Receipt; contents.
205.314 Severance taxes to accompany report; general fund.
205.315 In lieu of other taxes; exceptions.
205.316 Overpayments; credit or refund; petition by taxpayer; interest or penalty assessments; time; fraud.
Petition to obtain credit or refund.
Deficiency, interest or penalty; fraudulent concealment.
205.317 Information as to production; availability, conditions.

BRANCH OR CHAIN STORE OR COUNTERS
Act 265 of 1933
205.401-205.413 Repealed.

CIGARETTE TAX
Act 265 of 1947
205.501 Cigarette tax; definitions.
205.502 Administration and collection; department of revenue; rules; assistants; appeals.
205.503 License; application, form, issuance, display; multiple capacity; vending machines. Fees; refunds.
Vending machines; license; seizure.
Bond, amount; financial statement.
205.504 Licenses; expiration; reissuance on relocation of business; renewals; assignment by secondary wholesaler; approval.
205.505 Licenses; suspension, revocation, or refusal to issue or renew; sales prohibited, hearing, appeal.
205.506 Record of licensees; contents; transaction records; vending machine records; false statements; games of chance; forms; records of carriers, bailees, warehousemen.
Transporters; records.
Same; permits.
Same; imports, disclosure to state police.
205.507 Tax returns; rate; supplemental returns; refund.
Tax on consumer.
205.508 Licensee returns; examination; determination of tax; penalties; failure to file; notice and hearing; limitation on assessment of penalty; hearing, appeals; actions to recover taxes.
205.509 Unlicensed possession, penalty.
Felony, penalty.
Misdemeanor, penalty.
Enforcement.
Seizure of contraband.
Forfeiture of contraband.
Inventory of goods seized; notice, hearing.
Appeal to circuit court.
Sale of deteriorating property.
Forfeiture without hearing.
Forfeiture after hearing.
Sale of forfeited goods, proceeds.
Seizure, effect.
Furnishing information, compensation, affidavit.
205.510 Tax unpaid by licensee; demand, warrant, levy, sale; state bid or purchase of property.
205.510a Jeopardy assessment.
205.511 Collection of unpaid taxes by action at law.
205.512 Seizure, forfeiture and sale of property as defense in criminal prosecution.
205.513 Injunction to restrain collection of taxes; venue.
205.514 Tax lien; precedence.
Sale of business; liability of purchaser.
205.515 Sales to unlicensed persons, enforcement of act.
205.516 Repealed.
205.517 Investigation by department; oaths; hearing; subpoenas; witnesses; self-

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incrimination, immunity; contempt; fees.
205.518 Repealed.
205.519 Repealed.
205.520 Revenues; disposition.
205.521 Effective date of act.
205.522, 205.523 Repealed.

ADDITIONAL CIGARETTE TAX
Act 95 of 1959

205.541-205.543 Repealed.

INCOME TAX
Act 150 of 1953

205.551-205.563 Repealed.
205.564 Repealed.
205.565-205.574 Repealed.

MULTISTATE TAX COMPACT
Act 343 of 1969

205.581 Multistate tax compact; enactment.
205.582 Short form option, computation and payment of income taxes; tax rate.
205.583 Multistate tax commission, Michigan state treasurer.
205.584 Alternate representative, designation.
205.585 Attorney general, attendance at commission meetings.
205.586 Subdivision representatives, designation, consultation.
205.587 Multistate tax compact advisory committee, membership, chairman, meetings, duties.
205.588 Interstate audits.
205.589 Effective date.

DOMICILE OF DECEDENTS FOR DEATH TAX PURPOSES
Act 173 of 1956

205.601 Domicile of decedents for death tax purposes, settlement of disputes; definitions.
205.602 Domicile of decedents for death tax purposes, settlement of disputes; notice of election, rejection.
205.603 Domicile of decedents for death tax purposes, settlement of disputes; written agreement with other taxing officials.
205.604 Domicile of decedents for death tax purposes, settlement of disputes; arbitration board, procedure, determination.
205.605 Domicile of decedents for death tax purposes, settlement of disputes; written agreement after arbitration commenced.
205.606 Domicile of decedents for death tax purposes, settlement of disputes; maximum interest and penalties if decedent domiciled in this state.
205.607 Domicile of decedents for death tax purposes, settlement of disputes; application of act.

Act 122, 1941, p. 151; Eff. Jan. 10, 1942.

AN ACT to establish a revenue division of the department of treasury; to prescribe its powers and duties as the revenue collection agency of the state; to create the position and to define the power and duties of the state commissioner of revenue; to provide for the transfer of powers and duties now vested in certain other state boards, commissions, departments and offices; to abolish the state board of tax administration; and to declare the effect of this act. Am. 1970, p. 551, Act 188, Imd. Eff. Aug. 6.

The People of the State of Michigan enact:

205.1 Revenue division of the department of treasury of the state; creation.

Sec. 1. A tax collection agency is created, to be known as the revenue division of the department of treasury of the state, for the following purposes:

(a) Coordinated collection of such state taxes, assessments, licenses, fees and other moneys as may be designated by law, either herein or hereafter.

(b) Specialized service for tax enforcement, through establishment and maintenance of uniformity in definition, regulation, return and payment.

(c) Avoidance of duplication in state facilities for tax collections that involve seasonal or occasional increases of staff, duplication of audits and wasteful travel expenses.

(d) Safeguarding tax and other collections wherever received until duly deposited in the state treasury.

(e) Providing an advisory service on fiscal status, processes and needs of state government, including periodic reports on payments, receipts and debts.

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(f) Development of a state revenue enforcement service by means of a staff that is permanent, qualified by training and experience, protected by merit system procedure, and so organized as to serve the public with efficiency, economy, consistency and equity.

Any reference to the department of revenue in this act or any other act shall mean the revenue division of the department of treasury.

HISTORY: CL 1948, 205.1;—Am. 1970, p. 551, Act 188, Imd. Eff. Aug. 6.

CITED IN OTHER SECTIONS: Sections 205.1 to 205.17 are cited in §§ 16.183, 205.505, 205.506, and 206.421.

205.2 Commissioner of revenue; appointment, qualifications; deputies.

Sec. 2. (a) The position of state commissioner of revenue, hereafter referred to as commissioner, is created. He shall be the administrative head of the division.

(b) The state treasurer shall appoint the commissioner and all other employees, except deputies of the division, from eligible registers furnished by the state civil service commission. In the event of a vacancy occurring in the position of commissioner, the state treasurer shall designate an acting commissioner.

(c) The qualifications for commissioner and deputies shall include in all cases proven executive ability, special understanding of taxation and the tax laws of the state and previous experience in the problems of administration of tax laws.

(d) The commissioner, with the approval of the state treasurer, is authorized to appoint not to exceed 3 deputies, 1 of whom may be designated chief deputy, from an eligible register furnished by the state civil service commission. The deputies shall perform such duties as the commissioner may determine.

HISTORY: Am. 1945, p. 102, Act 103, Eff. Sept. 6;—CL 1948, 205.2;—Am. 1951, p. 148, Act 118, Imd. Eff. May 31;—Am. 1955, p. 202, Act 137, Imd. Eff. Jun. 7;—Am. 1957, p. 618, Act 314, Eff. Sep. 13;—Am. 1970, p. 551, Act 188, Imd. Eff. Aug. 6.

205.3 State commissioner of revenue; powers and duties; testimony, taking; procedure.

Sec. 3. Powers and duties of commissioner. The commissioner shall have all the powers and perform the duties formerly vested in any department, board, commission or other agency, in connection with the taxes due to or claimed by the state which herein or hereafter may be made payable to or collectible by the department herein created, also the power and authority incidental to the performance of the following acts, duties and services:

(a) The commissioner or any of his duly appointed agents may examine the books, records and papers touching the matter at issue of any person or taxpayer subject to any tax, the collection of which is charged to said department. The commissioner or any of his duly appointed agents may issue a subpoena requiring any person to appear and be examined with reference to any matter within the scope of the inquiry or investigation being conducted by the department and to produce any books, records or papers. The commissioner or any of his duly appointed agents, referees or examiners thereof, may administer an oath to a witness in any matter before the department in case of disobedience of a subpoena. The department may invoke the aid of any circuit court of the state of Michigan in requiring the attendance and testimony of witnesses and the producing of books, papers and documents, and any of the circuit courts of the state within the jurisdiction of which such inquiry is carried on, may in case of contumacy or refusal to obey a subpoena, issue an order requiring such person to appear before said department and to produce books and papers if so ordered and any evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. No person shall be excused from testifying or from producing any books, papers, records or memoranda in any investigation, or upon any hearing when ordered to do so by the commissioner, upon the ground that the testimony or evidence, documentary or otherwise, may tend to incriminate or subject him to a criminal penalty; but no person shall be prosecuted

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or subjected to any criminal penalty for or on account of any transaction made or thing concerning which he may testify or produce evidence, documentary or otherwise, before the board or its agent. No person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying;

(b) After reasonable notice and public hearing to prescribe such rules and regulations not inconsistent with the provisions hereof, as may be necessary to the enforcement of the provisions of any or all tax and other revenue measures which are administered by said commissioner;

(c) Consultation with the governor upon the subject of taxation, revenue and the administration of the laws in relation thereto, and the progress of the work of the department, including the furnishing of such reports, information and other assistance as the governor may require;

(d) Investigation and study of all matters of taxation and revenue as the basis of recommending to the legislature such changes and alterations in the tax laws of the state as in his judgment may bring about a more adequate and just system of state and local taxation;

(e) Formulation of a standard procedure whereby all departments, commissions, boards, institutions and all agencies of the state which collect taxes or fees for the state shall report all sums of money due and uncollected and such uncollected items as may be prescribed by law and by the commissioner; the collection of such past due items shall immediately be assumed by the department;

(f) The procedure prescribed in the previous paragraph (e) shall include from and after July 1, 1941, a standard practice for receiving, receipting, safeguarding and periodically reporting all state revenue receipts, whether current, delinquent, penalty, interest, or otherwise, and the amounts, kinds and terms of items either collected, compromised or still outstanding, to be summarized, studied and reported upon as the commissioner may deem advisable.

HISTORY: CL 1948, 205.3.

205.3a State commissioner of revenue; tax payment; demand, levy and sale; bids.

Sec. 3a. The commissioner may cause a demand to be made on a taxpayer for the payment of any tax, the administration of which is charged to the department. If the tax remains unpaid for 10 days after the demand has been made and review proceedings have not been taken, the commissioner may issue a warrant under the official seal of his office. The commissioner through his authorized employees may levy upon all property and rights to property and sell the real and personal property of the taxpayer, without exemption, found within the state, for the payment of the amount of the tax, the cost of executing the warrant and the added penalties and interest. The commissioner shall proceed upon the warrant in all respects and in the same manner as prescribed by law in respect to executions issued against property upon judgments by a court of record. The state, through the department or an agent designated by it, may bid for and purchase any property sold under the provisions of this section.

HISTORY: Add. 1970, p. 609, Act 225, Imd. Eff. Nov. 24.

205.4 Repealed. 1970, p. 551, Act 188, Imd. Eff. Aug. 6.

Section prohibited commissioner and employees from taking part in political campaigns.

205.5 Repealed. 1970, p. 551, Act 188, Imd. Eff. Aug. 6.

Section provided procedure for removal of commissioner from office.

205.6 Repealed. 1970, p. 551, Act 188, Imd. Eff. Aug. 6.

Section provided for departmental organization by commissioner.

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205.6a Compromise of tax liability.

Sec. 6a. Compromise of tax liability. Hereafter neither the commissioner, nor any officer or employee of the department, shall in any manner compromise or reduce the tax liability of any person, firm or corporation owing a tax to the state of Michigan. In case the department and the person, firm or corporation owing the tax shall not be in accord with respect to tax liability, the department shall assess and levy the full amount of the tax due under the law, and any person, firm or corporation aggrieved by such assessment may appeal to the state board of tax appeals as provided in section 7 of this act. The provisions of this section shall not be construed to prevent a compromise of interest and/or penalties.

HISTORY: Add. 1943, p. 278, Act 190, Imd. Eff. April 17;—CL 1948, 205.6a.

205.7 State board of tax appeals; appeals, procedure, costs.

Sec. 7. Appeals. Any person, firm or corporation aggrieved by any assessment, decision, or order of the department of revenue may pursue any appropriate procedure provided by law for the judicial review of the issues involved or have an appeal from such assessment, decision or order to the state board of tax appeals hereby created at any time within 30 days after such assessment, decision or order. Such appeal shall be perfected by filing a sworn statement of the essential facts involved with the state board of tax appeals and serving a copy thereof upon the commissioner or any agent within the department of revenue designated by the commissioner as the agent of the department upon whom service of notice of appeal may be made and filing proof of such service with the state board of tax appeals, and depositing with the board as security for costs 2 per centum of the amount in controversy: Provided, however, That in no event shall said deposit be less than $25.00 or more than $100.00, said deposit to be considered as costs in such appeal. The board shall forthwith deposit same with the state treasurer, taking a receipt therefor. Such service may be made by the appellant or his attorney, either personally or by registered mail with return receipt demanded.

Within 15 days following such service, the department shall answer the statement of appeal so filed. The state board of tax appeals, following the filing of such answer, shall have jurisdiction to review such assessment, decision or order and both the appellant and the department shall have the right to swear witnesses and to be represented by counsel before said state board of tax appeals. Said hearing shall be heard within 60 days after filing of said answer, as in a court not of record and the legal rules of evidence prevailing in the circuit courts of this state shall be enforced. The burden of proof in any appeal from any assessment, decision or order shall rest with the appellant. The rulings upon evidence shall be by the chairman of said board. Within 20 days after such hearing, the state board of tax appeals shall make such assessment, decision or order as it shall find the department should have made in the first instance. In the event that the assessment, decision or order of the department shall be affirmed, the deposit as security for costs so made by the appellant shall be transferred to the general fund of the state. In the event that the assessment, decision or order of the department is reversed, no costs shall be taxed against the appellant and his deposit shall be returned to him. In the event that the assessment, decision or order of the department shall be modified and the appellant shall be required to pay a larger tax than he has admitted in said proceedings to be due the state but not as large as the department has found due, the matter of the costs shall be within the discretion of the board.

HISTORY: CL 1948, 205.7.

205.8 State board of tax appeals; members, appointment; term, salary.

Sec. 8. State board of tax appeals. The state board of tax appeals shall consist of 3 members, not more than 2 of which shall be members of the same political party, appointed by the governor with the advice and consent of the senate for staggered terms of 6 years: Provided, however, That of the members first appointed, 1 shall be ap-

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pointed for a term of 2 years, 1 for a term of 4 years and 1 for a term of 6 years. At least 1 of the members of said board shall be a lawyer who shall serve as chairman, and 1 a certified public accountant. The lawyer shall be a lawyer with 8 years' previous experience. Each shall receive a salary of $6,000.00 a year, payable as by law provided for the payment of the salaries of other employees of the state. Members of the board may be removed from the office by the governor for misfeasance, malfeasance or nonfeasance in office only. The governor shall have the power to fill vacancies for any unexpired terms caused by any reason whatsoever.

The board of state auditors shall provide suitable office space and equipment at the city of Lansing. Said board may employ, subject to any applicable provisions of the then existing civil service law of the state, if any, such clerical and other assistants as may be necessary and as may come within the appropriation made therefor by the legislature.

HISTORY: CL 1948, 205.8.

CITED IN OTHER SECTIONS: The above section is cited in § 16.187.

205.9 State board of tax appeals; procedure following decision.

Sec. 9. Procedure following decision of state board for tax appeals. Any tax found due from appellant to the state of Michigan by the state board of tax appeals shall be payable within 30 days after the decision of said board. The appellant may, within said period, pay the said tax under protest and within 30 days following such payment file claim for the recovery thereof in the court of claims of this state. In said court of claims trial shall be de novo.

There shall be no appeal from any decision of the state board of tax appeals until after the payment of the tax found due by the board under protest. If any tax found due by said board of tax appeals is not so paid within said 30 day period, the same shall be collectible by the department just as if no appeal had been taken to the state board of tax appeals. In the event of the payment of said tax under protest by the appellant and the filing of a claim against the state in the court of claims, if said court of claims gives judgment to the appellant for the return of the tax so paid under protest, or any part thereof, said judgment shall include the amount of the deposit as security for costs made by the appellant upon taking his appeal to the state board of tax appeals. The department shall have the right of appeal from the state board of tax appeals on questions of law to the circuit court for the county of Ingham.

HISTORY: CL 1948, 205.9.

205.10 Repealed. 1970, p. 551, Act 188, Imd. Eff. Aug. 6.

Section provided for advisory boards, consultants and research assistants.

205.11 State revenue receipts, reports; divulgence of information by employees prohibited.

Sec. 11. The department shall publish annually a report containing statistical data on revenue collections made by the department during the past fiscal year and monthly reports which shall include statistical information on all revenues received by it and showing the revenues received from any tax or collections, together with all information of a general character reflecting on the department's operation. Unless in accordance with a judicial order, or as shall be required in the proper administration of this act or any tax law administered by the department, no employee or any agent thereof or former employee or agent or anyone connected with or formerly connected with the department shall divulge any facts or information obtained in connection with the administration of said department. The foregoing provision shall not be construed to prevent the release of such motor fuel tax information as may be deemed necessary by the department without cost to the department for a program of cooperative tax compliance and enforcement.

HISTORY: CL 1948, 205.11;—Am. 1953, p. 7, Act 7, Eff. Jul. 1;—Am. 1961, p. 257, Act 180, Eff. Sep. 8.

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205.12 Official seal of department.

Sec. 12. The commissioner shall select an official seal of the department and file a facsimile thereof in the office of the secretary of state. All orders, certificates and subpoenas made or issued by the department shall be signed by the commissioner, and the seal of the department shall be affixed thereto.

HISTORY: CL 1948, 205.12.

205.13 Administration of laws transferred to department of revenue.

Sec. 13. Administration of tax laws herein transferred to department of revenue in succession to other agencies. The department shall administer and enforce the following laws as amended and shall succeed to and is hereby vested with all of the powers, duties, functions, responsibilities and jurisdiction now or hereafter conferred upon:

(a) State board of tax administration by Act No. 167 of the Public Acts of 1933, as amended, being sections 205.51 to 205.78, inclusive, of the Compiled Laws of 1948 (general sales tax); also by Act No. 94 of the Public Acts of 1937, being sections 205.91 to 205.111, inclusive, of the Compiled Laws of 1948 (use tax).

(b) Auditor general, by Act No. 282 of the Public Acts of 1905, being sections 207.1 to 207.21, inclusive, of the Compiled Laws of 1948, as amended (utilities assessed by the state board of assessors); by Act No. 188 of the Public Acts of 1899, being sections 205.201 to 205.221, inclusive, of the Compiled Laws of 1948, as amended (inheritance tax); by Act No. 70 of the Public Acts of 1911, being sections 207.51 to 207.53, inclusive, of the Compiled Laws of 1948 (steamship tonnage).

(c) State tax commission, by Act No. 48 of the Public Acts of 1929, being sections 205.301 to 205.315, inclusive, of the Compiled Laws of 1948 (severance of petroleum and natural gas); by Act No. 301 of the Public Acts of 1939, being sections 205.131 to 205.147, inclusive, of the Compiled Laws of 1948 (intangible tax).

(d) Secretary of state, by Act No. 265 of the Public Acts of 1933, as amended, being sections 205.401 to 205.413, inclusive, of the Compiled Laws of 1948 (chain store tax).

(e) State tax commission, by section 22 of Act No. 61 of the Public Acts of 1939, being section 319.22 of the Compiled Laws of 1948 (oil privilege fee).

(f) The commission shall also succeed to and is hereby vested with all of the powers, duties, functions, responsibilities and jurisdiction of the corporation and securities commission over the enforcement, investigation and collection of past due and delinquent corporate privilege and franchise fees and license fees of any nature. The corporation and securities commission shall, whenever requested by the department, report to said department the names of all delinquent corporations and delinquent licensees, and the department shall be charged with the collection of all fees and licenses covered in such reports.

(g) The commission shall succeed to and is hereby vested with all the powers, duties, functions, responsibilities and jurisdiction of the state treasurer over the collection of delinquent premium taxes from foreign insurance companies, heretofore vested in the state treasurer by sections 512.19 and 512.20 of the Compiled Laws of 1948, being sections 19 and 20 of part 2, chapter 2 of Act No. 256 of the Public Acts of 1917.

(h) The department shall succeed to and is hereby vested with all powers, duties, functions, responsibilities and jurisdiction of the attorney general over the collection of all past due moneys and accounts which are owing to the state of Michigan or any department, commission or institution thereof, heretofore vested in the attorney general by Act No. 375 of the Public Acts of 1927, being sections 14.131 to 14.134, inclusive, of the Compiled Laws of 1948.

HISTORY: Am. 1945, p. 103, Act 103, Eff. Sept. 6;—CL 1948, 205.13;—Am. 1953, p. 8, Act 7, Eff. Jul. 1.

For acts above referred to: Act 167, 1933, see Compilers' § 205.51 et seq; Act 77, 1935, is amendatory to Act 167, 1933; Act 94, 1937, see Compilers' § 205.91 et seq; Act 282, 1905, see Compilers' § 207.1 et seq; Act 188, 1899, see Compilers' § 205.201 et seq; Act 70, 1911, see Compilers' § 207.51-207.53; Act 48, 1929, see Compilers' § 205.301 et seq; Act 301, 1939, see Compilers' § 205.131 et seq; Act 265, 1933, see Compilers' § 205.401 et seq, Sec. 22, Act 61, 1939, see Compilers' § 319.22; Secs. 19 and 20, part 2, ch. 2, Act 256, 1917, see Compilers' §§ 512.19 and 512.20.

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205.14 Repealed. 1970, p. 551, Act 188, Imd. Eff. Aug. 6.
Section provided for possession and control of records, documents, funds and property held by other agencies or officers.

205.15 Repealed. 1970, p. 551, Act 188, Imd. Eff. Aug. 6.
Section provided for transfer to department of employees from other agencies.

205.16 Repealed. 1970, p. 551, Act 188, Imd. Eff. Aug. 6.
Section contained saving clause.

205.17 Office space; branch offices; approval of board of state auditors.

Sec. 17. Office space. Suitable offices in the city of Lansing shall be provided by the board of state auditors. Branch offices may be established by the commissioner in various parts of the state, where found by him to be in the interest of economy as well as efficiency: Provided, That no real property shall be purchased or building erected, or lease exceeding 5 years be executed, without prior approval by the board of state auditors.

HISTORY: CL 1948, 205.17.

Sec. 18. (This was a repeal section.)

HISTORY: Rep. 1945, p. 409, Act 267, Imd. Eff. May 25.

ACT REPEALED: Sec. 21, Act 167, 1933. For balance of act see Compilers' § 205.51 et seq.

Sec. 19. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 415, Act 267, Imd. Eff. May 25.

Act 15, 1959, p. 15; Eff. Jan. 1, 1960.

AN ACT to transfer the collection of motor fuel taxes from the secretary of state to the department of revenue; to provide for the transfer of staff, records, files and other property; to provide that hearings shall not be abated; to transfer appropriations and other funds; to prescribe the powers and duties of the secretary of state and the department of revenue; and to fix the effective date of this act.

The People of the State of Michigan enact:

205.41 Motor fuel taxes; collection transferred to department of revenue.

Sec. 1. All the powers and duties now vested by law in the secretary of state with respect to the collection of the motor fuel taxes are hereby transferred to the department of revenue. The state department of revenue shall be vested with full authority to collect the motor fuel taxes with reference to all such matters as have heretofore been vested in the secretary of state. Whenever any reference is made in the laws of this state to the collection of motor fuel taxes by the secretary of state, such reference shall be deemed intended to be made to the department of revenue.

HISTORY: New 1959, p. 15, Act 15, Eff. Jan. 1, 1960.

205.42 Motor fuel taxes; statutes.

Sec. 2. The department of revenue shall administer and enforce the following acts and shall succeed to and is hereby vested with all the powers, duties, functions, responsibilities and jurisdiction now or hereafter conferred upon the secretary of state with respect to the collection of motor fuel taxes as prescribed by:

(a) Motor fuel tax, Act No. 150 of the Public Acts of 1927, as amended, being sections 207.101 to 207.186 of the Compiled Laws of 1948.

(b) Highway finance act of 1955, Act No. 87 of the Public Acts of 1955, as amended, being sections 207.251 to 207.254 of the Compiled Laws of 1948.

(c) Aeronautics code, Act No. 327 of the Public Acts of 1945, as amended, being sections 259.1 to 259.208 of the Compiled Laws of 1948.

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(d) Marine fuel tax, Act No. 320 of the Public Acts of 1947, as amended, being sections 281.501 to 281.511 of the Compiled Laws of 1948.

HISTORY: New 1959, p. 15, Act 15, Eff. Jan. 1, 1960.

205.43 Motor fuel taxes; transfer of staff, records, files and property.

Sec. 3. All of the staff, records, files and other property, including property held in trust, belonging to the secretary of state with respect to the collection of the motor fuel taxes shall be transferred to the state department of revenue and shall be continued as part of the staff, records, files, and property of the department of revenue.

HISTORY: New 1959, p. 15, Act, 15, Eff. Jan. 1, 1960.

205.44 Motor fuel taxes; hearings, orders, rules and regulations.

Sec. 4. All hearings and proceedings of whatever nature now pending before the secretary of state with respect to the collection of the motor fuel taxes shall not be abated, but shall be transferred to the state department of revenue, without notice to interested parties, and shall be conducted in the same manner and determined in accordance with the provisions of law concerning such hearings and proceedings. All orders, rules and regulations of the secretary of state with respect to the collection of the motor fuel taxes shall continue in effect as though the transfer were not made, and to the extent applicable, they shall be binding upon the department of revenue.

HISTORY: New 1959, p. 15, Act 15, Eff. Jan. 1, 1960.

205.45 Motor fuel taxes; transfer of appropriations.

Sec. 5. All appropriations and all other funds necessary to carry out all the powers, duties and responsibilities of the secretary of state with respect to the collection of motor fuel taxes shall be transferred to the state department of revenue.

HISTORY: New 1959, p. 15, Act 15, Eff. Jan. 1, 1960.

205.46 Continuance of services and functions.

Sec. 6. The secretary of state and the state department of revenue shall make all other arrangements as are necessary to provide for the uninterrupted conduct of the services and functions of government as prescribed by this act.

HISTORY: New 1959, p. 16, Act 15, Eff. Jan. 1, 1960.

205.47 Effective date of act.

Sec. 7. This act shall take effect on January 1, 1960.

HISTORY: New 1959, p. 16, Act 15, Eff. Jan. 1, 1960.

Act 167, 1933, p. 245; Imd. Eff. Jun. 28.

AN ACT to provide for the raising of additional public revenue by prescribing certain specific taxes, fees, and charges to be paid to the state for the privilege of engaging in certain business activities; to provide, incident to the enforcement thereof, for the issuance of licenses to engage in such occupations; to provide for the ascertainment, assessment and collection thereof; to appropriate the proceeds thereof; and to prescribe penalties for violations of the provisions of this act. Am. 1949, p. 385, Act 272, Eff. Jul. 1.

The People of the State of Michigan enact:

205.51 General sales tax act; definitions.

Sec. 1. (1) When used in this act:

(a) "Person" includes any individual, firm, copartnership, joint venture, association, social club, fraternal organization, municipal or private corporation, whether organized for profit or not, company, estate, trust, receiver, trustee, syndicate, the United

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States, this state, county, or any other group or combination acting as a unit, and the plural as well as the singular number, unless the intention to give a more limited meaning is disclosed by the context.

(b) "Sale at retail" means any transaction by which is transferred for consideration the ownership of tangible personal property, when such transfer is made in the ordinary course of the transferor's business and is made to the transferee for consumption or use, or for any other purpose than for resale, or for lease when the rental receipts are taxable under Act No. 94 of the Public Acts of 1937, as amended, being sections 205.91 to 205.111 of the Compiled Laws of 1948, in the form of tangible personal property to a person licensed under this act, or demonstration purposes or lending or leasing to public and parochial schools offering courses in automobile driving except that vehicles purchased by the schools must be certified for driver education and shall not be reassigned for personal use of the schools administrative personnel. In case of a dealer selling new cars and trucks, exemption for demonstration purposes shall be determined by the number of new cars and trucks sold during the current calendar year or the immediate prior year without regard to specific make or style in accordance with the following schedule: 0 to 25, 2 units; 26 to 100, 7 units; 101 to 500, 20 units; 501 or more, 25 units; but not to exceed 25 cars and trucks in any one calendar year for demonstration purposes.

(c) "Sale at retail" includes the sale of tangible personal property to persons directly engaged in the business of constructing, altering, repairing or improving real estate for others except property affixed to and made a structural part of the real estate of a nonprofit hospital or nonprofit housing. A nonprofit hospital or nonprofit housing includes only the property of a nonprofit hospital or the homes or dwelling places constructed by a nonprofit housing entity, the income or property of which does not directly or indirectly inure to the benefit of any individual, private stockholder or other private person.

(d) "Sale at retail" includes conditional sales, installment lease sales and any other transfer of such property when title is retained as security for the purchase price but is intended to be transferred later.

(e) "Sale at retail" includes sales of electricity, natural or artificial gas and steam when made to the consumer or user for consumption or use rather than for resale. The term "sale at retail" shall not include the sale of water through water mains or the sale of water delivered in bulk tanks in quantities of not less than 500 gallons.

(g) "Sale at retail" shall not include an isolated transaction by a person not licensed or required to be licensed under this act, in which any tangible personal property is offered for sale, sold, transferred and delivered by the owner thereof.

(h) "Gross proceeds" means the amount received in money, credits, subsidies, property or other money's worth in consideration of sales at retail within this state, without any deduction on account of the cost of the property sold, the cost of materials used, the cost of labor or services purchased, amounts paid for interest or discounts, taxes paid on beer or liquor at time of purchase or any other expenses whatsoever, nor shall any deduction be allowed for losses. In a taxable sale at retail of a motor vehicle, when another motor vehicle is used as part payment of the purchase price, the value of the motor vehicle used as part payment of the purchase price, shall be that value agreed to by the parties thereto as evidenced by the signed statement executed pursuant to section 251 of Act No. 300 of the Public Acts of 1949, as amended, being section 257.251 of the Compiled Laws of 1948. The foregoing provisions shall be deemed to impose a tax upon the full retail selling price of the vehicle involved. Credits or refunds for returned goods may be deducted.

(i) "Business" includes all activities engaged in by any person or caused to be en-

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gaged in by him with the object of gain, benefit or advantage, either direct or indirect.

(j) "Tax year" or "taxable year" means the fiscal year of the state or the taxpayer's fiscal year when permission is obtained by him from the department to use his fiscal year as the tax period in lieu thereof.

(k) "Department" means the revenue division of the state treasury department.

(l) "Taxpayer" means any person subject to any tax under this act.

(m) "Tax" includes all taxes, interest or penalties levied under this act.

Unlicensed persons as agents, determination.

(2) When it shall be determined by the department that it is necessary for the efficient administration of this act to regard any unlicensed person, such as salesmen, representatives, peddlers or canvassers as the agents of the dealers, distributors, supervisors or employers under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors or employers, the department may so regard them and may regard the dealers, distributors, supervisors or employers as making sales at retail at the retail price for the purposes of this act.

HISTORY: Am. 1935, p. 120, Act 77, Imd. Eff. May 23;—Am. 1939, p. 234, Act 123, Imd. Eff. May 19;—Am. 1939, p. 760, Act 313, Imd. Eff. Jun. 22;—Am. 1941, p. 66, Act 59, Imd. Eff. May 5;—Am. 1941, p. 408, Act 249, Imd. Eff. Jun. 16;—Am. 1943, p. 28, Act 29, Imd. Eff. Mar. 24;—Am. 1945, p. 373, Act 259, Imd. Eff. May 25;—Am. 1948, Ex. Ses., p. 82, Act 30, Imd. Eff. May 10;—CL 1948, 205.51;—Am. 1949, p. 385, Act 272, Eff. Jul. 1;—Am. 1950, 1st Ex. Ses., p. 7, Act 9, Imd. Eff. May 9;—Am. 1951, p. 363, Act 245, Eff. Sep. 28;—Am. 1952, p. 197, Act 166, Imd. Eff. Apr. 24;—Am. 1953, p. 287, Act 204, Imd. Eff. Jun. 10;—Am. 1955, p. 354, Act 236, Eff. Oct. 14;—Am. 1960, p. 68, Act 76, Imd. Eff. Apr. 25;—Am. 1964, p. 282, Act 214, Eff. Aug. 28;—Am. 1970, p. 58, Act 16, Imd. Eff. May 1.

CITED IN OTHER SECTIONS: Sections 205.51 to 205.78 are cited in §§ 46.175a, 205.13, 205.94, 205.501, 207.112, 257.248, 257.814, 323.159, 323.354, 336.4, and 445.107.

205.52 Sales tax; rate.

Sec. 2. There is hereby levied upon and there shall be collected from all persons engaged in the business of making sales at retail, as hereinbefore defined, an annual tax for the privilege of engaging in such business equal to 4% of the gross proceeds thereof, plus the penalty and interest when applicable as hereinafter provided, less deductions allowed in sections 4 and 4a.

Separate accounting practices; penalty.

Any person engaged in the business of making sales at retail who is at the same time engaged in some other kind of business, occupation, or profession not taxable under this act, shall keep books to show separately the transactions used in determining the tax herein levied. In the event of such person failing to keep such separate books, there shall be levied upon him the tax hereinbefore mentioned equal to 4% of the entire gross proceeds of both or all of his businesses. The taxes levied hereunder shall be a personal obligation of the taxpayer.

HISTORY: CL 1948, 205.52;—Am. 1949, p. 386, Act 272, Eff. Jul. 1;—Am. 1960, 2nd Ex. Ses., p. 10, Act 1, Eff. Jan. 1, 1961.

205.53 Sales taxpayer; license; bond or deposit; industrial processor, agricultural producer.

Sec. 3. If any person shall engage or continue in any business for which a privilege tax is imposed by this act, he shall under such rules and regulations as the department shall prescribe, apply for and obtain from the department, upon the payment of a registration fee of $1.00, a license to engage in and to conduct such business for the current tax year. Whenever the department deems it necessary in order to secure the collection of the tax or if an applicant taxpayer shall have at any time failed, refused or

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neglected to pay any tax or interest or penalty upon any tax, or shall have attempted to evade the payment of any tax or interest or penalty upon any tax by means of petition in bankruptcy, or if applicant taxpayer shall be a corporation and the department shall have reasons to believe that the management or control of the corporation is under any persons who have failed to pay any tax or interest or penalty upon any tax within the purview of this section as above set forth, the department shall require a surety bond payable to the state of Michigan, upon which the applicant or taxpayer shall be the obligor, in the sum of not less than $1,000.00 nor more than $25,000.00, conditioned that the applicant or taxpayer shall comply with the provisions of this act and will promptly file true reports and pay the taxes, interest and penalties provided for or required by this act, which bond shall be approved as to the amount and surety by the department. The applicant or taxpayer may in lieu of the surety bond deposit a sum of money with the department in such amount as the department shall determine, to guarantee the payment of the tax, interest and penalty and compliance with this act, but the amount so determined by the department shall not exceed the estimated tax payable during a 1-year period; and he shall thereby be duly licensed to engage in and conduct such business. The department may require the applicant or taxpayer to furnish such other and further bond as it shall deem necessary, from time to time, within the limits in this section hereinbefore set forth, on the giving of 30 days' notice in writing. The license shall be renewed annually upon the condition that he shall pay the registration fee and the tax accrued to the state under the provisions of this act. No person shall engage or continue in any business taxable hereunder without securing a license. No person, firm or corporation engaged solely in industrial processing or agricultural producing under this act and who makes no sales at retail within the meaning of this act shall be required to have a license.

HISTORY: Am. 1939, p. 346, Act 180, Eff. Sep. 29;—CL 1948, 205.53;—Am. 1949, p. 386, Act 272, Eff. Jul. 1;—Am. 1961, p. 400, Act 228, Eff. Sep. 8.

205.54 Deductions.

Sec. 4. In computing the amount of tax levied under the provisions of this act for any month, the taxpayer may deduct from the gross proceeds taxable under this act, the sum of $50.00. Every person exercising any privilege taxable hereunder for any fractional part of a month shall be entitled to a deduction of that part of the sum of $50.00 which bears the same proportion to the total sum that the period of time during which such person is engaged in such business bears to the whole month.

No person subject to a tax under this act need include in the amount of his gross proceeds used for the computation of the tax any proceeds of his business derived from sales to the United States, its unincorporated agencies and instrumentalities, any incorporated agency or instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States, the American Red Cross and its chapters and branches, and the state of Michigan or its departments and institutions or any of its political subdivisions.

HISTORY: Am. 1949, p. 761, Act 313, Imd. Eff. Jun. 22;—CL 1948, 205.54;—Am. 1949, p. 387, Act 272, Eff. Jul. 1.

205.54a Deductible sales.

Sec. 4a. No person subject to tax under this act need include in the amount of his gross proceeds used for the computation of the tax any sales of tangible personal property:

Schools, hospitals and certain nonprofit institutions; statement.

(a) Not for resale, and when not operated for profit, to schools, hospitals, homes for the care and maintenance of children or aged persons, and other health, welfare, educational, charitable or benevolent institutions and agencies, operated by an entity of government, a regularly organized church, religious or fraternal organization, a veter-

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ans' organization, or a corporation incorporated under the laws of the state, when the income or benefit from the operation does not inure, in whole or in part, to any individuals or private shareholders, directly or indirectly and when the activities of the entity or agency are carried on exclusively for the benefit of the public at large and are not limited to the advantage, interests and benefits of its members or any restricted group. In all such cases, at the time of the transfer of the tangible personal property, the transferee shall sign a statement, in a form approved by the department, stating that such property is to be used or consumed in connection with the operation of such institution or agency and that the institution or agency qualifies as an exempt entity under the provisions of this subsection. Such statement shall be accepted by all courts as prima facie evidence of the exemption and the statement shall provide that in the event the claim for tax exemption shall be disallowed the transferee will reimburse the transferor for the amount of tax involved.

Churches; exceptions.

(b) Not for resale to regularly organized churches or houses of religious worship, excepting such sales in activities as are mainly commercial enterprises and further excepting vehicles licensed for use on public highways.

School books and food by nonprofit schools.

(c) To bona fide enrolled students of school books and food by schools or other educational institutions not operated for profit.

Nonprofit hospital or housing real estate improvements.

(d) Affixed to and made a structural part of real estate excepted from the definition of "sale at retail" under subdivision (c) of section 1.

Commercial vessels, supplies and repairs.

(e) To persons of vessels designed for commercial use of registered tonnage of 500 tons or more, when produced upon special order of the purchaser, and bunker and galley fuel, provisions, supplies, maintenance and repairs for the exclusive use of such vessels engaged in interstate commerce.

Agricultural production; statement; exception.

(f) To persons engaged in a business enterprise, and using or consuming the tangible personal property in the tilling, planting, caring for or harvesting of the things of the soil, in the breeding, raising or caring for livestock or poultry or horticultural products, including transfers of livestock or poultry or horticultural products for further growth. In all such cases, at the time of the transfer of the tangible personal property, the transferee shall sign a statement, in a form approved by the department, stating that such property is to be used or consumed in connection with the production of horticultural or agricultural products as a business enterprise. Such statement shall be accepted by all courts as prima facie evidence of the exemption. This exemption shall not include transfers of food, fuel, clothing or any similar tangible personal property for personal living or human consumption. This exemption shall not include tangible personal property permanently affixed and becoming a structural part of real estate.

Industrial processing; exclusions.

(g) To persons for use or consumption in industrial processing. "Industrial processing" shall not include tangible personal property permanently affixed and becoming a structural part of real estate; services performed upon property owned by others where the services do not transform, alter or modify the property so as to place it in a different form, composition or character; office furniture, office supplies and administrative office equipment; receiving and storage of raw materials purchased or extracted by the user or consumer; vehicles licensed and titled for use on public highways; the preparation of food and beverages by a retailer for retail sale.

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Newspapers, periodicals and films; exception.

(h) To persons of newspapers and periodicals, as admitted under present federal postal laws and regulations as second class mail matter or as controlled circulation publications or qualified to accept legal notices for publication in this state, as defined by law, or any other newspaper or periodical of general circulation, established at least 2 years, and published at least once a week, and copyrighted motion picture films. All tangible personal property used or consumed and not becoming a component part of newspapers, periodicals and copyrighted motion picture films is subject to tax.

Radio and television films, tapes and recordings.

(i) To persons licensed to operate commercial radio or television stations when the property is used as a component part of a completed film, tape or recording produced for resale or transmission purposes.

Specially registered vehicles.

(j) To persons of vehicles for which a special registration is secured in accordance with subsection (c) of section 802 of Act No. 300 of the Public Acts of 1949, as amended, being section 257.802 of the Compiled Laws of 1948.

Artificial limbs or eyes.

(k) To persons of artificial limbs or artificial eyes individually designed, constructed or altered solely for the use of a particular disabled person.

Communication service equipment.

(l) To persons for use or consumption in the rendition of a service the use or consumption of which is taxable under subsection (a) of section 3a of Act No. 94 of the Public Acts of 1937, as amended, being section 205.93a of the Compiled Laws of 1948, except that this exemption shall be limited to the tangible personal property located on the premises of the subscriber and the necessary exchange equipment.

HISTORY: Add. 1935, p. 121, Act 77, Imd. Eff. May 23;—Am. 1939, p. 761, Act 313, Imd. Eff. Jun. 22;—CL 1948, 205.54a;—Am. 1949, p. 387, Act 272, Eff. Jul. 1;—Am. 1950, 1st Ex. Ses., p. 8, Act 9, Imd. Eff. May 9;—Am. 1951, p. 364, Act 245, Eff. Sep. 28;—Am. 1952, p. 196, Act 165, Imd. Eff. Apr. 24;—Am. 1953, p. 288, Act 204, Imd. Eff. Jun. 10;—Am. 1955, p. 119, Act 76, Imd. Eff. May 26;—Am. 1958, p. 54, Act 52, Eff. Jul. 1;—Am. 1962, p. 469, Act 220, Eff. Jul. 1;—Am. 1970, p. 60, Act 16, Imd. Eff. May 1.

205.54b Deductible sales of gasoline; statement of transferee.

Sec. 4b. Any taxpayer, who does not include in the amount of his gross proceeds used for the computation of the tax on sales of gasoline pursuant to the provisions of subdivision (f) of section 4a by reason of the filing with him by the transferee of a statement in a form approved by the department of revenue, shall not hereafter be subject to the requirements of this act as to any portion of such sales of gasoline which are not used by the transferee for the purposes described in said statement: Provided, That this section shall also apply to and be effective in relation to similar transactions of the taxpayer subsequent to January 1, 1949.

HISTORY: Add. 1955, p. 196, Act 131, Imd. Eff. Jun. 7.

205.54c Exemptions of property affixed to real estate under certain contracts.

Sec. 4c. The sale of material purchased by persons engaged in the business of constructing, altering, repairing or improving real estate for others when the material so purchased by such persons is affixed and made a structural part of real estate or used and completely consumed in the fulfillment of a single contract, when the contract is either at a fixed price not subject to change or modification or entered into pursuant to the obligation of a formal written bid which cannot be altered or withdrawn, which contract was entered into or which bid was made before December 13, 1960, shall be exempt from the additional tax imposed by Act No. 1 of the Public Acts of the Second Extra Session of 1960 from January 1, 1961.

HISTORY: Add. 1961, p. 25, Act 23, Imd. Eff. May 10.

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205.54d Tax exemption for existing contracts.

Sec. 4d. The tax levied by this amendatory act shall not apply to bona fide contracts previously exempt under the provisions of section 1 (c) if the contracts were entered into or bids were made and accepted before January 1, 1970.

HISTORY: Add. 1970, p. 61, Act 16, Imd. Eff. May 1.

205.54e Sales of vehicles to servicemen; exemption.

Sec. 4e. No person subject to tax under this act need include in the amount of his gross proceeds used for the computation of the tax a sale of tangible personal property to any nonresident person of Michigan actually serving in the United States armed forces of a vehicle from a Michigan retailer for titling and registration in his home state of residency or domicile. This claim for exemption shall be allowed only if at the time of sale, or purchase, a sworn statement is furnished the vendor from the immediate commanding officer of the purchaser certifying the person claiming the exemption is a member of the armed forces on active duty and furnishing the recorded domiciliary or home address of the purchaser.

HISTORY: Add. 1969, p. 386, Act 204, Imd. Eff. Aug. 6.

205.55 Additional tax.

Sec. 5. Additional tax. The tax imposed by this act shall be in addition to all other license fees and taxes levied by law as a condition precedent to engaging or continuing in any business taxable hereunder, except as in this act otherwise specifically provided.

HISTORY: CL 1948, 205.55.

205.56 Tax; due date, return, signature.

Sec. 6. (a) The taxpayer shall, unless otherwise provided by law, or as required pursuant to subsection (b) of this section, on or before the fifteenth day of each month, make out a return for the preceding month on a form prescribed by the department, showing the entire amount of all sales and gross proceeds of his business, the allowable deductions therefrom, and the amount of tax for which he is liable, and he shall transmit the return, together with a remittance for the amount of the tax, to the department, on or before the fifteenth day of the month. Such monthly return shall be signed by the taxpayer or his duly authorized agent, and if prepared for the taxpayer by any other person, the return shall so state, giving the name and address of such person and be signed by such person, and giving the name of his employer, if any.

Return and payment on other than monthly period.

(b) The commissioner of revenue, when he deems it necessary to insure payment of the tax or to provide a more efficient administration, may require the filing of returns and payment of the tax for other than monthly periods.

HISTORY: Am. 1939, p. 762, Act 313, Imd. Eff. Jun. 22;—CL 1948, 205.56;—Am. 1949, p. 388, Act 272, Eff. Jul. 1;—Am. 1963, p. 89, Act 74, Imd. Eff. May 8.

205.57 Annual returns, contents, reconciliation with federal income tax return, exception; goods withdrawn for personal use; additional information; return prepared by other than taxpayer.

Sec. 7. Each taxpayer shall annually file a return with the department of revenue, on a form prescribed by the department, which shall include a statement of gross receipts as shown by taxpayer's federal income tax return for the last calendar year, or, if the taxpayer files his federal income tax return on a fiscal year basis, then the true copy shall be for the last completed fiscal year of the taxpayer. If the total receipts of the business as reported in the federal income tax return do not agree with the gross sales reported to the department of revenue for the same period, the taxpayer shall attach to his annual return a schedule showing a reconciliation of the 2 amounts and the reasons for the difference. The foregoing portion of this section shall not be applicable to a corporation which certifies on the annual return that it is authorized as a corpora-

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tion to do business in each of 2 or more states. As a part of such annual return, the taxpayer shall include an accurate statement of the cost of goods withdrawn from his merchandise inventory for personal use or consumption of the taxpayer, his family or employees, or used for payment or consideration in any contract or obligation of the taxpayer; also, the name and address of any certified public accountant, accountant, bookkeeper or person engaged in any multiple bookkeeping service other than regular full time employees of the taxpayer, who made any entries in the books or records of the taxpayer or assisted, directed, counseled, or advised in the making of any books, records or tax returns in connection with the business covered by such annual return. The department of revenue may require such additional information, including the number of paid employees and members of the taxpayer's family working without compensation, as it deems would be helpful in determining the accuracy of the monthly returns filed in accordance with section 6 of this act. The annual return shall be filed within 30 days of the date set for the filing of the taxpayer's federal income tax return, and shall be signed by the taxpayer. If the annual return is prepared for the taxpayer by any other person, the return shall so state, giving the name and address of such person and be signed by the person, and giving the name of his employer, if any.

HISTORY: CL 1948, 205.57;—Am. 1949, p. 388, Act 272, Eff. Jul. 1;—Am. 1955, p. 20, Act 22, Imd. Eff. Apr. 7;—Am. 1961, p. 401, Act 228, Eff. Sep. 8.

205.58 Consolidated returns.

Sec. 8. Consolidated returns. Any person engaging in 2 or more places in the same business or businesses taxable under this act, shall file a consolidated return covering all such business activities engaged in within this state and shall be entitled to deduct 1 exemption only in the amount of $50.00 per month as allowed in section 4.

HISTORY: Am. 1939, p. 762, Act 313, Imd. Eff. June 22;—CL 1948, 205.58.

205.59 Sales tax returns; examination, recomputation; deficiency assessments, penalties, interest; limitation of action; assignment; fraudulent concealment.

Sec. 9. As soon as practicable after each return is filed the department shall examine it. If it then appears that the correct amount of tax is greater or less than that shown in the return, the tax shall be recomputed and the correct tax determined. If the amount paid exceeds that which should have been paid on the basis of the tax so recomputed, the excess so paid may be credited without interest against a subsequent tax or such amount may be refunded if requested by the taxpayer.

If the amount paid is less than the amount which should have been paid, the deficiency, together with interest thereon at the rate of 1/2 of 1% per month from the time the tax was due, shall become due and payable after notice and hearing as herein provided.

If any part of the deficiency is due to negligent or intentional disregard of this act or of authorized rules and regulations of the department, but without intent to defraud, there shall be added as a penalty 10% of the total amount of the deficiency in the tax, and interest shall be collected at the rate of 1% per month on the amount of such deficiency in the tax from the time it was due, which interest and penalty shall become due and payable after notice and hearing as hereinafter provided.

If any part of the deficiency is due to a fraudulent intent to evade the tax, there shall be added as a penalty 100% of such deficiency and the whole amount of tax unpaid, together with the penalty, shall become due and payable after notice and hearing as hereinafter provided, and an additional 1% per month on the tax shall be added from the date such tax was due until paid. Penalties and interest for fraudulent intent to evade the tax shall not be waived by the department.

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Whenever notice is required under the provisions of this act, such notice shall be given either by personal service or by registered or certified mail addressed to the last known or licensed address of the taxpayer.

No deficiency, interest or penalty shall be assessed for any year after the expiration of 4 years from June 30 for such year, nor shall the taxpayer claim refund of any amount paid by him to the department after the expiration of 4 years from the date of payment thereof, except that a person not licensed is liable for all taxes due for the entire period in which he has made sales at retail. A taxpayer shall not assign his claim against the state to any other person. If any person subject to tax under this act shall fraudulently conceal any liability for the tax or any part thereof, the department, upon discovery of such fraud and within 2 years thereafter, shall proceed to assess such tax with penalties and interest as hereinbefore provided, computed from the date on which such tax liability originally accrued and such tax, penalties and interest shall become due and payable after notice and hearing as hereinafter provided, anything herein contained to the contrary notwithstanding.

HISTORY: Am. 1939, p. 762, Act 313, Imd. Eff. Jun. 22;—CL 1948, 205.59;—Am. 1949, p. 388, Act 272, Eff. Jul. 1;—Am. 1964, p. 43, Act 38, Eff. Aug. 28.

205.60 Remittances; ultimate payment in cash.

Sec. 10. All remittances of taxes imposed by this act shall be made to the department by bank draft, check, cashier's check, money order, certificate of deposit or money. The department shall issue its receipt, and shall forthwith deposit all moneys received in the state treasury where it shall be credited as in this act provided: Provided, That no remittance other than cash shall be a final discharge of liability for the tax herein assessed and levied unless and until it has been paid in cash.

HISTORY: CL 1948, 205.60;—Am. 1949, p. 389, Act 272, Eff. Jul. 1.

205.61 Failure to make return; assessment of tax; penalty.

Sec. 11. If any person fails or refuses to file a return within the time specified in this act, the department shall proceed as soon as possible to assess the tax against such person and shall notify him of the amount thereof together with a $2.00 penalty or 25 per cent of the tax, whichever amount is greater.

In case of failure or refusal to file a remittance with any return required by this act, within the time prescribed by this act or prescribed by the department in pursuance of the provisions of this act, 10 per cent of the tax shall be added as a penalty: Provided, That when a return or remittance is filed after such time and it is shown that the failure to file it was due to reasonable cause and not due to wilful neglect, no such addition shall be made to the tax. The amount so added shall be collected as a part of the tax: Provided further, however, That the department shall at no time have the power or authority to cancel or diminish any part of the tax imposed under the provisions of Act No. 167 of the Public Acts of 1933, with the exception of the penalties provided for in this section.

HISTORY: Am. 1939, p. 763, Act 313, Imd. Eff. Jun. 22;—CL 1948, 205.61;—Am. 1949, p. 389, Act 272, Eff. Jul. 1.

205.62 Collection of sales tax due state; warrant; suit.

Sec. 12. If the tax imposed by this act is not paid within the time allowed by section 6 of this act or as otherwise required by law, the department, or some person designated by it, may cause a demand to be made on the taxpayer for the payment thereof. If such tax remains unpaid for 10 days after such demand has been made and no proceedings have been taken to review the same, the department may issue a warrant under the official seal of its office, directed to the sheriff of any county of the state or to any state officer authorized to serve process, commanding said sheriff or other officer to levy upon and sell the real and personal property of the taxpayer, without exemption, found within his jurisdiction, for the payment of the amount thereof with the

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added penalties, interest and the cost of executing the warrant. Such warrant shall be returned to the department together with the money collected by virtue thereof within the time therein specified, which shall not be less than 20 nor more than 90 days from the date of the warrant. The sheriff or other officer to whom such warrant shall be directed shall proceed upon the same in all respects and with like effect and in the same manner as prescribed by law in respect to executions issued against property upon judgments by a court of record, and shall be entitled to the same fees for his services in executing the warrant, to be collected in the same manner. The state of Michigan, through the department or some officer or agent designated by it, is hereby authorized to bid for and purchase any property sold under the provisions hereof.

In addition to the mode of collection provided herein, the department may bring an action at law in the county in which the business or any part thereof is carried on, to collect and recover the amount of taxes, interest and penalties claimed to be due from any taxpayer.

HISTORY: Am. 1941, p. 581, Act 338, Eff. Jan. 10, 1942;—CL 1948, 205.62;—Am. 1949, p. 390, Act 272, Eff. Jul. 1.

205.63 Tax lien; priority; sale of business, liability of purchaser.

Sec. 13. The tax herein imposed in addition to the interest and penalties provided in sections 9 and 11 hereof, and costs that may accrue in addition thereto, shall be a lien in favor of the state against all property and rights of property, both real and personal, then owned or afterwards acquired by any person or persons, firm, association or corporation, liable therefor, to secure the payment of such tax, interest, penalties and costs, which lien shall attach to the property from and after the date that any report upon which the specific tax is computed is required by this act to be filed. Such lien shall take precedence over all other liens and incumbrances whatsoever, irrespective of character or date, except previously recorded bona fide financing.

If any person liable for a tax levied hereunder shall sell out his business or stock of goods or shall quit the business, such person shall make a final return within 15 days after the date of selling or quitting business. His successor or succeeding successors, if any, shall be required to withhold sufficient of the purchase money to cover the amount of such taxes and interest and penalties as may be due and unpaid until such time as the former owner shall produce a receipt from the department showing that they have been paid, or a certificate stating that no taxes are due. If the purchaser or succeeding purchasers of a business or stock of goods shall fail to withhold purchase money as above provided, he or they shall be personally liable for the payment of the taxes, interest and penalties accrued and unpaid on account of the operation of the business by the former owner.

HISTORY: Am. 1939, p. 763, Act 313, Imd. Eff. Jun. 22;—CL 1948, 205.63;—Am. 1949, p. 390, Act 272, Eff. Jul. 1;—Am. 1953, p. 289, Act 204, Imd. Eff. Jun. 10.

205.64 Jeopardy assessment.

Sec. 14. If the department finds that a person liable for tax under any provisions of this act designs quickly to depart from the state or to remove his property therefrom, or to conceal himself or his property therein, or to do any other act tending to prejudice or to render wholly or partly ineffectual proceedings to collect such tax unless such proceedings be brought without delay, the department shall cause notice of such finding to be given such person, together with a demand for an immediate return and immediate payment of such tax. Warrant may issue immediately upon issuance of such jeopardy assessments. Thereupon such tax shall become immediately due and payable. If such person (1) is not in default in making any return or paying any tax prescribed by this act, and (2) furnishes evidence satisfactory to the department under regulations prescribed by the department, that he will duly return and pay the tax to which the

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department's finding relates, then such tax shall not be payable prior to the time otherwise fixed for payment.

HISTORY: Am. 1939, p. 763, Act 313, Imd. Eff. Jun. 22;—CL 1948, 205.64;—Am. 1949, p. 390, Act 272, Eff. Jul. 1.

205.65 Corporation; dissolution, withdrawal.

Sec. 15. The corporation and securities commission shall withhold the issuance of any certificate of dissolution or withdrawal in the case of any corporation organized under the laws of this state or organized under the laws of another state and admitted to do business in this state until the receipt of a notice from the department to the effect that all taxes levied under this act against any such corporation have been paid, or until it shall be notified by the department that the applicant is not indebted for any taxes levied hereunder.

HISTORY: CL 1948, 205.65;—Am. 1949, p. 391, Act 272, Eff. Jul. 1.

205.66 Injunction for failure to pay tax or obtain license.

Sec. 16. Any person against whom a tax shall be assessed as herein provided may be restrained and enjoined by proper proceedings instituted in the name of the state of Michigan, brought by the attorney general at the request of the department, from engaging and/or continuing in a business for which a privilege tax is required by the provisions of this act, until such tax shall have been paid, and/or license secured, and until such person shall have complied with the provisions of this act.

HISTORY: CL 1948, 205.66;—Am. 1949, p. 391, Act 272, Eff. Jul. 1.

205.66a Duty of assessing officers.

Sec 16a. It shall be the duty of each assessing officer of each city, village or township in preparing the annual property tax roll of personal property to show on the assessment roll the sales tax license number of each person engaged in the business of making retail sales of tangible personal property subject to tax under this act. It shall be the duty of each said assessing officer to immediately report to the department of revenue the name and address and type of business of any person found in the business of making such retail sales and not licensed to do so as required by section 3 of this act.

Any city, village or township clerk, marketmaster, or any other state, county or municipal official whose duty it is to issue licenses or permits to engage in a business involving the sale at retail of tangible personal property subject to tax under this act shall, before issuing such license or permit, require proof that the person to whom such license or permit is to be issued is the holder of a sales tax license as required by section 3 of this act or has applied to the department of revenue for such license.

Any city, village, township or state officer who shall receive information which leads him to believe that a person making retail sales subject to tax under this act is about to close his business or cease making retail sales shall immediately notify the department of revenue of this fact in order that the department may make such investigation as may be necessary to protect the interests of the state.

HISTORY: Add. 1949, p. 391, Act 272, Eff. Jul. 1.

205.67 Records, taxpayer to keep; sale for resale; sales to unlicensed person; records, retention; violations.

Sec. 17. Every person liable for any tax imposed under this act shall keep an accurate and complete beginning and annual inventory and purchase records of additions to inventory, complete daily sales records, receipts, invoices, bills of lading and any and all pertinent documents in such form as the department may require and wherever an exemption from sales tax is claimed by reason of the sale being for resale or for any of the other exemptions or deductions granted under this act, there shall be a record kept of the name and address of the person to whom the sale is made, the date of

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the sale, the article purchased, the use to be made of the article, the amount of the sale and if that person has a sales tax license, that number shall also be noted thereon. Any person knowingly making a sale of tangible personal property to another not licensed under this act, for the purpose of resale at retail, shall be liable for the tax imposed by this act under the provisions of this act. Such records must be retained for the same period as stated in section 9. Whenever in the judgment of the department it is necessary, it may require any person, by notice served upon him, to make a return, render under oath such statements, or keep such records, as the department deems sufficient to show whether or not such person is liable to tax under this act. In the event the taxpayer fails to file a return or to maintain or preserve proper records as prescribed in this section or the department has reason to believe that any records maintained or returns filed are inaccurate or incomplete and that additional taxes are due, the department shall be empowered to assess, upon such information as is available or may come into possession of the department, the amount of the tax due from the taxpayer. Such assessment after notice and hearing as hereinafter provided shall be deemed to be prima facie correct for the purpose of this act and the burden of proof of refuting such assessment shall be upon the taxpayer.

HISTORY: Am. 1939, p. 764, Act 313, Imd. Eff. Jun. 22;—CL 1948, 205.67;—Am. 1949, p. 391, Act 272, Eff. Jul. 1;—Am. 1969, p. 133, Act 73, Imd. Eff. Jul. 21.

205.68 Records; examination; witnesses; enforcement.

Sec. 18. The department may by itself, or its duly appointed agents, examine the books, records and papers of any person subject to taxation under this act. The commissioner or any deputy may issue a subpoena requiring any person to appear before the department or its duly designated and authorized agents and be examined with reference to any matter within the scope of the inquiry or investigation being conducted by the department and to produce any books, records or papers. The commissioner or any of his deputies, or any employee of the department authorized by the commissioner or any of his deputies, may administer an oath to a witness in any matter before the department. In case of disobedience of a subpoena, the department or any party to a proceeding before the department may invoke the aid of any circuit court of the state of Michigan in requiring the attendance and testimony of witnesses and the production of books, papers and documents. And any of the circuit courts of the state within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena, issue an order requiring such person to appear before said department and to produce books and papers if so ordered and give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

HISTORY: Am. 1939, p. 764, Act 313, Imd. Eff. Jun. 22;—CL 1948, 205.68;—Am. 1949, p. 392, Act 272, Eff. Jul. 1.

205.69 Testimony; incriminating answers; immunity.

Sec. 19. No person shall be excused from testifying or from producing any books, papers, records or memoranda in any investigation, or upon any hearing, when ordered to do so by the department or its duly designated and authorized agents, upon the ground that the testimony or evidence, documentary or otherwise, may tend to incriminate him or subject him to a criminal penalty; but no person shall be prosecuted or subjected to any criminal penalty for, or on account of, such testimony or books, papers, records or memoranda which he produces upon such investigation or hearing. No person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

HISTORY: Am. 1949, p. 764, Act 313, Imd. Eff. Jun. 22;—CL 1948, 205.69;—Am. 1949, p. 392, Act 272, Eff. Jul. 1.

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205.70 Reports; statistics; confidential information.

Sec. 20. The department shall publish annually a report containing its rulings and orders and it shall include such statistical information of a general character as it may deem of general interest. Unless in accordance with a judicial order, or as shall be required in the proper administration of this act, no member of the department, or agent or employee thereof, or former member, agent or employee, shall divulge any facts or information obtained in connection with the administration of this act: Provided, however, That all tax conferences or hearings concerning a notice of intent to assess, the assessment, or claims for the reduction thereof and any decision or determination thereon shall be open to the public.

HISTORY: CL 1948, 205.70;—Am. 1949, p. 392, Act 272, Eff. Jul. 1.

Sec. 21.

HISTORY: Am. 1935, p. 121, Act 77, Imd. Eff. May 23;—Rep. 1941, p. 151, Act 122, Eff. Jan. 10, 1942.

NOTE: This section created the state board of tax administration, now abolished, and powers transferred to department of revenue, see Compilers' § 205.13.

205.72 Hearing; appeal; correction of assessment; injunction.

Sec. 22. If the department after examining the return of any taxpayer and based upon such examination and on any additional information subsequently acquired, determines that the taxpayer is indebted to the state by reason of deficiency of the remittance accompanying such return, the department shall give such taxpayer notice of the intention to levy such deficiency. Such taxpayer may, if he so desires and serves notice thereof upon the department within 20 days, demand a hearing on the question of the levy of such deficiency. Thereupon the department shall set a time and place for public hearing and shall give the taxpayer reasonable notice thereof.

The taxpayer shall be entitled to appear before the department and be represented by counsel and present testimony and argument. After the hearing the department shall render its decision in writing and, by order, levy any deficiency found by it to be due and payable.

If any taxpayer is aggrieved by any decision of the department, he may appeal under the provisions of Act No. 122 of the Public Acts of 1941, as amended, or he shall be required to pay the amount of taxes, interest and penalties found due by the department and shall be permitted to bring an action in the circuit court in the county in which the business for the privilege of doing which the tax is levied is carried on, to recover the amount of the taxes alleged to have been unlawfully levied upon him. Such action shall be commenced within 90 days after payment of such tax, penalties and interest so levied and shall be conducted in accordance with the statutes and rules of procedure concerning actions at law.

In the event any taxpayer is found entitled to recover any sums paid pursuant to the orders of the department as hereinbefore provided, such sums shall be paid from the general fund of the state on order of the department and warrant of the auditor general and deducted from current sales tax collections.

No injunction shall issue to stay proceedings for assessment or collection of any taxes levied under this act.

HISTORY: CL 1948, 205.72;—Am. 1949, p. 393, Act 272, Eff. Jul. 1.

205.73 Advertisement; reimbursement of taxpayer; brackets.

Sec. 23. No person engaged in the business of selling tangible personal property at retail shall advertise or hold out to the public in any manner, directly or indirectly, that the tax herein imposed is not considered as an element in the price to the consumer. Nothing contained in this act shall be deemed to prohibit any taxpayer from reimbursing himself by adding to his sale price any tax levied hereunder. Since the following brackets will result in collection of sales taxes which bear a reasonable relationship to the amount of taxes required to be paid to the state under the terms hereof, the

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following brackets shall be used by retailers in determining amounts to be added to sales prices for reimbursement purposes.

Amount of Sale	Tax
1 cent to 12 cents	0
13 cents to 31 cents	1 cent
32 cents to 54 cents	2 cents
55 cents to 81 cents	3 cents
82 cents to $1.08	4 cents
$1.09 to $1.35	5 cents
$1.36 to $1.62	6 cents

On each further addition of 25 cents or any part thereof to the selling price, 1 additional cent. No other person other than the state may enrich himself or gain any benefit from the collection or payment of such tax, nor shall use of the above brackets relieve the retailer from liability for payment of the full amount of the tax levied by this act.

HISTORY: CL 1948, 205.73;—Am. 1949, p. 393, Act 272, Eff. Jul. 1;—Am. 1964, p. 265, Act 194, Eff. Aug. 28.

205.74 Offenses; penalties; suspension of licenses.

Sec. 24. It shall be unlawful for any person to refuse to make the return required by this act; or to make, or to aid, abet or assist another in making, any false or fraudulent return or false statement in any return required by this act, with intent to defraud the state or to evade the payment of the tax, or any part thereof, imposed by this act; or for any person to aid, abet or assist another in any attempt to evade the payment of the tax, or any part thereof, imposed by this act; or for any person or the president, vice-president, secretary or treasurer of any company or association, to make or permit to be made for any person, company or association any false return, or any false statement in any return required in this act, with the intent to evade or assist in evading the payment of any tax hereunder. Any person violating any of the provisions of this act shall be guilty of a misdemeanor and, on conviction thereof, shall be fined not more than $1,000.00 or imprisoned not exceeding 1 year in the county jail or punished by both fine and imprisonment, at the discretion of the court for each and every violation of the act. In addition to the foregoing penalties, any person who shall knowingly swear to or verify any false or fraudulent return, or any return containing any false or fraudulent statement, with the intent to defraud or to aid, abet or assist in defrauding the state, shall be guilty of the offense of perjury, and, on conviction thereof, shall be punished in the manner provided by law.

Any person who shall engage in any business in this state which is taxable under this act and who shall fail to secure from the department a license to engage in such business, as required in this act, or who shall continue to engage in business after his license so to do shall have expired or have been suspended by the department, shall be guilty of a misdemeanor, the punishment for which shall be a fine of not more than $1,000.00 or imprisonment for not more than 1 year, or both such fine and imprisonment.

The department shall have power, after hearing, to suspend the license of any person who shall violate or fail to comply with any provisions of this act or any rule or regulation adopted by the department pursuant thereto. The department shall have

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power to restore licenses after suspension. If any person shall engage in business taxable under this act while his license is in suspension, the tax imposed with respect thereto shall nevertheless be imposed and be payable with respect to such business.

HISTORY: CL 1948, 205.74;—Am. 1949, p. 393, Act 272, Eff. Jul. 1.

205.75 Sales tax revenues; collection costs; distribution, appropriated.

Sec. 25. All sums of money received and collected under the provisions of this act shall be deposited by the department in the state treasury to the credit of the general fund. Prior to any division or allocation of the tax, the cost of collection as determined by the department shall be deducted from total collections. The state disbursing authority shall remit quarterly to county treasurers on a county population basis 1/8 of the balance of the collections. The county treasurer shall remit to the townships, cities and villages in the county on a per capita basis. Population computation shall be based on the last and each succeeding statewide federal census for purposes of division among counties, and upon the same basis or upon any special federal county-wide census, whichever is later, for purposes of division among local units. Fifty percent of the total number of persons who are wards, patients or convicts committed to or domiciled in a city institution located outside the boundaries of the city or committed to or domiciled in a county, state or federal tax supported institution, if such persons were included in the federal census, shall be excluded from the computation. One-half of the balance of the collections shall be transferred to the school aid fund created by section 11 of article 9 of the state constitution and distributed as provided by law. The balance in the general fund shall be disbursed only on an appropriation or appropriations by the legislature.

HISTORY: Am. 1931, p. 121, Act 77, Imd. Eff. May 23;—CL 1948, 205.75;—Am. 1949, p. 394, Act 272, Eff. Jul. 1;—Am. 1964, p. 55, Act 49, Imd. Eff. May 7.

205.76 Repealed. 1949, p. 394, Act 272, Eff. Jul. 1.

Section made appropriation from general fund for administration of sales tax act and provided for its repayment.

Sec. 27. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 414, Act 267, Imd. Eff. May 25.

205.78 Short title; general sales tax act.

Sec. 28. This act may be cited as the "General Sales Tax Act."

HISTORY: CL 1948, 205.78.

Act 94, 1937, p. 129; Eff. Oct. 29.

AN ACT to provide for the levy, assessment and collection of a specific excise tax on the storage, use or consumption in this state of tangible personal property and certain services; to appropriate the proceeds thereof; and to prescribe penalties for violations of the provisions of this act. Am. 1959, p. 414, Act 263, Eff. Sep. 1;—Am. 1960, 2nd Ex. Ses., p. 11, Act 2, Eff. Jan. 1, 1961.

The People of the State of Michigan enact:

205.91 Use tax act; short title.

Sec. 1. This act may be cited as the "Use Tax Act".

HISTORY: CL 1948, 205.91.

CITED IN OTHER SECTIONS: Sections 205.91 to 205.11 are cited in §§ 205.13, 205.51, 257.235a, 257.248, 323.354, and 336.4.

205.92 Use tax act; definitions.

Sec. 2. Words and phrases when used in this act shall be defined as follows:

(a) The term "person" includes any individual, firm, co-partnership, joint venture, association, social club, fraternal organization, municipal or private corporation whether organized for profit or not, company, estate, trust, receiver, trustee, syndi-

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cate, the United States, state of Michigan, county, or any other group or combination acting as a unit, and the plural as well as the singular number, unless the intention to give a more limited meaning is disclosed by the context.

(b) "Use" means the exercise of any right or power over tangible personal property incident to the ownership of that property including transfer thereof in any transaction where possession is given.

(c) "Storage" means any keeping or retention in this state for any purpose after losing its interstate character.

(d) "Seller" means the person from whom a purchase is made and includes every person selling tangible personal property or services for storage, use, or other consumption in this state; and when, in the opinion of the department, it is necessary for the efficient administration of this act to regard any salesman, representative, peddler, or canvasser as the agent of a dealer, distributor, supervisor, or employer under whom such person operates or from whom he obtains tangible personal property or services, sold by him for storage, use or other consumption in this state, irrespective of whether or not he is making such sales on his own behalf, or on behalf of such dealer, distributor, supervisor, or employer, the department may so regard him and may regard such dealer, distributor, supervisor, or employer as the "seller" for the purpose of this act.

(e) "Purchase" means acquired for a consideration, whether such acquisition was effected by a transfer of title, or of possession, or of both, or a license to use or consume; whether such transfer shall have been absolute or conditional, and by whatsoever means the same shall have been effected; and whether such consideration be a price or rental in money, or by way of exchange or barter.

(f) "Price" means the aggregate value in money of any thing, or things, paid or delivered, or promised to be paid or delivered by a consumer to a seller in the consummation and complete performance of the transaction by which tangible personal property or services shall have been purchased or rented for storage, use or other consumption in this state, without any deduction therefrom on account of the cost of the property sold, cost of materials used, labor or service cost, interest or discount paid, or any other expense whatsoever. The tax collected by the seller from the consumer or lessee under the provisions of this act shall not be considered as a part of the price, but shall be considered as a tax collection for the benefit of the state, and no person other than the state shall derive any benefit from the collection or payment of such tax.

No tax is to be computed or collected on rental receipts when the tangible personal property rented or leased has previously been subjected to a Michigan sales or use tax when purchased by the lessor.

(g) "Consumer" means the person who shall have purchased tangible personal property or services for storage, use or other consumption in this state and shall include a person acquiring tangible personal property when engaged in the business of constructing, altering, repairing or improving the real estate of others.

(h) "Business" means all activities engaged in by any person or caused to be engaged in by him with the object of gain, benefit or advantage, either direct or indirect.

(i) "Department" means the department of revenue of the state of Michigan.

(j) The word "tax" shall include all taxes, interest or penalties levied under this act.

HISTORY: CL 1948, 205.92;—Am. 1949, p. 394, Act 273, Eff. Jul. 1;—Am. 1953, p. 284, Act 203, Imd. Eff. Jun. 10;—Am. 1959, p. 414, Act 263, Eff. Sep. 1;—Am. 1969, p. 391, Act 214, Imd. Eff. Aug. 6.

205.93 Rate; presumption.

Sec. 3. There is hereby levied upon and there shall be collected from every person in this state a specific tax for the privilege of using, storing or consuming tangible personal property in this state, which tax shall be equal to 4% of the price of such prop-

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erty, or services specified in section 3a of this act, and to such tax there shall be added penalties and interest where applicable as hereinafter provided. For the purpose of the proper administration of this act and to prevent the evasion of the tax hereby levied, it shall be presumed that tangible personal property purchased shall be subject to the tax if brought into the state within 90 days of the purchase date and shall be considered as acquired for storage, use or other consumption in this state.

Motor vehicles, aircraft, transfer, exceptions.

The tax imposed by this section for the privilege of using, storing or consuming a vehicle, aircraft or watercraft shall be collected prior to the transfer of any vehicle, aircraft or watercraft, except transfers to a licensed dealer or retailer for purposes of resale, that arises by reason of a transaction made by a person who does not transfer vehicles, aircraft or watercraft in the ordinary course of his business done in this state. The tax on a vehicle and a watercraft shall be collected by the secretary of state prior to the transfer of any vehicle or watercraft registration. The tax on an aircraft shall be collected by the department of revenue. Notwithstanding any limitation contained in section 2, the price of any vehicle, aircraft or watercraft subject to taxation hereunder shall be not less than its retail dollar value at the time of purchase thereof as fixed pursuant to rules and regulations promulgated by the department.

Nontaxable transfers.

No use tax shall be payable in cases of transfer or purchase:

(a) When the transferee or purchaser is the spouse, mother, father, brothers, sister or child of the transferor.

(b) When the transfer is a gift to a beneficiary in the administration of an estate.

(c) When a vehicle, aircraft or watercraft which has once been subjected to the Michigan sales or use tax is transferred in connection with the organization, reorganization, dissolution or partial liquidation of an incorporated or unincorporated business wherein the beneficial ownership is not changed.

Services, information, or records furnished department of revenue.

The department is hereby authorized to utilize the services, information or records of any other department or agency of the state government in the performance of its duties hereunder, and other departments or agencies of the state government are required to furnish such services, information or records upon the request of the department.

HISTORY: Am. 1949, p. 395, Act 273, Eff. Jul. 1;—Am. 1953, p. 307, Act 211, Eff. Oct. 2;—Am. 1957, p. 188, Act 167, Imd. Eff. May 29;—Am. 1959, p. 415, Act 263, Eff. Sep. 1;—Am. 1959, p. 453, Act 272, Eff. Jan. 1, 1960;—Am. 1960, 2nd Ex. Ses., p. 11, Act 2, Eff. Jan. 1, 1961;—Am. 1962, p. 464, Act 219, Eff. Jul. 1;—Am. 1964, p. 54, Act 48, Eff. Aug. 28.

205.93a Tax for use or consumption; services.

Sec. 3a. The use or consumption of the following services shall be taxed under this act in the same manner as tangible personal property is taxed under this act:

Telephone, telegraph, leased wire communications.

(a) Intrastate telephone, telegraph, leased wire and other similar communications, including local telephone exchange and long distance telephone service which both originates and terminates in Michigan, and telegraph, private line and teletypewriter service between places in Michigan, but excluding telephone service by coin-operated installations, switchboards, concentrator-identifiers, interoffice circuitry and their accessories for telephone answering service and directory advertising proceeds.

Lodging, definition, exception.

(b) Rooms or lodging furnished by hotelkeepers, motel operators and other persons furnishing accommodations that are available to the public, on the basis of a commercial and business enterprise, irrespective of whether or not membership is required for use of the accommodations, except rooms and lodging rented for a continuous period

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of more than 1 month. As used in this act, "hotel" or "motel" means a building or group of buildings in which the public may obtain accommodations for a consideration, including, without limitation, such establishments as inns, motels, tourist homes, tourist houses or courts, lodging houses, rooming houses, nudist camps, apartment hotels, resort lodges and cabins, camps operated by other than nonprofit organizations but not including those licensed under Act No. 47 of the First Extra Session of 1944, as amended, being sections 722.101 to 722.108 of the Compiled Laws of 1948, and any other building or group of buildings in which accommodations are available to the public, except accommodations rented for a continuous period of more than 1 month and accommodations furnished by hospitals or nursing homes.

The enrolled act was presented to the Governor on June 14, 1962 and became a law without his approval upon the expiration of 10 days, Sundays excepted, after presentation.

NOTE: House Bill No. 187 of the 1962 session became Act No. 217.

House Bill No. 315 of the 1962 session became Act No. 215.

House Bill No. 318 of the 1962 session became Act No. 218.

House Bill No. 375 of the 1962 session became Act No. 216.

House Bill No. 724 of the 1962 session became Act No. 220.

HISTORY: Add. 1959, p. 416, Act 263, Eff. Sep. 1;—Am. 1959, p. 454, Act 272, Eff. Jan. 1, 1960;—Am. 1960, p. 135, Act 119, Imd. Eff. Apr. 26;—Am. 1962, p. 465, Act 219, Eff. Jul. 1.

205.94 Use tax; exemptions.

Sec. 4. The tax levied shall not apply to:

Sales tax paid.

(a) Property sold in this state on which transaction a tax has been paid under the provisions of Act No. 167 of the Public Acts of 1933, as amended, being sections 205.51 to 205.78 of the Compiled Laws of 1948, if the tax was due and paid on the retail sale to the consumer as consumer is defined in this act.

Constitutional prohibitions.

(b) Property, the storage, use or other consumption of which, this state is prohibited from taxing under the constitution or laws of the United States, or under the constitution of this state.

Driver training cars; demonstrators.

(c) Property purchased for resale, demonstration purposes or lending or leasing to public and parochial schools offering courses in automobile driving except that vehicles purchased by the schools must be certified for driving education and shall not be reassigned for personal use by the schools administrative personnel. In case of a dealer selling new cars and trucks, exemption for demonstration purposes shall be determined by the number of new cars and trucks sold during the current calendar year or the immediate prior year without regard to specific make or style in accordance with the following schedule: 0 to 25, 2 units; 26 to 100, 7 units; 101 to 500, 20 units; 501 or more, 25 units; but not to exceed 25 cars and trucks in any one calendar year for demonstration purposes.

Nonresident's property.

(d) Property which is brought into this state by a nonresident person thereof for storage, use or consumption while temporarily within this state, except when such property is used in this state in a nontransitory business activity for a period exceeding 15 days.

Property taxed in other jurisdictions; reciprocity.

(e) Property the sale or use of which has already been subjected to a sales tax or use tax equal to or in excess of that imposed by this act under the law of any other state of the United States or a local governmental unit within a state. If the sale or use of property has already been subjected to a tax under the law of any other state or local governmental unit within a state in an amount less than the tax imposed by this act, the provisions of this act shall apply, but at a rate measured by the difference only between the rate herein provided and the rate by which the previous tax was computed. If such tax was due and paid on the retail sale to the consumer as consumer is defined

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in this act and the state or local governmental unit within a state in which the tax was imposed accords like or complete exemption on property the sale or use of which was subjected to the Michigan sales or use tax.

Agricultural production.

(f) Property sold to persons engaged in a business enterprise and using and consuming such property in the tilling, planting, caring for or harvesting of the things of the soil, in the breeding, raising or caring for livestock or poultry or horticultural products, including transfers of livestock or poultry or horticultural products for further growth. In all such cases, at the time of the transfer of the tangible personal property, the transferee shall sign a statement, in a form approved by the department, stating that such property is to be used or consumed in connection with the production of horticultural or agricultural products as a business enterprise. Such statement shall be accepted by all courts as prima facie evidence of the exemption. This exemption shall not include transfers of food, fuel, clothing or any similar tangible personal property for personal living or human consumption. This exemption shall not include tangible personal property permanently affixed and becoming a structural part of real estate.

Industrial processing; exclusions.

(g) Property sold to persons for use or consumption in industrial processing. "Industrial processing" shall not include tangible personal property permanently affixed and becoming a structural part of real estate; services performed upon property owned by others where the services do not transform, alter or modify the property so as to place it in a different form, composition or character; office furniture, office supplies and administrative office equipment; receiving and storage of raw materials purchased or extracted by the user or consumer; vehicles licensed and titled for use on public highways; the preparation of food and beverages by a retailer for retail sale.

Sales to United States, Red Cross, state or political subdivisions.

(i) Property or services sold to the United States, its unincorporated agencies and instrumentalities, any incorporated agency or instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States, the American Red Cross and its chapters and branches, the state, its departments or institutions, or any of its political subdivisions.

Schools, hospitals and certain nonprofit institutions.

(j) Property or services sold to schools, hospitals, homes for the care and maintenance of children or aged persons, and other health, welfare, educational, charitable or benevolent institutions and agencies, operated by an entity of government, a regularly organized church, religious or fraternal organization, a veterans' organization, or a corporation incorporated under the laws of the state of Michigan, when not operated for profit, and when the income or benefit from the operation does not inure, in whole or in part, to any individuals or private shareholders, directly or indirectly and when the activities of the entity or agency are carried on exclusively for the benefit of the public at large and are not limited to the advantage, interests and benefits of its members or any restricted group.

Churches; exceptions.

(k) Property or services sold to regularly organized churches or houses of religious worship excepting when such property is used in activities as are mainly commercial enterprises and further excepting vehicles licensed for use on the public highways.

Commercial vessels, supplies and repairs.

(l) Vessels designed for commercial use of registered tonnage of 500 tons or more, when produced upon special order of the purchaser, and bunker and galley fuel, provisions, supplies, maintenance and repairs for the exclusive use of vessels of 500 tons or more engaged in interstate commerce.

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Nonprofit hospital or housing real estate improvements.

(m) Property purchased by persons engaged in the business of constructing, altering, repairing or improving real estate for others to the extent the property is affixed to and made a structural part of the real estate of a nonprofit hospital or nonprofit housing. A nonprofit hospital or nonprofit housing includes only the property of a nonprofit hospital or the homes or dwelling places constructed by a nonprofit housing entity, the income or property of which does not directly or indirectly inure to the benefit of any individual, private stockholder or other private person.

Out of state purchases.

(n) Property purchased for use in the state where actual personal possession is obtained outside the state, the purchase price or actual value of which does not exceed $10.00 during any one calendar month.

Newspapers, periodicals and films; exceptions.

(o) Newspapers and periodicals, as admitted under present federal postal laws and regulations as second class mail matter or as controlled circulation publications or qualified to accept legal notices for publication in this state, as defined by law, or any other newspaper or periodical of general circulation, established at least 2 years, and published at least once a week, and copyrighted motion picture films. All tangible personal property used or consumed and not becoming a component part of newspapers and periodicals and copyrighted motion picture films is subject to tax.

Radio and television films, tapes or recordings.

(p) Property purchased by persons licensed to operate commercial radio or television stations when the property is used as a component part of a completed film, tape or recording produced for resale or transmission purposes.

Automobile purchased by resident military personnel.

(q) Any person who is a resident of the state who purchases an automobile in another state while such person is in the military service of the United States and who pays a sales tax in the state where the automobile is purchased.

Specially registered vehicles.

(r) Vehicles for which a special registration is secured in accordance with subsection (c) of section 802 of Act No. 300 of the Public Acts of 1949, as amended, being section 257.802 of the Compiled Laws of 1948.

Artificial limbs or eyes.

(s) Artificial limbs or artificial eyes individually designed, constructed or altered solely for the use of a particular disabled person.

Water.

(t) Water when delivered through water mains or in bulk tanks in quantities of not less than 500 gallons.

Communication service equipment.

(u) Purchases of machinery and equipment for use or consumption in the rendition of a service the use or consumption of which is taxable under subsection (a) of section 3a of this act except that this exemption shall be limited to the tangible personal property located on the premises of the subscriber and the necessary exchange equipment.

HISTORY: Am. 1945, p. 250, Act 180, Imd. Eff. May 16;—CL 1948, 205.94;—Am. 1949, p. 395, Act 273, Eff. Jul. 1;—Am. 1950, 1st Ex. Ses., p. 5, Act 7, Imd. Eff. May 8;—Am. 1952, p. 194, Act 164, Imd. Eff. Apr. 24;—Am. 1953, p. 285, Act 203, Imd. Eff. Jun. 10;—Am. 1955, p. 352, Act 235, Eff. Oct. 14;—Am. 1959, p. 416, Act 283, Eff. Sep. 1;—Am. 1959, p. 454, Act 272, Eff. Jan. 1, 1960;—Am. 1962, p. 485, Act 219, Eff. Jul. 1;—Am. 1964, p. 205, Act 164, Eff. Aug. 28;—Am. 1969, p. 392, Act 214, Imd. Eff. Aug. 6;—Am. 1970, p. 55, Act 15, Imd. Eff. May 1.

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205.94a Exemptions of property affixed to real estate under certain contracts.

Sec. 4a. The use of material purchased by persons engaged in the business of constructing, altering, repairing or improving real estate for others when the material so purchased by such persons is affixed and made a structural part of real estate or used and completely consumed in the fulfillment of a single contract, when the contract is either at a fixed price not subject to change or modification or entered into pursuant to the obligation of a formal written bid which cannot be altered or withdrawn, which contract was entered into or which bid was made before September 1, 1959, shall be exempt from the additional tax imposed by Act No. 263 of the Public Acts of 1959 from September 1, 1959, or in the case of contracts with the state of Michigan, its departments or institutions, if the contract was entered into or the bid was made before January 1, 1960, shall be exempt from the tax imposed by this amendatory act.

HISTORY: Add. 1959, p. 457, Act 272, Eff. Jan. 1, 1960.

205.94b Exemptions of property affixed to real estate under certain contracts.

Sec. 4b. The use of material purchased by persons engaged in the business of constructing, altering, repairing or improving real estate for others when the material so purchased by such persons is affixed and made a structural part of real estate or used and completely consumed in the fulfillment of a single contract, when the contract is either at a fixed price not subject to change or modification or entered into pursuant to the obligation of a formal written bid which cannot be altered or withdrawn, which contract was entered into or which bid was made before December 13, 1960, shall be exempt from the additional tax imposed by Act No. 2 of the Public Acts of the Second Extra Session of 1960 from January 1, 1961.

HISTORY: Add. 1961, p. 24, Act 22, Imd. Eff. May 10.

205.94c Tax exemption for existing contracts.

Sec. 4c. The tax levied by this amendatory act shall not apply to bona fide contracts previously exempt under the provisions of section 4 (m) if the contracts were entered into or bids were made and accepted before January 1, 1970.

HISTORY: Add. 1970, p. 58, Act 15, Imd. Eff. May 1.

205.95 Registration requirements; seller to collect tax from consumer.

Sec. 5. (a) Every person when engaged in the business of selling tangible personal property for storage, use or other consumption in this state, shall register with the department and give the name and address of each agent operating in this state, the location of any and all distribution or sales houses or offices, or other places of business in this state and such other information as the department may require with respect to matters pertinent to the enforcement of this act, but it shall not be necessary for a seller holding a license obtained pursuant to the provisions of Act No. 167 of the Public Acts of 1933, as amended, to register with the department as provided in this act. Every such seller shall collect the tax imposed by this act from the consumer.

Foreign corporation; certificate of authority to do business.

(b) The corporation and securities commission shall not issue to any foreign corporation engaged in the business of selling tangible personal property a certificate of authority to do business in this state or approve and file the proposed articles of incorporation submitted to it by any domestic corporation authorizing or permitting such corporation to conduct any business of selling of tangible personal property unless such corporations shall submit with an application for said certificate of authority or

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proposed articles of incorporation, an application for registration of said corporation under the provisions of this act, or an application for license under the provisions of Act No. 167 of the Public Acts of 1933 as amended, which application shall be transmitted to the department by said corporation and securities commission.

Corporations; dissolution, withdrawal.

The corporation and securities commission shall withhold the issuance of any certificate of dissolution or withdrawal in the case of any corporation organized under the laws of this state or organized under the laws of another state and admitted to do business in this state until the receipt of a notice from the department to the effect that all taxes levied under this act against any such corporation have been paid, or until it shall be notified by the department that the applicant is not indebted for any taxes levied hereunder.

HISTORY: CL 1948, 205.95;—Am. 1949, p. 397, Act 273, Eff. Jul. 1;—Am. 1959, p. 418, Act 263, Eff. Sep. 1;—Am. 1959, p. 457, Act 272, Eff. Jan. 1, 1960.

205.96 Returns; contents; payment.

Sec. 6. (a) Every person storing, using or consuming tangible personal property or services, the storage, use or consumption of which is subject to the tax imposed by the act, when such tax was not paid to a seller, and every seller collecting such tax from the purchaser, shall, unless otherwise prescribed by the department under the provisions of subsection (b) of this section, on or before the fifteenth day of each calendar month file with the department a return for the preceding calendar month in such form as may be prescribed by the department, showing the price of each such purchase of tangible personal property or services during such preceding month, and such other information as the department may deem necessary for the proper administration of this act. At the same time each such person shall pay to the department the amount of tax imposed by this act with respect to the purchases covered by such return. Returns shall be signed by the person liable for the tax, or his duly authorized agent if the return is prepared by any person other than the taxpayer, said return shall also be signed by such person and show his address.

Return and payment on other than monthly period.

(b) The commissioner of revenue, when he deems it necessary to insure payment of the tax or to provide a more efficient administration, may require and prescribe the filing of returns and payment of the tax for other than monthly periods.

HISTORY: CL 1948, 205.96;—Am. 1949, p. 397, Act 273, Eff. Jul. 1;—Am. 1959, p. 418, Act 263, Eff. Sep. 1;—Am. 1963, p. 90, Act 75, Imd. Eff. May 8.

205.97 Liability of consumer for tax.

Sec. 7. Each consumer storing, using or otherwise consuming in this state tangible personal property or services purchased for or subsequently converted to such purpose or purposes shall be liable for the tax imposed by this act, and such liability shall not be extinguished until the tax has been paid to the department. The payment to the department of the tax, interest and any penalty assessed by the department shall relieve the seller, who sold the property or services with regard to the storing, use or other consumption on which the tax was paid from the payment of the amount of the tax which he may be required under this act to collect from the purchaser.

HISTORY: CL 1948, 205.97;—Am. 1949, p. 397, Act 273, Eff. Jul. 1;—Am. 1959, p. 419, Act 263, Eff. Sep. 1.

205.98 Remittances; ultimate payment in cash.

Sec. 8. All remittances of taxes imposed by this act shall be made to the department by bank draft, check, cashier's check, money order, certificate of deposit or money: Provided, That no remittance other than money shall be a final discharge of liability for the tax unless and until it has been paid in money.

HISTORY: CL 1948, 205.98;—Am. 1949, p. 397, Act 273, Eff. Jul. 1.

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205.99 Personal liability of seller for failure to collect tax.

Sec. 9. In case any seller who is required or authorized to collect the tax fails to do so, he shall be liable personally for such amount as he failed to collect together with penalty and interest thereon. In such case, the department shall have power to make an assessment against such seller, based upon any information in, or which shall come into its possession. The department shall give to the seller written notice of such assessment. Such notice may be served upon the seller personally or by registered mail, addressed to his last known or business address.

HISTORY: CL 1948, 205.99;—Am. 1949, p. 398, Act 273, Eff. Jul. 1;—Am. 1959, p. 419, Act 263, Eff. Sep. 1;—Am. 1959, p. 458, Act 272, Eff. Jan. 1, 1960.

205.100 Returns; examination, recomputation, deficiency assessments, penalties, interest; limitation of action; assignment; fraudulent concealment.

Sec. 10. If any person required by this act to make a return neglects or refuses to make such return at the time required by or under authority of this act, the department may make an assessment against such person, based upon any information in, or which shall come into its possession. The department shall give to such person written notice of such assessment. The notice may be served upon the person personally or by registered or certified mail, addressed to his last known or business address. The tax so determined shall be assessed, together with a penalty of 25% of the tax, or the sum of $2.00, whichever amount is greater.

As soon as practicable after each return is filed the department shall examine it. If it then appears that the correct amount of tax is greater or less than that shown in the return, the tax shall be recomputed and the correct tax determined. If the amount paid exceeds that which should have been paid on the basis of the tax so recomputed, the excess so paid may be credited without interest against a subsequent tax or such amount may be refunded if requested by the taxpayer.

If the amount paid is less than the amount which should have been paid, the deficiency, together with interest thereon at the rate of 1/2 of 1% per month from the time the tax was due, shall become due and payable after notice and hearing as herein provided.

If any part of the deficiency resulting from such examination is due to negligent or intentional disregard of this act or of authorized rules and regulations of the department, but without intent to defraud, there shall be added as a penalty 10% of the total amount of the deficiency in the tax, and interest shall be collected at the rate of 1% per month on the amount of such deficiency in the tax from the time it was due, which tax, interest and penalty shall become due and payable after notice and hearing as hereinafter provided.

If any part of the deficiency is due to a fraudulent intent to evade the tax, there shall be added as a penalty 100% of such deficiency and the whole amount of tax unpaid, together with this penalty, shall become due and payable after notice and hearing as hereinafter provided, and an additional 1% per month on the tax shall be added from the date such tax was due until paid. Penalties and interest for fraudulent intent to evade the tax shall not be waived by the department.

Whenever notice is required under the provisions of this act, such notice shall be given either by personal service or by registered or certified mail addressed to the last known address of the taxpayer.

No deficiency, interest or penalty shall be assessed for any year after the expiration of 4 years from June 30 for such year, nor shall the taxpayer claim refund of any amount paid by him to the department after the expiration of 4 years from the date of payment thereof. A taxpayer shall not assign his claim against the state to any other

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person. If any person subject to tax under this act shall fraudulently conceal any liability for the tax or any part thereof, the department, upon discovery of such fraud and within 2 years thereafter, shall proceed to assess such tax with penalties and interest as hereinbefore provided, computed from the date on which such tax liability originally accrued and such tax, penalties and interest shall become due and payable after notice and hearing as hereinafter provided, anything herein contained to the contrary notwithstanding.

HISTORY: CL 1948, 205.100;—Am. 1949, p. 398, Act 273, Eff. Jul. 1;—Am. 1964, p. 44, Act 39, Eff. Aug. 28.

205.101 Assessment, date due and payable; petition objecting, hearing.

Sec. 11. Any tax together with interest and penalty thereon assessed by the department under the provisions of either of the 2 preceding sections, shall be due and payable from the person against whom the assessment has been made to the department 20 days after the service upon such person of notice of such assessment. Unless the person to whom such notice of assessment is directed shall within 20 days after service thereof file a petition in writing, signed by said person, or his duly authorized agent, having knowledge of the facts, setting forth with definiteness and particularity the items of said assessment objected to, together with the reason for such objections, said assessment shall become and be deemed conclusive and the amount thereof shall be due and payable from the person so assessed to the department. In every case where a petition for reassessment as above described shall be filed, the department shall assign a time and place for the hearing thereof and shall notify the petitioner thereof by registered mail, but the department shall have the power to continue the hearing from time to time as may be necessary.

HISTORY: CL 1948, 205.101;—Am. 1949, p. 399, Act 273, Eff. Jul. 1.

205.101a Lien, extent, priority.

Sec. 11a. The tax imposed by this act in addition to the interest and penalties provided in section 10 and costs that may accrue in addition thereto, shall be a lien in favor of the state against all property and rights of property, both real and personal, then owned or afterwards acquired by any person, firm, association or corporation liable therefor, to secure the payment of the tax, interest, penalties and costs, which lien shall attach to the property from and after the date that any report upon which the tax is computed is required to be filed. The lien shall take precedence over all other liens and incumbrances whatsoever, irrespective of character or date, except previously recorded bona fide financing.

HISTORY: Add. 1969, p. 63, Act 33, Eff. Mar. 20, 1970.

205.102 Demand on taxpayer for payment; warrant, sale of property, state bid; action to recover.

Sec. 12. If the tax imposed by this act is not paid on the date the same is required to be paid under the provisions of this act, the department, or some person designated by it, may cause a demand to be made on the taxpayer for the payment thereof. If such tax remains unpaid for 10 days after such demand has been made and no proceedings have been taken to review the same, the tax shall become final and payable and the department may issue a warrant under the official seal of its office, directed to the sheriff of any county of the state or to any state officer authorized to serve process, commanding said sheriff or other officer to levy upon and sell the property of the taxpayer, found within his jurisdiction, for the payment of the amount thereof with the added penalties, interest and the cost of executing the warrant. Such warrant shall be returned to the department together with the money collected by virtue thereof within the time therein specified, which shall not be less than 20 nor more than 90 days from the date of the warrant. The sheriff or other officer to whom such warrant shall be directed shall proceed upon the same in all respects and with like effect and in

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the same manner as prescribed by law in respect to executions issued against property upon judgments by a court of record, and shall be entitled to the same fees for his services in executing the warrant to be collected in the same manner. The state of Michigan, through the department or some officer or agent designated by it, is hereby authorized to bid for and purchase any property sold under the provisions hereof.

In addition to the mode of collection provided herein, the department may bring an action at law in the county in which the business or any part thereof is carried on, to collect and recover the amount of taxes, interest and penalties claimed to be due from any taxpayer.

HISTORY: CL 1948, 205.102;—Am. 1949, p. 399, Act 273, Eff. Jul. 1.

205.103 Member or employee of department; divulgence of facts or information; exception.

Sec. 13. Unless in accordance with a judicial order, or as shall be required in the proper administration of this act, no member of the department, or agent or employee thereof, or former member, agent or employee, shall divulge any facts or information obtained in connection with the administration of this act: Provided, however, That all tax conferences or hearings concerning a notice of intent to assess, the assessment, or claims for the reduction thereof and any decision or determination thereon shall be open to the public.

HISTORY: CL 1948, 205.103;—Am. 1949, p. 399, Act 273, Eff. Jul. 1.

205.104 Inventory and records kept, time period; contents; sale to unlicensed person; return; assessment; burden of proof upon taxpayer.

Sec. 14. Every person in the business of selling tangible personal property and liable for any tax imposed under this act shall keep an accurate and complete beginning and annual inventory and purchase records of additions to inventory, complete daily sales records, receipts, invoices, bills of lading and any and all pertinent documents in such form as the department may require and wherever an exemption from this tax is claimed by reason of any of the exemptions or deductions granted under this act, there shall be a record kept of the name and address of the person to whom the sale is made, the date of the sale, the article purchased, the use to be made of the article, the amount of the sale and if that person has a sales tax license issued under the provisions of Act No. 167 of the Public Acts of 1933, as amended, that number shall also be noted thereon. Any person knowingly making a sale of tangible personal property to another not licensed under Act No. 167 of the Public Acts of 1933, as amended, for the purpose of resale at retail, shall be liable for the tax imposed by this act. Such records must be kept for the same period as stated in section 10. Whenever in the judgment of the department it is necessary, it may require any person, by notice served upon him, to make a return, render under oath such statements or to keep such records, as the department deems sufficient to show whether or not such person is liable to tax under this act. In the event the taxpayer fails to file a return or to maintain or preserve proper records as prescribed in this section, or the department has reason to believe that any records maintained or returns filed are inaccurate or incomplete and that additional taxes are due, the department shall be empowered to assess, upon such information as is available or may come into possession of the department, the amount of the tax due from the taxpayer. Such assessment, after notice and hearing as hereinafter provided, shall be deemed to be prima facie correct for the purpose of this act and the burden of proof of refuting such assessment shall be upon the taxpayer.

HISTORY: CL 1948, 205.104;—Am. 1949, p. 400, Act 273, Eff. Jul. 1;—Am. 1969, p. 395, Act 214, Imd. Eff. Aug. 6.

205.105 Failing to register; penalty.

Sec. 15. Any seller who fails to register with the department as required under this act, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be

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fined the sum of $25.00 for each day such failure, neglect or refusal to so register continues after notice to such seller from the department that he is required to register under this act.

HISTORY: CL 1948, 205.105;—Am. 1949, p. 400, Act 273, Eff. Jul. 1.

205.106 Seller's failure to comply with act; penalty.

Sec. 16. Any seller who fails, neglects or refuses to collect the tax as required by this act, or fails, neglects or refuses to comply with the provisions of this act, or excepting as expressly authorized pursuant to this act, refunds, remits or rebates to a consumer, either directly or indirectly and by whatsoever means, all or any part of the tax levied by this act, or makes in any form of advertising, verbal or otherwise, any statements which might imply he is absorbing the tax or paying the tax for the consumer by an adjustment of prices or at a price including the tax, or in any other manner whatsoever, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than $100.00 nor more than $500.00, and upon conviction for a second or subsequent offense shall be fined not less than $500.00 nor more than $5,000.00, or imprisoned in the county jail not more than 1 year, or by both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1948, 205.106;—Am. 1949, p. 400, Act 273, Eff. Jul. 1;—Am. 1959, p. 419, Act 263, Eff. Sep. 1.

205.107 Failure to make return; penalty.

Sec. 17. Any person who fails or refuses to make any return required under this act or who makes any false or fraudulent return or false statement in any return, with intent to defraud the state or evade payment of the tax or any part thereof imposed by this act, or who aids or abets another in any attempt to evade the payment of the tax or any part thereof as imposed by this act, or any person or president, vice-president, secretary or treasurer of any company or association who makes or permits to be made for any person, company or association any false return or any false statement in any return required in this act, with the intent to evade or assist in evading the payment of any tax hereunder, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined not less than $500.00 nor more than $5,000.00 or imprisoned in the county jail not more than 1 year, or by both such fine and imprisonment in the discretion of the court. In addition to the foregoing penalties, any person who shall knowingly swear to or verify any false or fraudulent return, or any return containing any false or fraudulent statement, with the intent to defraud or to aid, abet or assist in defrauding the state, shall be guilty of the offense of perjury, and, on conviction thereof, shall be punished in the manner provided by law.

HISTORY: CL 1948, 205.107;—Am. 1949, p. 400, Act 273, Eff. Jul. 1.

205.108 Consumer's failure to comply with act; making false statement; penalty.

Sec. 18. Any consumer who refuses to pay the tax as required by this act, or refuses to comply with the provisions of this act, or makes to the seller a false statement or certificate indicating that the storage, use or consumption is not subject to the tax herein imposed, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $500.00 nor more than $5,000.00, or imprisoned in the county jail not more than 1 year, or by both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1948, 205.108;—Am. 1949, p. 401, Act 273, Eff. Jul. 1;—Am. 1959, p. 419, Act 263, Eff. Sep. 1.

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205.109 General violations; penalty.

Sec. 19. Any person who violates any provisions of this act, for the violation of which no penalty is provided by law, shall be fined not less than 25 dollars nor more than 100 dollars.

HISTORY: CL 1948, 205.109.

205.110 Jeopardy assessment; warrant.

Sec. 20. If the department finds that a person liable for tax under any of the provisions of this act designs quickly to depart from the state or to remove his property therefrom, or to conceal himself or his property therein, or to do any other act to prejudice or to render wholly or partly ineffectual proceedings to collect such tax unless such proceedings be brought without delay, the department shall cause notice of such finding to be given such person, together with a demand for an immediate return and immediate payment of such tax. Warrant may issue immediately upon issuance of such jeopardy assessments. Thereupon such tax shall become immediately due and payable. If such person (1) is not in default in making any return or paying any tax prescribed by this act, and (2) furnishes evidence satisfactory to the department that he will duly return and pay the tax to which the department's findings relate, then such tax shall not be payable prior to the time otherwise fixed for payment.

HISTORY: CL 1948, 205.110;—Am. 1949, p. 401, Act 273, Eff. Jul. 1.

205.111 Deposit of receipts; appropriation.

Sec. 21. All moneys received and collected under the provisions of this act shall be deposited by the department, in the state treasury to the credit of the general fund, to be disbursed only by appropriations by the legislature. There is hereby appropriated to the department of revenue for the fiscal year ending June 30, 1960, the sum of $232,-500.00 to defray the costs of administration of this amendatory act.

HISTORY: CL 1948, 205.111;—Am. 1949, p. 401, Act 273, Eff. Jul. 1;—Am. 1959, p. 420, Act 263, Eff. Sep. 1.

Sec. 22. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 415, Act 267, Imd. Eff. May 25.

Act 301, 1939, p. 697; Eff. Sep. 29.

AN ACT to provide for the imposition and the collection of a specific tax upon the privilege of ownership of intangible personal property; to provide for the disposition of the proceeds thereof; to prescribe the powers and duties of the department of revenue with respect thereto; to prescribe penalties; to make an appropriation to carry out the provisions of this act; and to repeal all acts and parts of acts inconsistent with the provisions of this act. Am. 1945, p. 228, Act 165, Eff. Sep. 6.

The People of the State of Michigan enact:

205.131 Intangible personal property taxes; definitions.

Sec. 1. When used in this act:

(a) The term "person" means any individual, firm, copartnership, joint adventure, association, corporation, company, estate, or any other group or combination acting as a unit, and the plural as well as the singular number, unless the intention to give a more limited meaning is disclosed by the context. The term does not include public corporations.

(b) The term "intangible personal property" means: Moneys on hand or on deposit or in transit, shares of stock, and other units of interest, in corporations, joint stock companies, and other associations conducted for profit, (not, however, including the interest of a partner under a partnership agreement); securities which constitute a part

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of an issue of similar securities, such as bonds, certificates of indebtedness, debentures, notes, and certificates of deposit therefor; annuities; accounts and notes receivable, land contracts receivable, real estate and chattel mortgages receivable, conditional sale contracts receivable, and other obligations for the payment of money; equitable interest in any of the foregoing classes of intangible personal property, including interest of beneficiaries under trusts whether created inter vivos or by will; and any and all other credits and evidences of indebtedness; whether such intangible personal property is secured or unsecured.

The term "annuities" includes,

(1) Contracts for the periodic payment of sums of money the consideration for which is the payment of money either in a lump sum or in installments by the recipient or another when, (a) the periodic payments extend over a fixed period in excess of 1 year, or (b) the periodic payments extend during the lifetime of the recipient or another.

(2) Contracts for similar consideration whether designated insurance or otherwise containing the provision for the conversion of the payments to be received into periodic payments for a fixed period or for the life of the recipient or another: Provided, That no such contract shall be deemed an annuity until actually so converted.

The face value of any annuity shall be its cash reserve value as carried on the books of the obligor: Provided, however, That the taxpayer, after once establishing the cash reserve value as above stated, may thereafter be entitled to compute such value annually, upon the assumption that of amounts received, all excess over the applicable interest rate guaranteed was return of principal, deductible from the face value; and if no such interest rate be guaranteed, then computation shall be based on an interest assumption of 3 per cent per annum. The term "annuities" shall not include annuity contracts pending the payment of benefits to the annuitants, nor shall it include so-called "annuities" which are in fact deferred compensation for services rendered payable under old age retirement or pension provisions of any public authority or private employer.

(c) The "situs" of intangible personal property for the purpose of taxation under the provisions of this act shall be the domicile of the owner thereof, except that any intangible personal property, not otherwise exempt under the laws of this state, owned by a person having his domicile outside of this state but used in connection with the conduct of his business in Michigan, or placed in the hands of a manager or agent in Michigan to the extent that such intangible personal property is invested in a course of repeated transactions in obligations of persons residing in Michigan or secured by property located in Michigan, shall be deemed to have a situs at the place of business, or where such manager or agent resides, as the case may be, within this state; and except that intangible personal property owned by a person domiciled in Michigan but used in connection with the conduct of his business outside of Michigan, or placed in the hands of a manager or agent outside of Michigan to the extent that such property is invested in a course of repeated transactions in obligations of persons residing outside of Michigan or secured by property located outside of Michigan, shall be deemed not to have a situs in Michigan: Provided, That in the case of intangible personal property used in connection with the conduct of the owner's business both within and outside the state of Michigan, all such property shall be deemed to have a "situs" in this state to the extent of the percentage of the whole of such property as determined by the allocation formula set forth in section 12 of this act.

(d) The term "income" includes: (1) interest received upon intangible personal property; (2) dividends and other distributions, whether in the form of cash or property, to the extent that they represent the yield of intangible personal property not in-

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cluding, however, a distribution of stock by reason of an order of divestment under the anti-trust laws which is considered a return of capital in section 1111 of the United States internal revenue code as enacted in Public Law 87-403 of the eighty-seventh congress of the United States; and (3) all other earnings or yield of intangible personal property regardless of the name by which designated: Provided, That for the purpose of computing the tax imposed under this act, the gross income, including taxes, charges and other deductions which may be made therefrom, shall be the basis upon which the tax shall be measured.

(e) The term "tax year" or "taxable year" means the calendar year, or the taxpayer's fiscal year when permission is obtained by him from the department to use his fiscal year as the tax period in lieu thereof.

(f) The word "commission" or "department" shall mean the department of revenue.

(g) The word "taxpayer" means any person liable for any tax hereunder.

(h) The word "tax" means all taxes, interest or penalties, levied under this act.

(i) The word "owner" means any person who: (1) has both the entire legal and equitable interest in intangible personal property or both a legal and equitable estate therein which entitles him to the present enjoyment thereof; (2) holds intangible personal property as an administrator, executor, receiver, trustee in bankruptcy, or assignee for the benefit of creditors; (3) is the beneficiary of an inter vivos or testamentary trust, but only to the extent that such trust embraces intangible personal property. Where there is more than 1 beneficiary, the person who is entitled to the present enjoyment of the trust property shall be deemed to be the "owner." Where more than 1 beneficiary is entitled to the present enjoyment of the trust property, all such beneficiaries so entitled shall be deemed to be the "owners" according to their respective interests. Where there is more than 1 beneficiary, only some of which are entitled to the present enjoyment of the trust property, those beneficiaries who are so entitled shall be deemed to be the "owners." Where a trustee of a trust, as hereinbefore mentioned, must, or in his discretion may, accumulate the income thereof, the trustee shall be deemed to be the "owner" to the extent that such income shall be so accumulated. A beneficiary domiciled in this state shall be taxable irrespective of the state or other jurisdiction of the creation or administration of said trust.

(j) The term "face value" means the amount appearing on the face of the instrument or other written record evidencing the intangible personal property, or in case there is no instrument or other written record, then the amount shall be determined by other evidence satisfactory to the commission, reduced by payments, if any, which have been made thereon.

HISTORY: Am. 1941, p. 351, Act 233, Imd. Eff. Jun. 16;—Am. 1945, p. 228, Act 165, Eff. Sep. 6;—Am. 1947, p. 246, Act 175, Imd. Eff. Jun. 6;—CL 1948, 205.131;—Am. 1951, p. 366, Act 246, Eff. Sep. 28;—Am. 1964, p. 127, Act 134, Eff. Aug. 28.

CITED IN OTHER SECTIONS: Sections 205.131 to 205.147 are cited in § 205.13.

205.132 Intangible taxes; rate on accounts and notes receivable, deposits, building and loan association shares.

Sec. 2. (a) For the calendar year 1968, and any fiscal year ending after June 30, 1968, and for each year thereafter or portion thereof there is hereby levied upon each resident or nonresident owner of intangible personal property not hereinafter exempted having a situs within this state, and there shall be collected from such owner an annual specific tax on the privilege of ownership of each item of such property owned by him. Except as hereinafter provided, the tax on income producing intangible personal property shall be 3 ½% of the income but in no event less than 1/10 of 1% of the face or par value of each item. For the purposes of this act corporate stock or other evidence of corporate ownership having no par or face value shall be deemed to have a face or par value of $1.00 per share or per unit of other evidence of corporate ownership. Income producing accounts and notes receivable owned by any taxpayer

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doing business at retail, arising out of the sale of goods and services at retail by such taxpayer, and with respect to which the income does not exceed the cost of carrying such receivables, shall be deemed to be nonincome producing accounts and notes receivable. Except as hereinafter provided the tax on nonincome producing intangible personal property shall be 1/10 of 1% of said face or par value. The tax on moneys on hand or in transit or on deposit in a bank shall be at the rate of 50 cents per $1,000.00 of the face value thereof and the tax on shares of stock in building and loan or savings and loan associations shall be at the rate of 50 cents per $1,000.00 of the paid-in value of such shares.

Face value, determination, retroactive date, true average.

(b) The face value, for the purpose of this section, of any item of property the face value of which changes during the tax year shall be the average value to be computed under such rules and regulations as the department of revenue may adopt, and if any item of intangible personal property subject to tax under this section is owned by the taxpayer for only a portion of the tax year the tax levied hereunder shall be reduced in proportion: Provided, however, That the department of revenue, at or about the close of each calendar year, shall retroactively fix a date which shall be the last day of any month or other accounting period during such year which may be used by any taxpayer as the date for the determination of taxable intangible personal property subject to tax under this section of which he is the owner, and as the date for the determination of the face value thereof, irrespective of any change in the face value of any item or items of such property the value of which changes during the tax year and irrespective of any acquisitions and dispositions of any such property during the tax year: Provided, That such date shall be the only date which can be used for the determination in any year of the amount of moneys on hand or in transit or on deposit in a bank or of the paid-in value of shares of stock in building and loan or savings and loan associations of any taxpayer. If the taxpayer elects to use the date so fixed, he shall, for the purpose of determining the tax imposed by this section, be deemed to have been the owner for the entire tax year of the taxable intangible personal property of which he is the owner on said date and to have received the income therefrom, if any, for such entire period. The taxpayer may, in lieu of the foregoing retroactive date method, use a true average method but once having made an election as to either method he shall not change his method except upon application to and approval by the department of revenue. No change of election shall become effective until the next tax year succeeding the filing of the application.

Death or change of domicile of taxpayer, effect.

(c) Where, due to death or change of domicile during the tax year, the intangible personal property owned by a taxpayer is subject to the tax hereby levied for only a part of a tax year, the tax shall be computed in the same manner as though such property had been subject to tax for the entire tax year and shall then be reduced in proportion: Provided, however, That where an executor or administrator appointed and qualified in Michigan succeeds to the ownership of intangible personal property previously subject to tax hereunder to the decedent for whose estate such executor or administrator shall be so appointed and qualified, for the purpose of the computation of the tax hereby levied the combined ownership of such decedent and such executor or administrator during the tax year shall be regarded as the continuous ownership of a single owner, and such executor or administrator shall be deemed to have been the owner during the entire period thereof.

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Exemption from general property tax.

(d) Intangible personal property subject to tax under this act or expressly exempt from the tax hereunder shall be exempt from all general property taxes under the laws of this state.

HISTORY: Am. 1941, p. 352, Act 233, Imd. Eff. Jun. 16;—Am. 1945, p. 230, Act 165, Eff. Sep. 6;—CL 1948, 205.132;—Am. 1951, p. 367, Act 246, Eff. Sep. 28;—Am. 1952, p. 235, Act 181, Eff. Sep. 18;—Am. 1959, p. 420, Act 264, Imd. Eff. Aug. 31;—Am. 1967, p. 524, Act 269, Eff. Jan. 1, 1968.

205.132a Repealed. 1967, p. 526, Act 269, Eff. Jan. 1, 1968.

Section related to intangibles tax; bank stocks; capital account; payment and date.

205.133 Deductions and exemptions.

Sec. 3. (a) In computing the tax imposed under this act for any tax year the following deductions may be made:

(1) Beginning with the calendar year 1968, or any fiscal year ending after June 30, 1968, from the total tax as computed in accordance with section 2, the sum of $100.00. The total deduction from the tax by husbands and wives filing joint returns shall not exceed $200.00. In case of a tax return covering a period of less than 1 year, the deduction shall be reduced proportionately. The deduction shall not be allowed to any taxpayer in connection with any tax imposed hereunder on moneys on hand or in transit or on deposit in a bank or shares of stock in building and loan or savings and loan associations.

(2) From accounts and notes receivable, subject to a tax under this act, accounts and notes payable by the taxpayer, if such accounts payable or notes are incurred or given in connection with the business from which the accounts receivable or notes are derived: Provided, That for the purpose of this provision, accounts payable shall include only current open trade accounts and shall not include dividends, taxes excepting those taxes levied upon or collected from persons other than the taxpayer and received or retained by the taxpayer for remission to a governmental agency, accruals, contingent liabilities or other similar items, and notes payable shall not include bonds, debentures or any obligations due more than 1 year after date of issuance. In case a taxpayer has both income producing and nonincome producing receivables the deduction shall first be made from nonincome producing receivables and the balance, if any, may be deducted from income producing receivables. For the purposes of this provision bank accounts shall not be considered as accounts receivable. For the purpose of this provision land contracts receivable shall be considered to be accounts receivable and mortgages payable on the same property covered by the land contract may be deducted therefrom.

(3) Where a taxpayer has accounts receivable or notes receivable or both with a situs within this state and other accounts receivable or notes receivable or both having a situs without this state, the taxpayer may deduct from accounts receivable and notes receivable subject to tax under this act only such proportion of its accounts and notes payable as the ratio of its accounts and notes receivable having a situs in or allocated to Michigan under this act to its entire amount of accounts receivable and notes receivable everywhere.

(b) The following shall be exempt from the tax imposed by this act:

(1) Mortgages and land contracts and the evidences of indebtedness secured thereby upon which the specific tax imposed by Act No. 91 of the Public Acts of 1911, as amended, being sections 3640 to 3649 of the Compiled Laws of 1929, has been paid prior to the effective date of this act; or any debt or obligation which is secured by a mortgage upon such real estate as may be owned and occupied by library, armory, benevolent, charitable, educational and scientific institutions, incorporated under the laws of this state, with the buildings and other property thereon, while occupied by them solely for the purposes for which they were incorporated or secured by a mort-

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gage upon any house of public worship with the land on which it stands, the furniture therein, or any parsonage owned by any regularly organized religious society of this state and occupied as such.

(2) Bonds, notes, debts or written or printed obligations upon which the specific tax imposed by Act No. 142 of the Public Acts of 1913, as amended, being sections 3654 to 3658 of the Compiled Laws of 1929, has been paid prior to the effective date of this act.

(3) Bonds or other similar obligations of the state of Michigan, or of any political subdivision thereof.

(4) Obligations of the United States, or guaranteed as to principal or interest by the United States, which are exempt from taxation by reason of act of congress. The term "United States" shall be construed to mean and include any possessions, agencies or instrumentalities of the United States.

(5) Bonds, mortgages and other certificates of indebtedness made and issued by any municipality, organization or private individual for the purpose of erecting armories in this state.

(6) Intangible personal property belonging to benevolent, charitable, religious, educational and nonprofit scientific institutions incorporated under the laws of this state: Provided, That such exemption shall not apply to secret or fraternal societies; but the intangible personal property of charitable homes of such societies shall be exempt.

(7) Intangible personal property belonging to posts of the Grand Army of the Republic, sons of veterans' unions, and of the women's relief corps connected therewith, of all young men's christian associations, young women's christian associations, women's christian temperance union associations, young people's christian unions, and other similar associations.

(8) Pensions, including so-called "annuities" payable under old age, retirement or pension provisions of any public authority or private employer, irrespective of the source of contributions thereto: Provided, That said public authority or private employer shall have contributed 50% or more of the cost of such old age, retirement or pension program; all intangible personal property comprising all or any part of the assets of stock bonus, pension or profit-sharing plans or trusts which qualify for exemption from federal income taxes under the internal revenue code; cash surrender values and loan values of insurance policies; annuities prior to the time when the periodic payments thereunder shall actually commence, and royalties.

(9) Intangible personal property belonging to domestic and foreign insurance companies and annuity companies lawfully doing business in this state.

(10) Intangible personal property belonging to railroad companies, union station and depot companies, telegraph companies, telephone companies, sleeping car companies, express companies, car loaning companies, stock car companies, refrigerator car companies, fast freight companies, and all other companies paying the tax assessed and levied under Act No. 282 of the Public Acts of 1905, as amended, being sections 207.1 to 207.21 of the Compiled Laws of 1948.

(11) Intangible personal property belonging to banks, building and loan associations, savings and loan associations and trust companies doing business in this state under whatever authority organized.

(12) Intangible personal property belonging to partners in any firm or copartnership to the extent of intangible personal property with respect to which the partnership has paid the tax as provided in this act.

(12a) Intangible personal property belonging to credit unions doing business in this state under whatever authority organized.

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(13) Intangible personal property which represents other property taxed under this act or other laws of this state and is so closely identified therewith that to impose an additional tax under this act would be unconstitutional as double taxation.

(14) Shares of stock in banks, trust companies and national banking associations.

HISTORY: Am. 1941, p. 353, Act 233, Imd. Eff. Jun. 16;—Am. 1945, p. 231, Act 165, Eff. Sep. 6;—Am. 1947, p. 249, Act 175, Imd. Eff. Jun. 6;—CL 1948, 205.133;—Am. 1951, p. 96, Act 76, Imd. Eff. May 28;—Am. 1952, p. 236, Act 181, Eff. Sep. 18;—Am. 1967, p. 525, Act 269, Eff. Jan. 1, 1968.

205.133a Tax; payment by bank or building and loan association; computation, declaration, payment.

Sec. 3a. Notwithstanding any provision of this act to the contrary, the owner of a claim for money on deposit with a bank of any kind or savings in a building and loan and savings and loan association, engaged in the business of receiving moneys for deposit or savings subject to withdrawal by check or otherwise, shall be exempt from the tax imposed by this act on the ownership of such claim during any calendar year in the event that such bank or building and loan or savings and loan association voluntarily elects, as hereinafter provided, to pay, in the manner provided for in this act, a tax for such year at the rate of 50 cents per $1,000.00 of that amount of the face value of its assets as is equal to the amount of its total deposit liabilities, or in the case of building and loan or savings and loan associations the amount of its share liabilities, as of the close of business on December 31 of such year less the amount of all its deposit liabilities or share liabilities, as the case may be, on that date owing to the federal government or any agency or instrumentality thereof and to the state of Michigan and any political subdivision, instrumentality, and agency thereof. Any bank or association which elects to pay a tax as aforesaid for any year shall, on or before December 31 of each year commencing in 1945, file a written declaration of its voluntary election to do so with the department of revenue. The payment of such tax for any year by a bank or building and loan or savings and loan association shall not exempt it from liability for and payment of any other taxes validly imposed upon it under any other statute or statutes of this state.

HISTORY: Add. 1945, p. 233, Act 165, Eff. Sep. 6;—CL 1948, 205.133a;—Am. 1951, p. 368, Act 246, Eff. Sep. 28;—Am. 1959, p. 421, Act 264, Imd. Eff. Aug. 31.

205.134 Annual return; payment of tax, extension of time.

Sec. 4. On or before the last day of the fourth month following the end of the tax year each person owning intangible personal property subject to tax under this act shall make a return in form and content as prescribed by the department of revenue, showing the personal property subject to taxation hereunder for the preceding tax year and showing the face, par, or contribution value of each item of such property. He shall transmit the return to the department of revenue with his remittance covering the tax payable by him for the preceding tax year. The department of revenue, for good cause shown, may, on the application of any taxpayer, extend the time by not more than 90 days for making the annual return but interest at 6% per annum shall be added to the amount of tax due for the period of such extension. In collecting the tax levied under this act, the commission may in special circumstances prescribe a return form different than hereinbefore prescribed.

Property of others held for investment and reinvestment, return.

In the annual return each person shall also list separately, and in the name of his principal, all intangible personal property held by him for investment or reinvestment as agent, trustee, manager, or attorney, or on account of any other person, and all moneys deposited subject to his order, check, or draft, and credits due him.

HISTORY: Am. 1941, p. 355, Act 233, Imd. Eff. Jun. 16;—Am. 1945, p. 233, Act 165, Eff. Sep. 6;—CL 1948, 205.134;—Am. 1964, p. 129, Act 134, Eff. Aug. 28.

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205.134a Trustees or agents; information return.

Sec. 4a. Every person domiciled in or carrying on or transacting business in Michigan, as trustee or agent for another, having in his custody any taxable intangible personal property of another for investment or collection, shall file an information return in such form as may be prescribed by the department of revenue on or before the last day of the fourth month following the end of the tax year.

HISTORY: Add. 1941, p. 355, Act 233, Imd. Eff. Jun. 16;—Am. 1945, p. 234, Act 165, Eff. Sep. 6;—CL 1948, 205.134a;—Am. 1964, p. 129, Act 134, Eff. Aug. 28.

205.135 Examination of returns; determination of tax; refund of excess amount; deficiency assessments.

Sec. 5. As soon as practicable after each return is filed the department of revenue shall examine it. If it then appears that the correct amount of the tax is greater or less than that shown in the return, the tax shall be recomputed and the correct tax determined. In case of failure of the taxpayer to set forth any of the data required in the return, the department of revenue may resort to any available evidence thereof. In case the contribution value of corporate stock having no par value is not furnished by the taxpayer, the department of revenue may calculate the same from figures appearing in any report put out by such corporation or in any recognized securities manual, or, if neither of the foregoing shall be obtainable, then any other evidence which shall be obtainable by the department of revenue.

If the amount paid exceeds that which should have been paid on the basis of the tax so recomputed, the excess so paid shall be returned without interest when discovered by the department: Provided, however, That no refund shall be made to or claimed by any taxpayer of any amount paid by him to the department after the expiration of 3 years from the date of payment thereof.

If the amount paid is less than the amount which should have been paid, the deficiency, together with interest thereon at the rate of 1/2 of 1 per centum per month from the time the tax was due, shall become due and payable after notice and hearing as herein provided.

If any part of the deficiency is due to negligent or intentional disregard of this act, or of the authorized rules and regulations of the department of revenue, but without intent to defraud, there shall be added as a penalty 10 per centum of the total amount of the deficiency in the tax, and interest shall be collected at the rate of 1 per centum per month on the amount of such deficiency in the tax from the time it was due, which interest and penalty shall become due and payable after notice and hearing as herein provided.

If any part of the deficiency is due to a fraudulent intent to evade the tax, then there shall be added as a penalty 100 per centum of such deficiency and, in such a case, the whole amount of tax unpaid, together with the penalty, shall become due and payable after notice and hearing as herein provided, and an additional 1 per centum per month of the tax shall be added from the date such tax was due until paid.

Whenever notice is required under the provisions of this act, such notice shall be given either by personal service or by registered mail addressed to the last known address of the taxpayer.

No deficiency, interest or penalty shall be assessed for any year after the expiration of 3 years from the date set for the filing of the annual return for such year or the date on which said return was filed, whichever is later, except in cases of fraud: Provided, This provision shall not limit the assessment of tax, interest, and penalty in cases in which a taxpayer has not filed a return or, in case a return has been filed, has not disclosed property subject to tax under this act, and in such cases no statute of limitation

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shall operate to prevent the assessment of any tax, interest or penalty due from any taxpayer.

HISTORY: Am. 1945, p. 234, Act 165, Eff. Sep. 6;—CL 1948, 205.135;—Am. 1951, p. 369, Act 246, Eff. Sep. 28.

205.136 Remittances; lien against owner.

Sec. 6. All remittances of taxes, interest, and penalties imposed by this act shall be made to the department of revenue by bank draft, check, cashier's check, money order, certificate of deposit, or money. Any person having intangible personal property of another in his custody or engaged in the business of receiving moneys for deposit or savings subject to check or to other withdrawal, upon which a tax is imposed under this act, shall, pursuant to regulations adopted by the department, collect and pay the tax imposed thereon and payments so made shall be credited to the owner: Provided, That if at the time the tax is due and payable the taxpayer has no property in the control of or to his credit with such person, the latter shall be under no obligation to collect and pay said tax. When any such tax is paid, the amount thereof may be charged against the property of the owner; and the person paying the same shall have a lien thereon for the amount so paid, which lien shall be enforceable in the same manner as is provided for in section 285 of Act No. 341 of the Public Acts of 1937, as amended, being section 487.285 of the Compiled Laws of 1948. Any person having intangible personal property of any other in his control or engaged in the business of receiving moneys for deposit or savings subject to check or to other withdrawal may, if he so elects, assume and pay the tax imposed upon the owner.

Bank deposits; stock of bank or trust company; distribution.

Any person engaged in the business of receiving moneys for deposit or savings subject to check or other withdrawal, who collects and pays the tax imposed upon the owner thereof under this act as required by this section, but does not assume the payment thereof, shall be entitled to retain for the total amount of the taxes so collected by him for each year a sum of money equal to 3% thereof as compensation for services rendered in acting as the agent of the department in collecting and paying such tax. The tax on shares of stock of state and national banks and trust companies located in Michigan shall be paid by said bank or trust company on behalf of its shareholders and the tax so paid may be charged against the shareholders for whom the tax was paid. If in any case it shall be made to appear to the department of revenue that the amount paid in accordance with this provision is in excess of the amount which should have been paid under sections 2 and 3 hereof, refund shall be made. No remittance other than cash shall be a final discharge of liability for the tax herein imposed and levied unless and until such remittance has been paid in cash. The department of revenue shall forthwith deposit all moneys received in the state treasury. Not to exceed $9,500,000.00 in any state fiscal year of the moneys so received shall be distributed among the several villages, townships and cities of the state as hereinafter provided, and all moneys so received in excess of $9,500,000.00 in any state fiscal year shall be credited (1) to a special fund to be created in the state treasury to pay fees of the paying agent and the principal and interest on bonds issued under authority of the provisions of section 24 of article 10 of the state constitution in connection with the planning, acquisition, construction and equipment of hospitals for the mentally ill and epileptics, and training schools for mental defectives, and tuberculosis hospitals, and (2) all moneys presently in this special fund, including earnings therefrom and balances therein, over and above the sum required to pay any past due principal and interest due on such bonds shall be credited to the general fund of the state. In each fiscal year all moneys so received not required to pay fees of the paying agency and the annual principal and interest due on such bonds shall be credited to the general fund of the state.

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Distribution to county treasurers; to cities, townships and villages; uses.

During the month of July of each year the auditor general shall distribute to the several county treasurers as hereinbefore specified the net revenues received under this act during the previous fiscal year, less 3% of said revenues, which amount shall be credited to the general fund of the state as repayment of the cost of the collection of this tax. The distribution to the county treasurers shall be upon a per capita basis according to the latest or each succeeding federal decennial census. The county treasurer shall distribute the amount received by him among the cities, townships and villages within his county on a per capita basis according to the latest or each succeeding federal decennial census or according to any special federal county-wide census, whichever is later: Provided, That the distribution to townships shall be based on such population outside the corporate limits of incorporated villages in the township. The moneys so returned to the cities, townships and villages shall be credited to the general fund and shall be available for general fund purposes.

HISTORY: Am. 1941, p. 355, Act 233, Imd. Eff. Jun. 16;—Am. 1945, p. 235, Act 165, Eff. Sep. 6;—CL 1948, 205.136;—Am. 1949, p. 631, Act 308, Imd. Eff. Jun. 16;—Am. 1951, p. 98, Act 76, Imd. Eff. May 28;—Am. 1952, p. 238, Act 181, Eff. Sep. 18;—Am. 1958, p. 6, Act 5, Imd. Eff. Mar. 3.

205.137 Failure to make return or pay tax; penalty, interest.

Sec. 7. If any person fails or refuses to file a return, the department of revenue shall proceed to assess the tax as hereinafter provided.

In case of failure to file any return or pay the tax required by this act, within the time prescribed by this act, 25 per centum of the tax shall be added as a penalty and interest shall be collected at the rate of 1 per centum per month on the amount of said tax from the time it was due.

HISTORY: Am. 1941, p. 355, Act 233, Imd. Eff. Jun. 16;—Am. 1945, p. 235, Act 165, Eff. Sep. 6;—CL 1948, 205.137;—Am. 1949, p. 632, Act 308, Imd. Eff. Jun. 16.

205.138 Collection of tax; demand; failure to pay, action.

Sec. 8. Tax debt due state; collection. (a) If the tax imposed by this act is not paid on the date the same is required to be paid under the provisions of this act, the commission, or some person designated by it, may cause a demand to be made on the taxpayer for the payment thereof. If such tax remains unpaid for 10 days after such demand has been made and no proceedings have been taken to review the same, the commission may issue a warrant under the official seal of its office, directed to the sheriff of any county of the state or to any state officer authorized to serve process, commanding said sheriff or other officer to levy upon and sell any real or personal property of the taxpayer, found within his jurisdiction, for the payment of the amount thereof with the added penalties, interest and the cost of executing the warrant. Such warrant shall be returned to the commission together with the money collected by virtue thereof within the time therein specified, which shall not be more than 90 days from the date of the warrant. The sheriff or other officer to whom such warrant shall be directed shall proceed upon the same in all respects and with like effect and in the same manner as prescribed by law in respect to executions issued against property upon judgments by a court of record, and shall be entitled to the same fees for his services in executing the warrant, to be collected in the same manner. The state of Michigan, through the commission or some officer or agent designated by it, is hereby authorized to bid for and purchase any property sold under the provisions hereof. In such case the commission is authorized to dispose of such property to the best advantage, and after deducting the amount of the tax, interest and penalties, and all costs of the commission with respect to the acquisition and sale of such property, shall return the surplus to the taxpayer.

(b) In addition to the mode of collection provided herein, the commission may bring an action at law in the county in which the intangible personal property, on which the

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tax was imposed under this act, has a situs or business situs to collect and recover the amount of taxes, interest and penalties due on such property by the taxpayer.

HISTORY: CL 1948, 205.138.

205.139 Jeopardy assessment.

Sec. 9. Jeopardy assessment. If the department of revenue finds that a person liable for tax under any provisions of this act designs quickly to depart from the state or to remove his intangible personal property therefrom, or to conceal himself or his intangible personal property therein, or to do any other act tending to prejudice or to render wholly or partly ineffectual proceedings to collect such tax unless proceedings be brought without delay, the department of revenue shall cause notice of such finding to be given such person, together with a demand for an immediate return and immediate payment of such tax. Thereupon such tax shall become immediately due and payable. If such person (1) is not in default in making any return or paying any tax prescribed by this act, and (2) furnishes evidence satisfactory to the department of revenue under regulations to be prescribed by the department of revenue, that he will duly return and pay the tax to which the department of revenue's finding relates, then such tax shall not be payable prior to the time otherwise fixed for payment.

No estate, in which there is intangible personal property subject to tax under this act, shall be closed without the payment of the tax levied by this act, both in respect to the liability of the estate and the decedent prior to his death. A copy of the inventory and a copy of the final account, in all estates in which there is intangible personal property subject to tax under this act, shall be filed by the fiduciary with the department of revenue, within 10 days of the filing of the same with the probate court. In the closing of estates the department of revenue may accept the inventory and final account in lieu of the filing of a return, or may require the filing of a return or such additional information as the department of revenue may require.

In case the inventory of the estate shall disclose intangible personal property for which no return has been filed and the records of the taxpayer do not disclose the date of acquisition of such property, for the purpose of computation of the tax it may be assumed that the deceased was the owner of such property during the entire period for which no return has been filed, but not to exceed 3 years prior to the death of the deceased.

HISTORY: Am. 1941, p. 356, Act 233, Imd. Eff. June 16;—Am. 1945, p. 236, Act 165, Eff. Sept. 6;—CL 1948, 205.139.

205.139a Corporations; dissolution, withdrawal.

Sec. 9a. Corporation; dissolution, withdrawal. The corporation and securities commission shall not accept for filing any certificate of dissolution or withdrawal in the case of any corporation organized under the laws of this state or organized under the laws of another state and admitted to do business in this state until the receipt of a notice from the department of revenue to the effect that all taxes levied under this act against any such corporation have been paid, or until he shall be notified by the department of revenue that the applicant is not indebted for any taxes levied hereunder.

HISTORY: Add. 1945, p. 237, Act 165, Eff. Sept. 6;—CL 1948, 205.139a.

205.140 Taxpayers' records and special returns.

Sec. 10. Every person, liable to any tax imposed by this act, shall keep such records, render under oath such statements, make such returns and comply with such rules, as the department of revenue may, from time to time, prescribe. Whenever in the judgment of the department of revenue it is necessary, it may require any person, by notice served upon him, to make a return, render under oath such statements or keep such records, as the department of revenue deems sufficient to show whether or not such person is liable to tax under this act.

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Every corporation shall, upon request by the department of revenue but in no case more frequently than once each year, be required to file with the department prior to March 1 of each year a list containing the names and addresses of each Michigan resident shareholder and the amount of its stock held by each, according to the latest available records of the corporation.

HISTORY: Am. 1945, p. 237, Act 165, Eff. Sep. 6;—CL 1948, 205.140;—Am. 1968, p. 135, Act 81, Eff. Nov. 15.

205.141 Examination of records and witnesses; subpoena.

Sec. 11. Examination of records and witnesses; subpoena. The department of revenue may by itself, or its duly appointed agents, examine any books, records and papers relating to intangible personal property subject to taxation under this act. Any member of the department of revenue may issue a subpoena on behalf of the department of revenue requiring any person to appear before the department of revenue and be examined with reference to any matter within the scope of such examination, and to produce books, records or papers. Any member of the department of revenue may administer an oath to a witness in connection with any matter so before the department of revenue. In case of disobedience of a subpoena, the department of revenue may invoke the aid of any circuit court of the state of Michigan within the jurisdiction of which any such examination is being carried on and such court shall, in case of contumacy or refusal to obey a subpoena, issue an order requiring such person to appear before said department of revenue and to produce books, records, and papers if so ordered and give evidence touching the matter in question. Any failure to obey such order of the court may be punished by the court as a contempt thereof.

No person shall be excused from testifying or from producing any books, papers, records, or memoranda in any examination when ordered to do so by the department of revenue, upon the ground that the testimony or evidence, documentary or otherwise, may tend to incriminate him or subject him to a criminal penalty; but no person shall be prosecuted on account of any transaction concerning which he is compelled to give testimony pursuant to this section. No person so testifying shall be exempt from prosecution and punishment for perjury committed in giving testimony.

HISTORY: Am. 1945, p. 237, Act 165, Eff. Sept 6;—CL 1948, 205.141.

205.142 Department of revenue; powers and duties, reports, confidential information.

Sec. 12. The administration of the provisions of this act is hereby vested in the department of revenue, which is hereby authorized to promulgate such rules and regulations as may be necessary in the administration of this act.

The percentage of taxability of intangible personal property used in connection with the conduct of the owner's business both within and outside the state of Michigan shall be determined by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is 3.

Property factor.

(1) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period.

(a) Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at 8 times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals.

(b) The average value of property shall be determined by averaging the values at the beginning and ending of the tax period but the department may require the averaging

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of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property.

Payroll factor.

(2) The payroll factor is a fraction, the numerator of which is the total amount paid in this state during the tax period by the taxpayer for compensation, and the denominator of which is the total compensation paid everywhere during the tax period.

Compensation is paid in this state if:

(a) The individual's service is performed entirely within the state; or

(b) The individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or

(c) Some of the service is performed in the state and (1) the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state, or (2) the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

Sales factor.

(3) The sales factor is a fraction, the numerator of which is the gross receipts of the taxpayer in this state during the tax period, and the denominator of which is the gross receipts of the taxpayer everywhere during the tax period.

(a) Gross receipts from sales of tangible personal property are in this state if:

(i) The property is delivered or shipped to a purchaser, other than the United States government, within this state regardless of the f.o.b. point or other conditions of the sale; or

(ii) The property is shipped from an office, store, warehouse, factory, or other place of storage in this state and the purchaser is the United States government or the taxpayer is not taxable in the state of the purchaser. A taxpayer is taxable in another state if in that state he is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax, or that state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

(b) Gross receipts from business other than sales of tangible personal property are in this state if:

(i) The income-producing activity is performed in this state; or

(ii) The income-producing activity is performed both in and outside the state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

(c) If the allocation and apportionment provisions of this act do not fairly represent the extent of the taxpayer's business in this state, the taxpayer may petition for or the department may require, in respect to all or any part of the taxpayer's business, if reasonable:

(1) Separate accounting;

(2) The exclusion of any 1 or more of the factors;

(3) The inclusion of 1 or more additional factors which will fairly represent the taxpayer's business in this state; or

Alternative methods.

(4) The employment of any other method to effectuate an equitable allocation and apportionment.

An alternative method will be effective only with prior approval of the commissioner.

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Staff and expenses; confidential information.

(d) The department of revenue may employ such assistants, and incur such expenses as shall be necessary to carry out the provisions of this act. Unless in accordance with a judicial order, or as shall be required in the proper administration of this act, no member of the department of revenue, or agent or employee thereof, or former member, agent or employee, shall divulge any facts or information obtained in connection with the administration of this act, and any person violating this provision shall be subject to the penalty provided in section 14 of this act.

Enforcement of proceedings.

(e) After the filing by a taxpayer of a return as required herein for the calendar year 1940, no proceeding shall be maintained against such taxpayer or the property of such taxpayer or his assigns for the enforcement of any tax or any penalty arising out of any prior law imposing a tax upon or with respect to intangible personal property, subject to tax under this act, of such taxpayer other than for the enforcement of a tax actually levied prior to the calendar year 1940.

HISTORY: Am. 1945, p. 238, Act 165, Eff. Sep. 6;—CL 1948, 205.142;—Am. 1951, p. 369, Act 246, Eff. Sep. 28;—Am. 1965, p. 146, Act 113, Imd. Eff. Jun. 30.

205.143 Deficiency assessment; notice and hearing; payment and action by taxpayer to recover; injunction.

Sec. 13. Notice and hearing; appeal; injunction. If the commission after examining the return of any taxpayer determines that the taxpayer is indebted to the state by reason of deficiency of the remittance accompanying such return, or if any person shall fail to make a return or pay the tax as required by this act, the commission shall give such taxpayer notice of the intention to levy such tax or deficiency and the reasons therefor. Such taxpayer may, if he so desires and serves notice thereof upon the commission within 20 days, demand a hearing on the question of the levy of such tax or deficiency. Thereupon the commission shall set a time and place for hearing and shall give the taxpayer reasonable notice thereof. The taxpayer shall be entitled to appear before the commission and be represented by counsel and present testimony and argument. After the hearing the commission shall render its decision in writing and, by order, levy any deficiency found by it to be due and payable.

If any taxpayer is aggrieved by any decision of the commission, he shall be required to pay the amount of taxes, interest and penalties found due by the commission and shall be permitted to bring an action in the circuit court in the county in which the situs or business of the intangible personal property which is subject to such taxes, interest and penalties, is situated, to recover the amount of the taxes, interest and penalties alleged to have been unlawfully levied upon him. Such action shall be conducted in accordance with the statutes and rules of procedure concerning actions at law.

In the event any taxpayer is found entitled to recover any sums paid pursuant to the orders of the commission as hereinbefore provided, such sums shall be paid from revenue received under the provisions of this act on order of the commission and warrant of the auditor general.

No injunction shall issue to stay proceedings for imposition or collection of any taxes levied under this act.

HISTORY: CL 1948, 205.143.

205.143a Closing agreements; conclusive except for fraud.

Sec. 13a. Closing agreements. The commission, upon determining the amount of tax payable by a taxpayer or any person on behalf of a taxpayer for any tax year or portion thereof, may, by its agent duly authorized, enter into an agreement in writing with such taxpayer or other person respecting the amount of tax so payable, and upon pay-

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ment of the amount of tax so determined, such agreement shall be final and conclusive and all liability for such tax shall be fully discharged, except upon a showing of fraud.

HISTORY: Add. 1941, p. 357, Act 233, Imd. Eff. June 16;—CL 1948, 205.143a.

205.144 Offenses; penalty.

Sec. 14. Offenses; penalties. It shall be unlawful for any person to refuse to make the return or such other reports as may be required by this act; or to make any false or fraudulent return or false statement in any return, with intent to defraud the state or to evade the payment of the tax, or any part thereof, imposed by this act; or for any person to aid or abet another in any attempt to evade the payment of the tax, or any part thereof, imposed by this act; or for the president, vice-president, secretary or treasurer of any company or association to make or participate in the making of any false return, or any false statement in any return required in this act, with the intent to evade the payment of any tax hereunder. Any person wilfully violating any of the provisions of this section shall be guilty of a misdemeanor and, on conviction thereof, shall be fined not more than $1,000.00 or imprisoned not exceeding 1 year in the county jail, or punished by both fine and imprisonment in the discretion of the court. In addition to the foregoing penalties, any person who shall knowingly swear to or verify any false or fraudulent return, or any return containing any false or fraudulent statement, with the intent aforesaid, shall be guilty of the offense of perjury, and, on conviction thereof, shall be punished in the manner provided by law. Any person for whom a false return, or a return containing a false statement as aforesaid, shall be made with knowledge of its falsity, shall be guilty of a misdemeanor and may be punished by a fine of not more than $1,000.00.

HISTORY: Am. 1945, p. 238, Act 165, Eff. Sept. 6;—CL 1948, 205.144.

Sec. 15. (This was an appropriation section.)

HISTORY: Rep. 1945, p. 239, Act 165, Eff. Sept. 6.

205.146 Catchline headings not part of act.

Sec. 16. Catchline headings not part of act. The catchline headings of the sections of this act shall in no way be considered to be a part of the respective sections or of this act, but are inserted herein for the purpose of convenience.

HISTORY: CL 1948, 205.146.

205.147 Severing clause.

Sec. 17. Severing clause. Should any provision or section of this act be held to be invalid for any reason, or should the tax imposed hereby be held invalid as to any item or items of property, such holding shall not be construed as affecting the validity of any remaining portion of such section or of this act, it being the legislative intent that this act shall stand notwithstanding the invalidity of any such provision or section.

HISTORY: CL 1948, 205.147.

NOTE: Amendatory Act 233, 1941, and Act 165, 1945, contained similar severing clauses. Act 165, 1945 also contained a savings clause.

Sec. 18. (This was a repeal section.)

HISTORY: Rep. 1945, p. 409, Act 267, Imd. Eff. May 25.

ACTS REPEALED: Act 91, 1911, CL 1929, 3640-3649; Act 142, 1913, CL 1929, 3654-3658.

Act 139, 1913, CL 1929, 3650-3653, repealed as obsolete by Act 267, 1945, also superseded by this act.

Act 188, 1899, p. 284; Eff. Sep. 23.

AN ACT to provide for the taxation of inheritances, transfers of property by will, transfer of property by the intestate laws of this state or transfers of property by deed, grant, bargain, sale or gift made in contemplation of the death of the grantor, vendor or donor or intended to take effect in possession or enjoyment at or after such death.

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The People of the State of Michigan enact:

205.201 Inheritance taxes; transfers taxable.

Sec. 1. That after the passage of this act a tax shall be and is hereby imposed upon the transfer of any property, real or personal, of the value of $100.00 or over, or of any interest therein or income therefrom, in trust or otherwise, to persons or corporations, not exempt by law in this state from taxation on real or personal property or not heretofore or hereafter existing within this state as incorporated foundations or not heretofore existing within this state as established nonprofit unincorporated foundations operated exclusively for benevolent, charitable or educational purposes, in the following cases:

Residents.

First, When the transfer is by will or by the intestate laws of this state from any person dying seized or possessed of the property while a resident of this state;

Nonresidents.

Second, When the transfer is by will or intestate law of property within the state, and the decedent was a nonresident of the state at the time of his death;

Transfer in contemplation of death, presumption.

Third, When the transfer is of property made by a resident or by nonresident, when such nonresident's property is within this state, by deed, grant, bargain, sale or gift made in contemplation of the death of the grantor, vendor or donor or intended to take effect, in possession or enjoyment at or after such death. Any transfer of a material part of this property in the nature of a final disposition or distribution thereof made by the decedent within 2 years prior to his death, except in case of a bona fide sale for a fair consideration in money or money's worth, shall, unless shown to the contrary, be deemed to have been made in contemplation of death within the meaning of this section. Such tax shall also be imposed when any such grantee, vendee or donee becomes beneficially entitled in possession or expectancy to any property or the income thereof by any such transfer, whether made before or after the passage of this act;

Power of appointment.

Fourth, Whenever any person or persons, corporation or association, whether voluntary or organized pursuant to any statute shall exercise a power of appointment derived from any disposition of property made either before or after the passage of this act, such appointment when made shall be deemed a transfer taxable under the provisions of this act in the same manner as though the property to which such appointment relates belonged absolutely to the donee of such power and had been bequeathed or devised to such donee by will; and whenever any person or persons, corporation or association, whether voluntary or organized pursuant to any statute, possessing such a power or appointment so derived shall omit or fail to exercise the same within the time provided therefor in whole or in part, a transfer taxable under the provisions of this act shall be deemed to take place to the extent of such omission or failure, in the same manner as though the person or persons, corporation or association thereby becoming entitled to the possession or enjoyment of the property to which such power related had succeeded thereto by a will of the donee of the power failing to exercise such power, taking effect at the time of such omission or failure;

Personal property, exemption, reciprocity.

Provided, however, That no tax shall be imposed in respect of personal property (except tangible personal property having an actual situs in this state), if

(a) The transferor at the time of the transfer was a resident of a state or territory of the United States, or of any foreign country, which at the time of the transfer did not

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impose a transfer tax or death tax of any character in respect of personal property of residents of this state (except tangible personal property having an actual situs in such state or territory or foreign country), or

(b) If the laws of the state, territory or country of residence of the transferor at the time of the transfer contained a reciprocal exemption provision under which nonresidents were exempted from transfer taxes or death taxes of every character in respect of personal property (except tangible personal property having an actual situs therein), provided the state, territory or country of residence of such nonresidents allowed a similar exemption to residents of the state, territory or country of residence of such transferor. For the purposes of this section the District of Columbia and possessions of the United States shall be considered territories of the United States. The term "foreign country" and "country" as used herein shall mean both any foreign country and any political subdivision thereof, and either of them of which the transferor was domiciled therein at the time of his death. For the purposes of this section, the term "tangible personal property" shall be construed to exclude all property commonly classed as intangible personal property, such as deposits in banks, mortgages, debts, receivables, shares of stock, bonds, notes, credits, evidences of an interest in property, evidences of debt and like incorporeal personal property;

Trusteed insurance payments; unincorporated foundation, cy pres winding up.

Provided further, That no tax shall be imposed in respect of property passing to a trustee or trustees of any trust agreement or trust deed heretofore or hereafter executed by a resident or nonresident decedent by virtue of or under the terms and provisions of any contract or contracts of insurance heretofore or hereafter in force, insuring the life of such decedent, and paid or payable at or after the death of such decedent to the trustee or trustees for the benefit of a beneficiary or beneficiaries having any present or future, vested, contingent or defeasible interest under such trust deed or trust agreement: Provided further, Should any such unincorporated foundation as is hereinbefore provided tax exempt status cease to operate or its funds be diverted from the lawful purposes of its organization, or become unable to lawfully serve such purposes, the legislature may by law provide for the winding up of its affairs and for the conservation and disposition of its property, in such way as may best promote and perpetuate the purposes for which such unincorporated foundation was originally organized.

Exempt foreign benevolent, charitable, religious, or educational corporations, reciprocity.

Provided further, That every transfer to any corporation, society, institution or person or persons or association of persons for benevolent, charitable, religious or educational purposes, organized, existing or operating under the laws of or within a state or territory of the United States (other than Michigan) or of the District of Columbia, also shall be exempt from taxation under the provisions of this act, if at the date of the transfer (which, excepting as to gifts by living persons, shall be deemed to be the date of decedent's death), the laws of the state or territory or of said district under which such corporation, society, institution, person or persons or association of persons was organized, existing or operating did not impose a death tax of any character in respect to property transferred to such a corporation, society, institution, person or persons or association of persons organized, existing or operating under the laws of or within this state, or if at the date of the transfer the laws of the state or territory or of said district contained a reciprocal provision under which such a transfer to such a corporation, society, institution, person or persons or association of persons organized, existing or operating under the laws of or within another state or territory or of said district were ex-

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empted from death taxes of every character, providing said other state or territory or of said district allowed a similar exemption to such a corporation, society, institution, person or persons or association of persons organized, existing or operating under the laws of another state or territory or of said district.

Effective date of exemption, refund.

The exemption provided in the preceding paragraph shall be effective with respect to transfers from decedents whose death occurred on or after May 1, 1950. Any tax previously paid on transfers made exempt by the preceding paragraph shall be refunded.

HISTORY: Am. 1903, p. 277, Act 195, Imd. Eff. June 9;—CL 1915, 14524;—Am. 1919, p. 272, Act 148, Eff. Aug. 14;—Am. 1923, p. 407, Act 257, Eff. Aug. 30;—Am. 1929, p. 569, Act 231, Imd. Eff. May 21;—CL 1929, 3672;—Am. 1941, p. 524, Act 302, Eff. Jan. 10, 1942;—CL 1948, 205.201;—Am. 1949, p. 186, Act 177, Eff. Sep. 23;—Am. 1951, p. 94, Act 75, Imd. Eff. May 28;—Am. 1962, p. 181, Act 168, Eff. Mar. 28, 1963.

CITED IN OTHER SECTIONS: Sections 205.201 to 205.221 are cited in § 205.13.

205.201a Death taxes of estates of non-resident decedents; executor or administrator, duties; definitions.

Sec. 1a. (1) The terms "death tax" and "death taxes", as used in the five following subsections, shall include inheritance, succession, transfer and estate taxes and any taxes levied against the estate of a decedent upon the occasion of his death.

Filing of proof.

(2) At any time before the expiration of 18 months after the qualification in any probate court in this state of any executor of the will or administrator of the estate of any non-resident decedent, such executor or administrator shall file with such court proof that all death taxes, together with interest or penalties thereon, which are due to the state of domicile of such decedent, or to any political subdivision thereof, have been paid or secured, or that no such taxes, interest or penalties are due, as the case may be, unless it appears that letters testamentary or of administration have been issued on the estate of such decedent in the state of his domicile, in the 4 following subsections called the domiciliary state.

Notice to domiciliary state.

(3) The proof required by subsection (2) may be in the form of a certificate issued by the official or body charged with the administration of the death tax laws of the domiciliary state. If such proof has not been filed within the time limited in subsection (2), and if within such time it does not appear that letters testamentary or of administration have been issued in the domiciliary state, the register of probate shall forthwith upon the expiration of such time notify by mail the official or body of the domiciliary state charged with the administration of the death tax laws thereof with respect to such estate, and shall state in such notice so far as is known to him (a) the name, date of death and last domicile of such decedent, (b) the name and address of each executor or administrator, (c) a summary of the values of the real estate, tangible personalty, and intangible personalty, wherever situated, belonging to such decedent at the time of his death, and (d) the fact that such executor or administrator has not filed theretofore the proof required in subsection (2). Such register shall attach to such notice a plain copy of the will and codicils of such decedent, if he died testate, or, if he died intestate, a list of his heirs and next of kin, so far as is known to such register. Within 60 days after the mailing of such notice the official or body charged with the administration of the death tax laws of the domiciliary state may file with such probate court in this state a petition for an accounting in such estate, and such official or body of the domiciliary state shall, for the purposes of this section, be a party interested for the purpose of petitioning such probate court for such accounting. If such petition be filed within said period of 60 days, such probate court shall decree such accounting, and upon such accounting being filed and approved shall decree either the payment of any such tax found to be due to the domiciliary state or subdivision thereof or the remis-

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sion to a fiduciary appointed or to be appointed by the probate court, or other court charged with the administration of estates of decedents, of the domiciliary state, of the balance of the intangible personalty after the payment of creditors and expenses of administration in this state.

Allowance of final account, conditions.

(4) No final account of an executor or administrator of a non-resident decedent shall be allowed unless either (a) proof has been filed as required by subsection (2), or (b) notice under subsection (3) has been given to the official or body charged with the administration of the death tax laws of the domiciliary state, and such official or body has not petitioned for an accounting under said subsection within 60 days after the mailing of such notice, or (c) an accounting has been had under said subsection (3), a decree has been made upon such accounting and it appears that the executor or administrator has paid such sums and remitted such securities, if any, as he was required to pay or remit by such decree, or (d) it appears that letters testamentary or of administration have been issued by the domiciliary state and that no notice has been given under said subsection (3).

Applicability of act.

(5) Subsections (1) to (4), inclusive, shall apply to the estate of a non-resident decedent, only in case the laws of the domiciliary state contain a provision, of any nature or however expressed, whereby this state is given reasonable assurance, as finally determined by the auditor general, of the collection of its death taxes, interest and penalties from the estates of decedents dying domiciled in this state, when such estates are administered in whole or in part by a probate court, or other court charged with the administration of estates of decedents, in such other state.

Liberal construction.

(6) The provisions of subsections (1) to (5), inclusive, shall be liberally construed in order to ensure that the domiciliary state of any non-resident decedent whose estate is administered in this state shall receive any death taxes, together with interest and penalties thereon, due to it from the estate of such decedent.

HISTORY: Add. 1937, p. 103, Act 76, Eff. Oct. 29;—CL 1948, 205.201a.

EXCEPTIONS AND LIMITATIONS.

205.202 Tax on certain transfers of property; exemptions; adopted children; transfer to husband or wife.

Sec. 2. First. (a) Where the person or persons entitled to any beneficial interest in such property shall be the grandfather, grandmother, father, mother, husband, wife, child, brother, sister, wife or widow of a son, or the husband of a daughter, or to or for the use of any child or children adopted as such in conformity with the laws of this state or any other state or country, of the decedent grantor, donor or vendor, or for the use of any persons to whom such decedent grantor, donor or vendor stood in the mutually acknowledged relation of a parent: Provided, however, That such relationship began at or before the child's seventeenth birthday and continued until the death of such decedent grantor, donor or vendor, or to or for the use of any lineal descendant of such decedent grantor, donor or vendor, such transfer of property of the clear market value of 5,000 dollars shall be exempt from all taxation under this act;

(b) Where the transfer is to a husband or wife such transfer of property of the clear market value of 30,000 dollars shall be exempt from all taxation under this act. In event no property is transferred to any minor child or children, the widow shall be entitled to an additional exemption of 5,000 dollars for each such child to whom no property is transferred.

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Same; tax rate on excess; widow's allowance.

Second. In case the clear market value of the property transferred to each individual of the persons included in the classes specified in paragraph 1 hereof exceeds the exemptions specified in paragraph 1, such exemptions shall first be deducted therefrom; when the clear market value of such property shall not exceed 50,000 dollars before deducting such exemptions the transfer of such property in excess of the exemptions herein provided and up to said 50,000 dollars shall be taxed under this act at the rate of 2 per centum of the clear market value thereof. When the clear market value of such property exceeds 50,000 dollars the excess over exemptions of the first 50,000 dollars shall be taxed as aforesaid and the transfer of that portion of such property in excess of said 50,000 dollars and up to 250,000 dollars shall be taxed under this act at the rate of 4 per centum of the clear market value thereof; the transfer of that portion of such property in excess of said 250,000 dollars and up to 500,000 dollars shall be taxed under this act at the rate of 5 per centum of the clear market value thereof; the transfer of that portion of such property in excess of said 500,000 dollars and up to 750,000 dollars shall be taxed under this act at the rate of 6 per centum of the clear market value thereof; the transfer of that portion of such property in excess of said 750,000 dollars shall be taxed under this act at the rate of 8 per centum of the clear market value thereof: Provided, That portion of the property so transferred so each individual of the persons included in the classes specified in paragraph 1 hereof, which consists of real estate, shall be taxable at 3/4 the rates specified in this act. In determining the tax payable under this act, the property subject to tax shall be deemed to consist of real and personal property in the proportions that the clear market value of such real property and such personal property, respectively, bear to the clear market value of the total property so transferred.

The exemptions of section 1 and paragraph 1 of section 2 of this act shall apply and be granted to each beneficiary's interest therein, and not to the entire estate of a decedent. No deductions or exemptions from such tax shall be made for any allowance granted by the order of any court for the maintenance and support of the widow or family of a decedent pending the administration of the estate when there is income from such estate accruing after death, which is available to pay such allowance, or for a longer period than 1 year, or for a greater amount than is actually used and expended for the maintenance and support of such widow or family for 1 year.

Tax rate.

Third. (a) Except as hereinafter provided, in cases other than those specified in paragraph 2 hereof, the tax shall be at the rate of 10 percentum upon the clear market value of the property transferred not exceeding 50,000 dollars;

(b) Upon all in excess of 50,000 and up to 500,000 dollars, 12 per centum;

(c) Upon all in excess of 500,000 dollars, 15 per centum.

HISTORY: Am. 1903, p. 278, Act 195, Imd. Eff. June 9;—Am. 1913, p. 48, Act 30, Eff. Aug. 14;—Am. 1915, p. 333, Act 198, Eff. Aug. 24;—CL 1915, 14525;—Am. 1919, p. 273, Act 148, Eff. Aug. 14;—Am. 1923, p. 406, Act 257, Eff. Aug. 30;—Am. 1925, p. 745, Act 380, Eff. Aug. 27;—Am. 1929, p. 66, Act 35, Imd. Eff. April 8;—CL 1929, 3673;—Am. 1935, p. 253, Act 161, Imd. Eff. June 6;—CL 1948, 205.202.

NOTE: There is no section 2a.

205.202b Additional inheritance tax.

Sec. 2-b. In the event that the total of inheritance taxes imposed by this act upon inheritances or the transfers of property of decedents resident of this state at the time of death, does not equal or exceed after all deductions for exemptions and otherwise, 80 per centum of the amount of the tax imposed upon the value of the estate of such decedent under title 3 of the federal revenue act of 1926, providing for a federal estate tax, an additional inheritance tax shall be and is hereby imposed upon all such inheritances and transfers as follows: There shall be added to the taxes hereinbefore imposed an amount equal to the difference between the total of such taxes hereinbefore im-

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posed plus all other credits allowed by the federal act for taxes paid the state governments, and 80 per centum of the tax which may be imposed by said federal revenue act. Such taxes are hereby imposed upon the transfers in estates of every person who, at the time of death, was a resident of this state. The purpose of this section is to obtain the benefit of the credit allowed under the provisions of title 3, section 301, subsection B of the United States revenue act of 1926, to the extent that this state may be entitled by the provisions of said act, by imposing additional taxes and the same shall be liberally construed to effect this purpose. Such additional tax shall be levied and assessed upon transfers and against the interests of beneficiaries liable for inheritance taxes, who would be liable to pay the federal tax as assessed before deducting the 80 per centum provided in said federal act. It shall be the duty of executors and administrators of estates subject to the payment of a federal estate tax, to file duplicates of the United States tax returns with the probate court. The provisions of this section shall apply to the estates of decedents dying on or after the effective date of the federal revenue act of 1926, except in those estates where the tax was paid in full prior to May 21, 1929, in accordance with the provisions of law then in force. Upon the final federal determination of 80 per centum of the federal estate tax the state treasurer and the auditor general shall refund and pay back to the executor, administrator or trustee of such estate or other person interested thereunder out of the primary school fund all moneys theretofore paid to the appropriate county treasurer under this act in excess of said 80 per centum which shall have been paid pursuant to said provision requiring the payment of an amount equal to the difference between the total of such taxes hereinbefore imposed plus all other credits allowed by the federal act for taxes paid the state governments, and 80 per centum of the tax which may be imposed by said federal revenue act and mandamus shall be available to such executor, administrator, trustee or other person to compel such refund and repayment. This section shall not be affected by any subsequent repeal or changes in the federal revenue act of 1926 after the effective date hereof, nor any amendments thereto, and if the United States should alter, change or discontinue the imposition of the estate, legacy or succession taxes, the tax herein provided shall continue to be levied, imposed and collected upon estates of decedents resident of this state as hereinbefore provided.

HISTORY: Add. 1929, p. 67, Act 35, Imd. Eff. April 8;—Am. 1929, p. 580, Act 237, Imd. Eff. May 21;—CL 1929, 3674;—Am. 1931, p. 303, Act 188, Imd. Eff. May 28;—CL 1948, 205.202b.

NOTE: Subsection B of § 301 of title 3 of the United States revenue act of 1926, above referred to, is 26 U.S.C.A. § 1093.

This act was prepared under the supervision of the National Conference of Commissioners on Uniform State Laws and recommended by such commissioners for passage by the several states. It has been adopted (those marked * being modified versions) by the legislatures of the following states: Alaska, California, Hawaii, Idaho, Illinois, Indiana, *Iowa, Maryland, Michigan, Missouri, Nebraska, New York, Pennsylvania, South Carolina, South Dakota, *Washington, West Virginia and Wyoming.

CITED IN OTHER SECTIONS: The above section is cited in § 720.11.

LIEN OF TAX AND PAYMENT THEREOF.

205.203 Tax lien; executor, personal liability; duties of officers; prerequisite to discharge of executor; due date.

Sec. 3. Every such tax and the interest thereon herein provided for shall be and remain a lien upon the property transferred until paid, and the person to whom the property is so transferred and the administrator, executor, and trustee of every estate so transferred, shall be personally liable for such tax until its payments; except that the executor or administrator shall not be personally liable for the tax upon a reversion or remainder consisting of real estate where the election provided for in section 7 is made. The tax shall be paid to the treasurer of the county in which the probate court has jurisdiction as herein provided, and said treasurer shall make out, upon forms prescribed by the auditor general, receipts in duplicate, and immediately send the same to the auditor general, and accompany them with the amount received in funds by law receivable at the state treasury. It shall then be the duty of the auditor general to charge the treasurer so receiving the tax with the amount thereof and credit him with

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the payment of same to state treasurer, and in case the determination of said tax and said receipt are believed to be in accordance with law, seal said receipts with the seal of his office and countersign the same and return 1 of them to the county treasurer who shall file and preserve it in his office and immediately send the other of such receipts to the judge of probate who shall file and preserve it in his office, whereupon it shall be a voucher in settlement of the accounts of the executor, administrator, or trustee of the estate upon which the tax is paid. At the same time the auditor general shall send to the county treasurer the state treasurer's receipt, countersigned as required by law, showing payment of tax. The sealing and countersigning of said receipts shall not prejudice the right of the state to a review of the determination fixing the tax. The receipts issued under this section shall show whether the amount paid is a payment of the tax upon any beneficial interest or upon the entire transfer. But no executor, administrator or trustee of an estate, in settlement of which a tax is due under the provisions of this act, shall be discharged and the estate or trust closed by a decree of the court, unless there shall be produced a receipt signed by the county treasurer and sealed and countersigned by the auditor general, or a copy thereof, certified by the county treasurer, or unless payment of the tax has been deferred as prescribed by section 7 of this act. When any such tax shall be paid to the county treasurer, he shall, in addition to the duplicate receipts required to be issued upon the form prescribed by the auditor general, give the executor, administrator, trustee, or other person paying the tax, a simple receipt for the amount received. All taxes imposed by this act shall accrue and be due and payable at the time of transfer, which is the date of death: Provided, however, That taxes upon the transfer of any estate, property or interest therein limited, conditioned, dependent or determinable upon the happening of any contingency or future event, by reason of which the clear market value thereof cannot be ascertained at the time of the transfer as herein provided, shall accrue and become due and payable when the persons or corporations beneficially entitled thereto shall come into actual possession or enjoyment thereof.

Same; enforcement proceedings; parties to action.

First, All proceedings to enforce any lien now existing, or which may hereafter accrue, against any property under this act, shall be instituted by information, in the name of the people of the state of Michigan, addressed to the circuit court in chancery of the county in which such property is situated. It shall be signed by the attorney general and need not be otherwise verified, and shall be equivalent to a bill in chancery to enforce the lien against such property. And in such proceedings, all persons owning such property or any interest therein as shown by the record in the office of the register of deeds, or by the records of the probate court, at the time of the commencement of the proceedings, shall be made parties to such action, and all other persons having any rights or interest in said property, may make themselves parties thereto, on motion to the court, and notice to complainant, and may file their intervening or cross bills, or answers claiming the benefit of cross bills, and notices of lis pendens therein. Intervening or cross bills shall be made on oath;

Information, contents.

Second, Such information shall show the name of the deceased, date of his death, the place of residence at the time of death, the county in which his estate was probated, the description of the property transferred, whether by will or under the intestate laws, and against which the lien exists, the name of the person or persons to whom it was transferred, the amount of taxes determined by the probate court upon the transfer, the date of the determination and whether the property is owned by the person or persons to whom it was transferred by will or under the intestate laws or by a subsequent purchaser, naming him. Such information shall also show that the taxes determined upon the transfer of such property have not been paid and the amount of in-

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terest due thereon upon the date of the filing of the information. In those cases in which the property upon which the lien exists is owned by the person or persons to whom it was transferred by will or under the intestate laws, the prayer for relief shall be that the court determine the amount due; that the defendant pay to the county treasurer of the county, in which the estate was probated, for and in behalf of the state of Michigan, whatever sum shall appear to be due, together with the costs of the proceeding, and that in default of such payment the property upon which the lien exists, may be sold in the manner herein provided, to satisfy such taxes, interest and cost. In those cases in which the property upon which the lien exists is owned by a subsequent purchaser, the prayer for relief shall be that the court determine the amount due and that the property upon which the lien exists may be sold in the manner herein provided to satisfy such taxes, interest and costs of the proceeding. Such information may contain such other and further allegations and prayers as are deemed material and permitted by the rules and practice of the court;

Evidence of determination of tax and non-payment.

Third, A certified copy of the order of determination of the inheritance tax, for which the lien exists, certified by either the judge or register of probate of the court that determined the tax or by the auditor general, may be attached to such information, and when so attached shall be considered a part thereof and shall be prima facie evidence of the determination of the inheritance tax and the accruing of the lien against such property. Also a certificate of the auditor general stating that the inheritance tax, or any part thereof determined upon the transfer of such property upon which the lien exists, has not been paid, may be attached to such information and when so attached shall be considered a part thereof and shall be prima facie evidence of the non-payment of such an amount of the tax and interest as shown to be unpaid by such certificate;

Service of process.

Fourth, All provisions of law now existing relative to the service of process in chancery cases, and all provisions of law now existing relative to all matters of procedure and practice in chancery cases, not otherwise herein specifically provided for, shall govern in so far as they are applicable in all proceedings instituted under this act;

Same; on infant and incompetents.

Fifth, If any infant, insane, or otherwise mentally incompetent person has any interest in the property upon which the lien exists, service of process shall be made upon such a person in the same manner and with the same effect as upon persons not under any disability, whether such infant, insane, or otherwise mentally incompetent person is within or without the jurisdiction;

Guardian ad litem.

Sixth, After the issuing and service of process against the infant, insane, or otherwise incompetent person, a guardian ad litem may be appointed for such infant, insane, or otherwise incompetent person by the court upon motion of the attorney general, or such guardian ad litem may be appointed by the court upon the request of such infant, and in case of an insane or otherwise incompetent person, at the request of such person's general guardian;

Taxes unpaid; decree for sale; redemption.

Seventh, If upon the hearing of said cause it shall appear that the inheritance taxes and interest, or either, upon the transfer of the property upon which the lien exists have not been paid, the court shall decree the amount of taxes and interest thereon found to be due, together with such costs as are now allowed by law in chancery cases as the court shall award, to be paid by the person or persons owning the property, or any interest therein, within 3 months after the entry of said decree and that in default

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of such payment that the property upon which the lien exists, be sold to satisfy such taxes, interest and costs. If it shall appear that the person or persons to whom was transferred the property by will or under the intestate laws, have parted with their interest therein before the institution of the proceedings herein provided for, and that such property is owned by a subsequent purchaser, the court shall decree that such property be sold to satisfy such taxes, interest and costs, unless the owner thereof satisfies such taxes, interest and costs within 3 months from the entry of such decree: Provided, That in those cases in which it shall appear that 2 or more pieces or parcels of land were transferred by will or under the intestate laws, to 1 person, and that such person has, prior to the institution of the proceedings herein provided for, parted with either or all of said pieces or parcels of land and that the court can ascertain from the order of determination, the amount of inheritance tax, determined upon the transfer of each piece or parcel and that the lien against all of said pieces or parcels is being foreclosed in 1 proceeding, the court may decree the sale of said piece or parcel, to satisfy the amount of tax determined upon the transfer of said piece or parcel, together with the interest thereon and the pro rata costs of the proceeding: Provided, That in no case shall any such property be sold to satisfy such taxes, interest and costs within 3 months after the entry of such decree: Provided further, That if the person or persons owning such property or any interest therein, his heirs, executors, administrators, or any person lawfully claiming from or under him or them, shall within 6 months from the time of such sale redeem the entire premises sold, by paying to the register of deeds in whose office the deed is deposited, as provided by the eleventh subdivision of this section, for the benefit of such purchaser, his executors, administrators, or assigns, the sum which was bid therefor at the time of sale, with interest, at the rate of 6 per cent, together with the sum of 1 dollar as a fee for the care and custody of such redemption money, and the fee paid by the purchaser for recording his deed, then said deed shall be void and of no effect, but in case any distinct lot or parcel separately sold shall be redeemed leaving a portion of the premises unredeemed, then such deed shall be inoperative merely to the parcel or parcels so redeemed and to those portions not so redeemed shall remain valid and of full effect;

Sale of property, court order.

Eighth, If it shall appear to the court after the expiration of 3 months from the date of entry of the decree from a certificate of the county treasurer to whom the taxes, interest and costs were to be paid, attached to a petition of the attorney general for an order of sale of such property, that the same have not been paid, he shall enter an order directing the circuit court commissioner, or some other person duly authorized by the order of the court, to sell such property. Such sales shall be at public vendue between the hours of 9 o'clock in the morning and 6 o'clock in the evening at the court house or at such other place as the court shall direct, within 60 days from the date of the order and on the date therein specified: Provided, That the court may, if necessary, by further order adjourn the sale from time to time: Provided further, That the circuit court commissioner, or other person authorized to make such sale, may, if bids are not received equal to the amount of taxes, interest and costs, adjourn the sale from time to time. But in no case shall such sale be adjourned for more than 60 days at any 1 time;

Same; publication.

Ninth, Upon receipt of a certified copy of the order of sale the circuit court commissioner, or other person duly authorized by the order of the court, to conduct such sale, shall publish the same in some newspaper printed in the county or such other paper as the court may direct, once in each week, for 3 weeks in succession: Provided, That if the sale is adjourned by order of the court, or by the circuit court commissioner, or

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other person duly authorized by the order of the court, to conduct such sale the same publication shall be had of the order or notice adjourning the sale as is herein provided for publishing the order of sale: Provided further, That proof of such publication shall be filed with the register in chancery before the sale;

Same; report of sale.

Tenth, The circuit court commissioner, or other person authorized to make such sale shall make and file a report of the same. Such report shall be entitled in the court and cause and shall be certified and filed with the register in chancery;

Deeds; execution, contents, recording, when operative, title conveyed.

Eleventh, Deeds shall thereupon be executed by such circuit court commissioner, or other person, making such sale, specifying the names of the parties in the suit, the date of the determination of the inheritance tax; the name of the deceased, the county in which the estate was probated, with a description of the premises and the amount for which each parcel of land therein described was sold, and he shall indorse upon each deed when the same shall become operative, in case the premises are not redeemed according to law. Such deed or deeds shall, as soon as practicable and within 20 days after such sale, be deposited with the register of deeds of the county in which the land therein described is situated, and the register shall endorse thereon the time the same was received and for a better preservation thereof, shall record the same at length in a book to be provided for in his office for that purpose, and shall index the same in the regular index of deeds, and the fees for recording same shall be paid by the purchaser and be included among the other costs and expenses. In case such premises or any parcel thereof shall be redeemed the register of deeds shall write on the face of such record the word "Redeemed", stating at what date such entry is made and signing such entry with his official signature. Unless the premises described in such deed, or any parcel thereof, shall be redeemed within the time limited for such redemption, as herein provided, such deed shall thereupon as to all parcels not so redeemed, become operative and shall vest in the grantee therein named, his heirs or assigns all the right, title and interest therein which the person or persons received therein either from the deceased by reason of the transfer to them by will or under the intestate laws, or as subsequent purchasers.

Proceeds of sale; redemption money; disposition.

Twelfth, The proceeds of every sale herein provided for shall be paid to the treasurer of the county wherein the estate was probated, to be applied to the discharge of the tax, interest and costs, and if there be any surplus, it shall be brought into court for the use of the defendant, or the person entitled thereto, subject to the order of the court. The redemption money paid to the register of deeds, shall be paid to the persons entitled thereto as soon as practical, and in those cases in which the state was the purchaser, the money shall be paid to the treasurer of the county wherein the estate was probated, and if there be any surplus after the tax, interest and costs are satisfied, the same shall be brought into court for the use of the defendant or the person entitled thereto, subject to the order of the court;

Fees.

Thirteenth, Upon the filing of the information, 2 dollars as fees shall be paid to the register in chancery, which shall be in full of all register fees and charges in such proceedings, on his behalf. The circuit court commissioner, or other person authorized by the court to make the sale, shall be entitled to the following fees and no others: For attending sale and adjourning same, 1 dollar; for attending sale and making same, 1 dollar and 50 cents; mileage, 1 way, 10 cents per mile; executing deed or deeds on real estate sales, 25 cents for each deed necessarily executed; making report of sale and filing same, 1 dollar. The cost of publishing any legal notices herein required to be published shall be at the rate of 70 cents per folio for the first insertion, and 35 cents per folio for

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each subsequent insertion. The fees which are provided for in this act, shall be added by the circuit court commissioner, or other person duly authorized to make the sale, to the tax, interest and costs awarded by the court as charges against the land.

HISTORY: Am. 1903, p. 278, Act 195, Imd. Eff. June 9;—Am. 1907, p. 200, Act 155, Imd. Eff. June 17;—CL 1915, 14526;—CL 1929, 3675;—CL 1948, 205.203.

205.203a Application of statute of limitations.

Sec. 3a. No statute of limitations shall apply to any proceeding or action taken to levy, appraise, assess, determine or enforce the collection of any tax, penalty or interest, prescribed by this act, until the final determination of the tax by the judge of probate is entered, or unless an order has been entered assigning the estate and this provision shall be construed as having been in effect as of the date of the original enactment of the inheritance tax law: Provided, however, That when a final order of determination of inheritance tax has been made by the judge of probate the statute of limitations shall begin to run on the date of such final determination or order, as to the transfers of real and personal property listed on such final order of determination, or, if there be no order of determination, from the date of such order assigning the estate.

HISTORY: Add. 1955, p. 344, Act 232, Imd. Eff. Jun. 18.

DISCOUNT, INTEREST AND PENALTY.

205.204 Payment of tax, discount; interest on non-payment.

Sec. 4. If in any case, whether such transfer shall take effect prior or subsequent to the taking effect of this act, such a tax is paid within 12 months from the accruing thereof, a discount of 5 per centum shall be allowed and deducted therefrom. If such tax is not paid within 18 months from the accruing thereof, interest shall be charged and collected thereon at the rate of 8 per cent. per annum from the time the tax accrued, unless by reason of claims made upon the estate, necessary litigation or other unavoidable cause of delay, such tax cannot be determined and paid as herein provided, in which case interest at the rate of 6 per cent. per annum shall be charged upon such tax from and after the expiration of said 18 months until the tax is determined, or could be determined, and after the determination, or after the time it could be determined, interest at 8 per cent. per annum shall be charged until the date of the payment thereof. In all cases where payment is deferred as provided in section 7 of this act, interest shall be charged at the rate of 5 per centum per annum from the accrual of the tax until the date of the payment thereof.

HISTORY: Am. 1903, p. 279, Act 195, Imd. Eff. June 9;—Am. 1907, p. 208, Act 155, Imd. Eff. June 17;—CL 1915, 14527;—CL 1929, 3676;—CL 1948, 205.204.

COLLECTION OF TAX BY EXECUTORS, ADMINISTRATORS AND TRUSTEES.

205.205 Sale of property of estate to pay tax; collection from devisee; legacy not delivered until tax paid; money legacy.

Sec. 5. Every executor, administrator, trustee or other person shall have full power to sell or mortgage so much of the property of the decedent as will enable him to pay such tax in the same manner as he might be entitled by law to do for the payment of the debts of a decedent or ward; except that in cases where the transfer is to 2 or more persons in common, and 1 or more of them shall have paid his proportion of such tax, such executor, administrator, trustee, or other person shall sell or mortgage only the interest of such of the persons to whom the property was transferred as have not paid the tax, to pay the tax due upon such share or shares. Any such administrator, executor, trustee or other person having in charge or in trust any legacy or property for distribution subject to such tax, shall deduct the tax therefrom; and within 30 days thereafter shall pay over the same to the county treasurer as herein provided. If such legacy or property be not in money, he shall collect the tax thereon as determined by the

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judge of probate from the person entitled thereto, unless such tax has been paid to the county treasurer. He shall not deliver or be compelled to deliver any specific legacy or property subject to tax under this act to any person until the tax assessed thereon has been paid to him or to the county treasurer. If any such legacy shall be charged upon or payable out of real property and is taxable under this act, the devisee charged with the payment of such legacy shall deduct such tax therefrom and pay it to the county treasurer or the administrator, executor or trustee. And the payment thereof shall be enforced by the executor, administrator or trustee, in the same manner as payment of the legacy might be enforced, or by the attorney general or prosecuting attorney by the appropriate legal proceeding. If such legacy shall be given in money to any such person for a limited period, the administrator, executor, trustee or other person shall retain the tax upon the whole amount, but if not in money, he shall make such application to the court having jurisdiction of an accounting by him, to make an apportionment, if the case require it, of the sum to be paid by such legatee and for such further order relative thereto as the case may require.

HISTORY: Am. 1903, p. 279, Act 195, Imd. Eff. June 9;—CL 1915, 14528;—CL 1929, 3677;—CL 1948, 205.205.

REFUND OF TAX ERRONEOUSLY PAID.

205.206 Tax refund.

Sec. 6. If any debt shall be allowed against the estate of a decedent after the payment of any legacy or distributive share thereof, from which any such tax has been deducted or upon which it has been paid by the person entitled to such legacy or distributive share, and such person is required to refund the amount of such debts or any part thereof, an equitable proportion of the tax shall, upon the order of the court, be paid to him by the executor, administrator, trustee or other person, if the tax has not been paid to the county treasurer. When any amount of said tax shall have been paid erroneously into the county treasury by reason of the allowance of debts or otherwise, it shall be lawful for the auditor general, upon satisfactory proof by the order or certificate of the proper court of the allowance of such debts or of the reversal, correction or alteration, in accordance with law, of the order fixing such tax, to draw his warrant upon the state treasury for such erroneous payment, to be refunded to the executor, administrator, trustee, person or persons entitled to receive it, and charge the same to the fund which receives credit from the payment of taxes under the provisions of this act: Provided however, That all applications for such refunding of erroneous tax shall be made within 6 months from the allowance of such debts or the reversal, correction or alteration of said order.

HISTORY: Am. 1903, p. 280, Act 195, Imd. Eff. June 9;—CL 1915, 14529;—CL 1929, 3678;—CL 1948, 205.206.

DEFERRED PAYMENT.

205.207 Election to make deferred payments; bond.

Sec. 7. Any person or corporation beneficially interested in the reversion or remainder of any property chargeable with a tax under this act, and executors, administrators and trustees thereof, may elect within 1 year from the transfer thereof as herein provided, not to pay such tax until the person or persons beneficially interested therein shall come into the actual possession or enjoyment thereof. If it be personal property, the person or persons so electing shall give a bond to the state in the penalty of 3 times the amount of such tax, with such sureties as the judge of probate of the proper county may approve, conditioned for the payment of such tax and interest thereon at such time and period as the person or persons beneficially interested therein may come into the actual possession or enjoyment of such property, which bond shall be executed and filed and a full return of such property upon oath made to the probate court within 1 year from the date of the transfer thereof, as herein provided, and such bond

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must be renewed every 5 years: Provided, That the time fixed herein for making such election may be extended by the court in its discretion for a period not to exceed 2 years.

HISTORY: Am. 1903, p. 281, Act 195, Imd. Eff. June 9;—CL 1915, 14530;—CL 1929, 3679;—CL 1948, 205.207.

TAXES UPON DEVISES AND BEQUESTS IN LIEU OF COMMISSIONS.

205.208 Bequest to executors or trustees subject to tax.

Sec. 8. If a testator bequeath or devise his property to 1 or more executors or trustees in lieu of their commissions or allowances, to an amount exceeding the commissions or allowances prescribed by law for an executor or trustee, the excess in value of the property so bequeathed or devised above the amount of commissions or allowances prescribed by law shall be taxable under this act.

HISTORY: Am. 1903, p. 281, Act 195, Imd. Eff. June 9;—CL 1915, 14531;—CL 1929, 3680;—CL 1948, 205.208.

STATUTORY ALLOWANCES: See Compilers' § 704 33.

LIABILITY OF CERTAIN CORPORATIONS TO TAX.

205.209 Notice to county treasurer of delivery of property of resident decedent; joint property excepted; treasurer to inventory.

Sec. 9. No safe and collateral deposit company, trust company, corporation, bank or other institution, person or persons having in possession or custody, securities, deposits or other assets at the date of death of a decedent who was a resident of this state, belonging to such resident decedent, or belonging to such resident decedent and 1 or more persons, except securities, deposits or other assets the indicated ownership or registered title of which denotes ownership by right of survivorship, and except securities, deposits or other assets contained in a safe deposit box or compartment which shall be governed solely by the provisions of section 9b of this act, shall make delivery or surrender possession or custody thereof to the executor, administrator or legal representative of such resident decedent, or to joint owners except in cases where the indicated ownership or registered title denotes ownership by right of survivorship, unless notice of the time and place of such intended delivery or surrender of possession or custody be served, either personally or by registered mail, upon the county treasurer of the county in which such securities, deposits or other assets are held, at least 5 days prior thereto, which notice may be waived by such county treasurer, or his deputy. It shall be lawful for such county treasurer, or his deputy, and it shall be his duty to examine such securities, deposits or other assets and to prepare an inventory thereof, acknowledged under oath by him to be a complete statement of the amount and description of such securities, deposits or other assets to be filed forthwith with the probate court of the county in which proceedings for the administration of the estate of such resident decedent are pending: Provided, however, That such securities, deposits or other assets may be so delivered or surrendered at any time after the expiration of 5 days after the service of such notice, or prior to the expiration of such 5 day period, upon waiver of such notice by the county treasurer, or his deputy, as aforesaid, and nothing contained in this section shall be construed as imposing any further duty on such safe and collateral deposit company, trust company, corporation, bank or other institution, person or persons with respect to such securities, deposits or other assets.

HISTORY: Am. 1903, p. 281, Act 195, Imd. Eff. June 9;—Am. 1913, p. 28, Act 17, Eff. Aug. 14;—Am. 1915, p. 329, Act 195, Eff. Aug. 24;—CL 1915, 14532;—Am. 1919, p. 263, Act 145, Eff. Aug. 14;—CL 1929, 3681;—Am. 1941, p. 386, Act 235, Eff. Jan. 10, 1942;—CL 1948, 205.209.

205.209a Nonresident decedent; waiver of tax; notice to treasurer, delivery to personal representative.

Sec. 9a. No safe and collateral deposit company, trust company, corporation, bank or other institution, person or persons having in possession or custody, any property at

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the date of death of a decedent who was a nonresident of this state, belonging to such nonresident decedent, or belonging to such nonresident decedent and 1 or more persons, except intangible personal property and except securities, deposits or other assets contained in a safe deposit box or compartment which shall be governed solely by the provisions of section 9b of this act, shall make delivery or surrender possession or custody thereof to the foreign executor, administrator or legal representative of such nonresident decedent, or to joint owners except in cases where the indicated ownership or registered title denotes ownership by right of survivorship, unless furnished with a waiver issued by the attorney general with respect thereto, or a receipt, or an order of the probate court, as provided for in section 18 of this act, as amended. In case any such securities, deposits or other assets become subject to the jurisdiction of a probate court of this state through regular probate proceedings, any safe and collateral deposit company, trust company, corporation, bank or other institution, person or persons having possession or custody thereof may make delivery or surrender such possession or custody thereof to the executor, administrator or legal representative appointed by a probate court of this state, without being furnished with such waiver, receipt or order, if notice of the time and place of such intended delivery or surrender of possession or custody be served, either personally or by registered mail, upon the county treasurer at least 5 days prior thereto, which notice may be waived by such county treasurer, or his deputy, and the duties of the county treasurer, or his deputy, and those of such safe and collateral deposit company, trust company, corporation, bank or other institution, person or persons with respect thereto shall be the same as those pertaining to securities, deposits or other assets of a resident decedent, as provided in section 9 of this act.

HISTORY: Add. 1941, p. 387, Act 235, Eff. Jan. 10, 1942;—CL 1948, 205.209a;—Am. 1962, p. 183, Act 168, Eff. Mar. 28, 1963.

205.209b Safe deposit box; opening in presence of treasurer, notice, inventory, fee, mileage; nonresident decedent; right of joint lessee.

Sec. 9b. Upon receiving notice of the death of the individual or joint lessee of a safe deposit box or compartment, it shall be the duty of the safe and collateral deposit company, bank, industrial bank, trust company or other person or corporation from which such safe deposit box or compartment is leased, hereinafter in this section referred to as the "lessor", to refuse any further access thereto until such safe deposit box or compartment has been opened in the presence of the county treasurer, or his deputy, of the county in which such safe deposit box or compartment is situated. An executor, administrator or legal representative of such deceased lessee, a surviving joint lessee, or any other person or persons, if entitled to access to such safe deposit box or compartment, may procure the attendance of such county treasurer, or his deputy, at the opening of such safe deposit box or compartment by serving upon such county treasurer notice of the time and place of the intended opening of such safe deposit box or compartment at least 5 days prior to the date fixed in such notice, either personally or by registered mail, which notice may be waived by such county treasurer, or his deputy. Upon such service of notice, unless waived as aforesaid, it shall be lawful for the county treasurer, or his deputy, and it shall be his duty to be present, if notice is given, at the time and place fixed in such notice, or, if notice has been waived as aforesaid, at such time as may be agreed upon between the county treasurer, or his deputy, and the person or persons entitled to access to such safe deposit box or compartment, and to make an inventory of the contents thereof, acknowledged under oath by him to be a true and complete statement of the amount and description of the securities, deposits or other assets contained in such safe deposit box or compartment. In the event the decedent's estate is administered in any probate court in this state the county treasurer may file in behalf of the county a claim in said estate in the amount of $10.00; and if transportation is provided by such officer 10 cents per mile computed on the

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nearest travel route from the office of the county treasurer to the place of opening such box and return. All such fees collected shall be credited to the general fund of said county. If the deceased individual or joint lessee of such safe deposit box or compartment was at the time of his death a resident of this state, it shall be the duty of the county treasurer, or his deputy, to file his inventory of the contents thereof forthwith with the probate court of the county in which proceedings for the administration of the estate of such deceased lessee are pending, or, if no such proceedings are pending, then to file such inventory with the probate court of the county in which such safe deposit box or compartment is situated. If the deceased individual or joint lessee of such safe deposit box or compartment was at the time of his death a nonresident of this state, it shall be the duty of the county treasurer, or his deputy, to file his inventory of the contents thereof forthwith with the probate court of the county in this state in which proceedings for the administration of the estate of the nonresident deceased lessee are pending, or, if no such proceedings are pending, then in the office of the attorney general. The lessor of such safe deposit box or compartment shall be under no duty to supervise the opening thereof or the taking of an inventory of its contents by the county treasurer, or his deputy; and, after access to such safe deposit box or compartment in the presence of the county treasurer, or his deputy, the lessor may thereafter permit access thereto for any purpose, except as hereinafter provided in this section.

In case the deceased individual or joint lessee of such safe deposit box or compartment was at the time of his death a nonresident of this state, nothing shall be removed from such safe deposit box or compartment, with the exception of a will if one be found, at the time of the opening thereof in the presence of the county treasurer, or his deputy, and no further access to such safe deposit box or compartment shall be permitted by the lessor thereof until the lessor is furnished with a waiver issued by the attorney general with respect to the contents of such safe deposit box or compartment, or a receipt, or an order of the probate court as provided in section 18, as amended. Further access thereto and removal of contents thereof may be permitted at any time after it has been opened in the presence of the county treasurer, or his deputy, without such waiver or receipt or order being furnished, if such access and removal of contents is had by, or in the presence, or with the consent of the executor, administrator or legal representative of such deceased nonresident lessee appointed by a probate court of this state.

HISTORY: Add. 1941, p. 388, Act 235, Eff. Jan. 10, 1942;—CL 1948, 205.209b;—Am. 1953, p. 308, Act 212, Eff. Oct. 2;—Am. 1966, p. 345, Act 256, Eff. Mar. 10, 1967.

PROBATE CODE: See Compilers' § 707.7.

205.209c Liability of safe deposit box lessor for delivery of property or access to box in violation of act.

Sec. 9c. Any safe and collateral deposit company, trust company, corporation, bank or other institution, person or persons delivering or surrendering possession or custody of securities, deposits or other assets without compliance with the applicable provisions of sections 9, 9a, 9e and 9f of this act, and any lessor of a safe deposit box or compartment permitting access thereto without compliance with the applicable provisions of section 9b of this act, and any person or persons removing the contents of a safe deposit box or compartment rented to an individual or joint lessee who at the time of his death was a nonresident of this state contrary to the applicable provisions of section 9b of this act, shall be liable for the amount of the tax and interest and penalty due or thereafter to become due with respect to the estate of any resident or nonresident decedent of which such securities, deposits or other assets of the contents of such a safe deposit box or compartment are a part, to the extent that any such tax, interest and penalty is due or may become due upon the amount of such estate represented by

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such securities, deposits or other assets so delivered or surrendered or by the contents of such safe deposit box or compartment, and the payment thereof may be enforced in an action of assumpsit to be instituted and maintained by the attorney general, or other person or officer duly authorized by him, and any judgment rendered in such action shall carry costs to be taxed as in other cases. There shall be no liability for the payment of such tax and interest and penalty on the part of the lessor of such a safe deposit box or compartment in any case where the lessor shall fail to comply with the provisions of section 9b of this act in granting access to such a safe deposit box or compartment, without knowledge or reasonable grounds to believe that 1 or more of the lessees of such safe deposit box or compartment is deceased, and, in the case of a nonresident deceased lessee, without knowledge or reasonable grounds to believe that the deceased individual or joint lessee was, at the time of his death, a nonresident of this state.

HISTORY: Add. 1941, p. 389, Act 235, Eff. Jan. 10, 1942;—CL 1948, 205.209c;—Am. 1963, p. 119, Act 100, Eff. Sep. 6.

205.209d Repealed. 1962, p. 185, Act 168, Eff. Mar. 28, 1963.

Section related to inheritance tax; prohibited discharge of mortgage of decedent from record; exceptions.

205.209e Notice to department of revenue; waiver.

Sec. 9e. No safe and collateral deposit company, trust company, corporation, bank, person or persons having in possession or custody, securities, deposits or any other assets subject to tax under this act at the death of a decedent who was a resident of this state, which become payable other than to the decedent's executors or administrators upon the death or by reason of the death of the resident decedent, shall make payment, delivery or surrender custody thereof unless notice, in form and content as prescribed by the department of revenue, of the time and place of the intended payment, delivery or surrender is served upon the department of revenue at least 15 days prior thereto. The notice and 15-day period may be waived by the department of revenue.

HISTORY: Add. 1963, p. 119, Act 100, Eff. Sep. 6.

205.209f Notice to department of revenue; service in lieu of notice to county treasurer.

Sec. 9f. Any safe and collateral deposit company, trust company, corporation, bank or other institution, person or persons required, under the provisions of sections 9 and 9a of this act, to serve notice upon the county treasurer, in lieu thereof, and under conditions prescribed by the department of revenue, may serve such notice on the department of revenue.

HISTORY: Add. 1963, p. 119, Act 100, Eff. Sep. 6.

JURISDICTION OF THE PROBATE COURT.

205.210 Inheritance tax; jurisdiction of probate court; determination and payment of tax required prior to closing estate.

Sec. 10. The probate court of every county of this state having jurisdiction to grant letters testamentary or of administration upon the estate of a decedent whose property is chargeable with any tax under this act, or to appoint a trustee of such estate or any part thereof, or to give ancillary letters thereon, shall have jurisdiction to hear and determine all questions arising under the provisions of this act and to do any act in relation thereto authorized by law to be done by a judge of probate in other matters or proceedings coming within his jurisdiction, and if 2 or more probate courts shall be entitled to exercise any such jurisdiction, the judge of probate first acquiring jurisdiction hereunder shall retain the same, to the exclusion of every other judge of probate. Every petition for ancillary letters testamentary or ancillary letters of administration shall set forth a true and correct statement of all the decedent's property in this state and the value thereof.

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In no case shall the judge of probate or judges of probate issue an order of final distribution or an order discharging a fiduciary unless there shall have been issued an order of determination of inheritance tax and there is filed a receipt showing the payment in full of the tax as determined.

HISTORY: Am. 1903, p. 282, Act 195, Imd. Eff. June 9;—CL 1915, 14533;—CL 1929, 3682;—Am. 1941, p. 503, Act 293, Eff. Jan. 10, 1942;—CL 1948, 205.210.

APPOINTMENT OF APPRAISERS.

205.211 Appraiser; appointment; appraisement of vested and contingent estates; insurance commissioner, duties; money legacy.

Sec. 11. The judge of probate, upon the application of any interested party, including the auditor general and county treasurers, or upon his own motion, shall, as often as and whenever occasion may require, appoint a competent person as appraiser to fix the clear market value at the time of the transfer thereof of property which shall be subject to the payment of any tax imposed by this act, a description of which property and the names and residences of the persons to whom it passes shall be given by the judge of probate to such appraiser. If the property, upon the transfer of which the tax is imposed, shall be an estate, income or interest for a term of years or for life, or determinable upon any future or contingent estate, or shall be a remainder or reversion or other expectancy, real or personal, the entire property or fund by which such estate, income or interest is supported, or of which it is a part, shall be appraised immediately after such transfer, or as soon thereafter as may be practicable, at the clear market value thereof as of that date: Provided, however, That when such estate, income or interest shall be of such a nature that its clear market value cannot be ascertained at such time, it shall be appraised in like manner at the time when such value first became ascertainable. The value of every future or contingent or limited estate, income, interest or annuity, dependent upon any life or lives in being, shall be determined by the rule, method or standard of mortality and value employed by the commissioner of insurance in ascertaining the value of policies of life insurance companies, except that the rate of interest for computing the present value of all future and contingent interests or estates shall be 5 per centum per annum. The commissioner of insurance shall, upon request of the auditor general, prepare such tables of values, expectancies and other matters as may be necessary for use in computing, under the provisions of this act, the value of life estates, annuities, reversions and remainders, which shall be printed and furnished by the auditor general to the several judges of probate upon request: Provided further, That the clear market value of the transfer of a money legacy, presently taxable, shall for the purposes of this act be taken to be the face value of the money at the date of death of decedent.

HISTORY: Am. 1903, p. 282, Act 195, Imd. Eff. June 9;—Am. 1907, p. 206, Act 155; Imd. Eff. June 17;—CL 1915, 14534;—CL 1929, 3683;—CL 1948, 205.211.

PROCEEDINGS BY APPRAISERS.

205.212 Proceedings by appraisers, compensation, fees.

Sec. 12. Every such appraiser shall forthwith give notice by mail to all such persons as he is notified by the judge of probate are interested in the property to be appraised, and to the county treasurer, of the time and place when he will appraise the property. He shall at such time and place appraise the same at its clear market value as herein prescribed, and for that purpose said appraiser is authorized to issue subpoenas to compel the attendance of witnesses before him, and to take the evidence of such witnesses under oath concerning such property and the value thereof, and he shall make report thereof and of such value in writing to said judge of probate, together with the depositions of the witnesses examined and such other facts in relation thereto and to the said matter as the said judge of probate may order and require. Every appraiser

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shall be reimbursed for his actual and necessary traveling and other expenses and shall be entitled to 3 dollars per day for every day actually and necessarily employed in such appraisement. The fees of the necessary witnesses shall be the same as those now paid to witnesses subpoenaed to attend a court of record. A statement in detail of such compensation and disbursements as are authorized by this section shall be approved by the judge of probate and paid by the county treasurer from the general or contingent fund of the county.

HISTORY: Am. 1903, p. 283, Act 195, Imd. Eff. June 9;—CL 1915, 14535;—CL 1929, 3684;—CL 1948, 205.212.

DETERMINATION BY JUDGE OF PROBATE.

205.213 Report of appraisers; determination of value of estate and partial or final tax by probate judge; insurance commissioner, duties; notice of tax; rehearing.

Sec. 13. The report of the appraiser shall be filed in the office of the judge of probate, and from such report and other proof relating to any such estate before the judge of probate, the judge of probate shall forthwith, as of course, determine the clear market value of all such estates as of the date of transfer, and the amount of tax to which the same is liable, or the judge of probate may so determine the clear market value of all such estates and the amount of tax to which the same are liable without appointing an appraiser. The judge of probate may, and shall on application of the attorney general or auditor general, require the executor, administrator or trustee of any estate to file with him an itemized statement or petition containing itemized statement, under oath, of the personal property and real property within his knowledge or possession or under his control as such executor, administrator or trustee, which statement shall indicate the date from which interest and dividends were due and unpaid upon each item of the personal estate, together with the rate of such interest and also of the amount and character of any incumbrances upon such real estate at the time of the death of said deceased, and other data, such as debts, expenses of administration and other charges which constitute proper deductions in reaching a taxable remainder under the provisions of this act. The judge of probate before final determination of the tax upon the estate of decedent, may make a partial determination of tax upon any legacies or devises, or upon the real estate of a decedent, or upon the estate of the decedent as a whole, and may authorize and direct any executor or administrator to pay to the county treasurer a sum in gross on account of the inheritance tax due from the estate when by reason of claims made against the estate, litigation, non-receipt of final determinations made in federal estate tax returns or other unavoidable cause of delay, the tax cannot be determined by the court within 12 months from its accrual; the 5 per centum discount provided in section 4 of this act shall be allowed upon this gross sum. The judge of probate in the order determining the tax upon such estate shall state the amount authorized to be paid in gross as above provided and the date of such order. The commissioner of insurance shall, on the application of any judge of probate, or the auditor general, determine the value of any such future or contingent estate, income or interest limited, contingent, dependent or determinable upon the life or lives of persons in being, upon the facts contained in any such appraisers report, or facts stated by the judge of probate, and certify the same to the auditor general or the judge of probate, and his certificate shall be prima facie evidence that the method of computation adopted therein is correct. In case the state shall appeal from the appraisement, assessment or determination of the tax, it shall not be necessary to give any bond. The judge of probate shall immediately give notice upon the final determination by him of the value of any estate which is taxable under this act, and of the tax to which the same is liable, to each heir, legatee or devisee or his attorney and of the tax assessed upon his share of the estate, by mailing such notice postage prepaid to the last known

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address of each such persons, or his attorney except those who were in court in person or by attorney at the time the tax was so determined: Provided, That the judge of probate may upon the written application of any person interested, filed with him within 90 days after the final determination by him of any tax under this act, grant a rehearing upon the matter of determining such tax; the attorney general may file such written application for rehearing upon the matter of determining such tax any time prior to the allowance of the final account; and if, on such rehearing, he shall modify his former determination he shall enter an order redetermining the tax, and make the necessary entries in the book provided for in section 17 of this act, and make report thereof to the auditor general and county treasurer as provided in section 18 of this act.

HISTORY: Am. 1903, p. 283, Act 195, Imd. Eff. June 9;—Am. 1915, p. 334, Act 198, Eff. Aug. 24;—CL 1915, 14536;—CL 1929, 3685;—Am. 1947, p. 432, Act 273, Eff. Oct. 11;—CL 1948, 205.213.

PROCEEDINGS FOR THE COLLECTION OF TAXES.

205.214 Collection of unpaid taxes; estate closed without payment.

Sec. 14. If the auditor general or the treasurer of any county shall have reason to believe that any tax is due and unpaid under this act, after the refusal or neglect of the persons liable therefor to pay the same, he shall notify the attorney general in writing of such failure or neglect, and such attorney general may apply, or cause the prosecuting attorney of the county to apply, in behalf of the state, to the probate court for a citation citing the persons liable to pay such tax to appear before the court on a day specified, not more than 3 months after the date of such citation, and show cause why the tax should not be paid. The judge of probate upon such application, and whenever it shall appear to him that any such tax accruing under this act has not been paid as required by law, shall issue such citation, and the service of such citation, and the time, manner and proof thereof and the hearing and determination thereon, and the enforcement of the determination or order made by the judge of probate shall conform to the practice of the probate court in like cases made and provided for the service of citations out of the probate court, and the hearing and determination thereon and its enforcement, so far as the same may be applicable. In all cases where an estate has been declared closed without fixing or payment of the tax upon the transfers therein, and the attorney general shall believe such transfers to be subject to a tax and real estate in said estate to be subject to the lien thereof and shall contemplate the institution of proceedings for the fixing and enforcing, or the enforcing of the same when it has been fixed, he may in his discretion file with the register of deeds of the county a notice setting forth such fact together with a description of the real estate claimed to be subject to the same which shall operate with the same force and effect as a lis pendens under existing statutes: Provided, That the failure to file such notice shall not in any manner prejudice the rights of the state. The judge of probate or the probate clerk or register shall, upon the request of the attorney general, prosecuting attorney, or treasurer of the county, furnish 1 or more transcripts of such decree which shall be docketed and filed by the county clerk of any county of the state without fees, in the same manner and with the same effect as provided by law for filing and docketing transcripts, judgments and decrees of circuit courts in this state. As a cumulative remedy for the collection of the tax, the state may proceed by an action of assumpsit in any court of competent jurisdiction. Whenever the probate judge shall issue a citation and take the proceedings specified in this section, he shall certify such fact to the county treasurer, together with an itemized bill of all expenses incurred for the services of such citation, and other lawful disbursements not otherwise paid, and thereupon the county treasurer shall pay the same from the general or contingent fund of the county. In all proceedings to which any county treasurer, or the auditor general, is cited to appear under sections 11 and 12 of this act and all proceedings arising or instituted hereunder, the attorney general shall represent the interests of the state therein, the com-

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pensation and expenses of necessary assistants and the expenses of the said attorney general to be paid after approval by the attorney general on the warrant of the auditor general out of the general fund in the state treasury.

HISTORY: Am. 1903, p. 284, Act 195, Imd. Eff. June 9;—CL 1915, 14537;—CL 1929, 3686;—CL 1948, 205.214.

(RECEIPT) RECEIPTS FROM THE COUNTY TREASURER.

205.215 Receipts of treasurer; certified copy, fee, recording.

Sec. 15. Any person shall, upon the payment of the sum of 50 cents to the county treasurer, be entitled to a certified copy of the receipt issued by the county treasurer under section 3 of this act for the payment of any tax under this act, which receipt shall designate upon what real property, if any, such tax shall have been paid, by whom paid, and whether in full of such tax. Such receipts may be recorded in the office of the register of deeds of the county in which such property is situated, in a book to be kept by him for that purpose, which shall be labeled "Transfer Tax."

HISTORY: Am. 1903, p. 286, Act 195, Imd. Eff. June 9;—CL 1915, 14538;—CL 1929, 3687;—CL 1948, 205.215.

FEES FOR COUNTY TREASURER.

205.216 Additional fee; credit to general fund.

Sec. 16. The treasurer of each county shall collect on all taxes paid and accounted for by him under this act an additional 1/2 of 1%, which fee shall be credited to the general fund of the county.

HISTORY: Am. 1903, p. 286, Act 195, Imd. Eff. Jun. 9;—Am. 1911, p. 254, Act 265, Eff. Aug. 1;—CL 1915, 14539;—CL 1929, 3688;—CL 1948, 205.216;—Am. 1965, p. 254, Act 160, Imd. Eff. Jul. 15.

BOOKS AND FORMS TO BE FURNISHED BY THE AUDITOR GENERAL.

205.217 Record books furnished by auditor general; contents, entries, form.

Sec. 17. The auditor general shall furnish to each judge of probate a book, which shall be a public record, in which he shall enter a formal order containing the name of every decedent upon whose estate letters of administration or letters testamentary or ancillary letters have issued, the date of death, and place of residence at the time of death of such decedent, the names, places of residence and relationship to him of his heirs at law, in case he died intestate or left estate not disposed of by will; the names, places of residence, and relationship to him of the legatees and devisees in the will of the decedent, in case he died testate, the ages of all life tenants and beneficiaries under life estates, the clear market value of his real and personal property, the clear market value of the property, real and personal, passing to each heir, legatee and devisee, and the clear market value of annuities, life estates, terms of years, and other property of such decedent, or given by him in his will and otherwise, as fixed and determined by the judge of probate, and the amount of tax assessed thereon, and the amount of tax assessed on the share of each heir, legatee and devisee, when from the records of the court or the testimony given there appears to be property in such estate liable to tax under this act: Provided, The description of no real estate need be given except such as is taxable under this act, and a sufficiently definite description shall be given to fully identify such taxable real estate and the persons to whom the several parcels are devised. He shall also enter in said book the name, date of death, and place of residence at time of death of every decedent, grantor, vendor or donor who has made a transfer of property in contemplation of death or intended to take effect in possession or enjoyment at or after his death, subject to tax under this act; the name and residence of the grantee, vendee or donee and his relationship to the grantor, vendor or donor, the clear market value as determined by the judge of probate of the property so transferred by him and the tax determined by the court payable thereon. These entries shall be made from data contained in the papers filed in the probate court and testi-

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mony taken in any proceedings relating to the estate of the decedent. The judge of probate shall also enter in such book the amount of the real and personal property of such decedent as shown by the inventory thereof when made and filed in his office. In case the judge of probate shall determine the amount of tax to be paid upon any legacies or devises or upon the real estate of a decedent or upon the estate of the decedent as a whole before the final determination of the tax by him, only such entries need be made in such book in that particular case as refer to such partial determination, and it shall be distinctly stated in said book that it is but a partial determination by the judge of probate of the tax due from the estate. Whenever the determination of the tax in such estate by the judge of probate is general, partial or final, the deductions made by the judge of probate from the full value of the estate shall be particularly specified, so that the several reasons for the deductions made shall clearly appear upon the record; such record so required to be furnished by the auditor general shall be in the following form, and shall be of such size and so arranged as he shall determine will best meet the requirements of this act:

Abstract of Taxable Inheritances. Vol. No. ..... Page No. .....

State of Michigan.

The Probate Court for the County of .....

At a session of said court held at ....., in said county the ..... day of ....., A.D. 19....

Present, The Honorable ....., Probate Judge.

In the matter of the inheritance tax upon transfers in the estate of ....., deceased.

In this matter it being represented to me and appearing that the said deceased was, at the time of his death on the ..... day of ....., a resident of ..... and possessed property the transfer of which or some interest or estate therein is taxable under the inheritance tax law (Act 188 of the Public Acts of 1899 and ..... of 1903); that ..... of ..... was duly and regularly appointed ..... of the said estate and ....., and that as appears from the inventory on file in this court, the amount of property belonging to said estate is stated to be as follows:

Personal property, $.....; real property, $.....

It further appears and I hereby find that the debts of said deceased owing at the time of his death (exclusive of interest accruing thereafter) amount to $.....; that the funeral expenses of said deceased amount to $.....; and that the expenses of administration of the estate of said decedent (exclusive of all items of disbursement for repairs to buildings or other property belonging to, or taxes accruing after death, upon the estate of said deceased, all allowances for the support of widow and children of said deceased, expenses incurred in contesting the will of said deceased, and other items of disbursement for the benefit of the beneficiaries of said estate, not strictly expenses of administration) amount to the sum of $.....; the total debts and expenses of administration being $.....

After due and careful investigation, examination and consideration, I find and determine that the clear market value of all of said decedent's personal property and real estate, at the date of his death, was as follows: Personal property, $.....; real property, $....., and that after deduction therefrom of the total debts and expenses of administration (debts secured upon realty being deducted from the value of the real estate, and debts unsecured and secured on personalty being deducted from the value of the personalty), there remains subject to taxation under the provisions of said act before deducting statutory exemptions, transfers of personal property to the amount of $.....; and transfers of real property to the amount of $.....; and that of

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said transfers certain interests hereinafter set forth in detail in the schedule hereto are not presently taxable by reason of the following contingency, rendering it impossible to determine presently the value of the interests passing and the amount of the tax thereon, namely .....

And I hereby find and determine that the tax upon the presently taxable transfers in said estate amounts to the sum of $..... and find that the several names, residences, relationships and ages, where interest consists of life estates or annuities, of the several beneficiaries, together with the character and amount of the several interests or estates passing thereto, the rate of tax to which each is subject, and the portion of the tax fixed upon, apportioned to, and required to be borne by each of the several taxable transfers, is as set forth in detail in the following schedule:

(The schedule shall contain the following headings for the several columns and space for sufficient entries, remarks, etc.)

A Name of Heir at Law, Legatee or Devisee to whom estate passes	B Residence	C Relationship	D Age of Life Tenant or Annuitant	E Rate of Tax .....%
F Value of Legacy or Personal Estate Passing	G Value of Personal Estate Exempt	H Value of Legacy or Personal Estate Taxable	I Amount of Tax on Personal Estate	J Value of Real Estate Passing
K Value of Real Estate Exempt	L Value of Real Estate Taxable	M Amount of Tax on Real Estate	N Value of Annuities, Life Estates, etc. Passing	O Value of Annuities, Life Estates, etc. Exempt
P Value of Annuities, Life Estates, etc., Taxable	Q Amount of Tax on Annuities, Life Estates, etc.	R Total Amount of Tax		

Remarks: Including descriptions of real estate taxed and any explanations necessary to a complete understanding of the foregoing entries.

. . . . . ,
Judge of Probate.

The department of revenue may prescribe and furnish to the judge of probate, in lieu of the book and the form prescribed in this section, a form or forms containing such data as is required for proper determination of the tax.

HISTORY: Am. 1903, p. 286, Act 195, Imd. Eff. Jun. 9;—CL 1915, 14540;—CL 1929, 3689;—Am. 1947, p. 433, Act 273, Eff. Oct. 11,—CL 1948, 205.217;—Am. 1955, p. 344, Act 232, Imd. Eff. Jun. 18.

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REPORTS OF PROBATE JUDGE AND REGISTER OF DEEDS.

205.218 Order of determination, duties of probate judge; report of register of deeds; property of nonresident, waiver, fee; petition, contents; hearing, notice; redetermination.

Sec. 18. Each judge of probate shall, within 3 days after he shall have determined the tax and entered the order required in the preceding section, make a duly certified copy of such order upon forms furnished by the department of revenue containing all the data and matter required, 1 of which shall be immediately delivered to the county treasurer, from which data the said county treasurer shall obtain the information for making the duplicate receipt required by this act, and the other transmitted to the department of revenue. If in any calendar quarter beginning January, April, July or October first in each year, there has been no tax determined, the judge of probate shall make a report to the department of revenue affirmatively showing this fact. The register of deeds of each county shall, upon blanks prescribed and furnished by the department of revenue, as often as any deed or other conveyance is filed or recorded in his office of any property which appears to have been made in contemplation of death or intended to take effect in possession or enjoyment after the death of the grantor or vendor, make reports in duplicate containing a statement of the name and place of residence of such grantor or vendor, the name, relationship and place of residence of the grantee or vendee, and a description and the value of the property transferred and the consideration for the transfer as stated in the instrument filed or recorded, 1 of which duplicates shall be immediately delivered to the county treasurer, and the other transmitted to the department of revenue. Whenever any non-resident shall die leaving property or any interest therein, in this state which has not been duly administered under the laws of this state and it shall be necessary to have the question of the taxation of the transfer thereof determined, such question may be presented and determined upon petition of the department of revenue to be filed by the attorney general in any probate court of this state. In any such case where the department of revenue is satisfied from the proofs submitted or obtained as hereinafter provided, that such transfer is not taxable the department of revenue may thereupon issue a waiver with respect thereto which, upon being countersigned by the attorney general, his deputy, or assistant, shall operate as a determination that such transfer is not taxable. The department of revenue shall charge and collect in advance a fee of $1.00 for each such waiver and keep a proper record thereof. The said petition shall set forth the name of decedent; residence at time of death; and total amount of property constituting said estate; a description of and the value of all property in Michigan; and any and all such other data as may be necessary to inform the court of the facts in connection with such matter. It shall be the duty of the probate court with which such petition is filed to fix a date for hearing thereon and to give notice of such hearing in such manner as shall be prescribed. Publication of the notice of such hearing shall not be necessary unless ordered by the court. It shall be the duty of the executor, administrator, trustee or any interested party in said estate to furnish all such facts, data, information, reports and certified copies of proceedings had in connection with said estate in any other court, as shall be required by the attorney general or department of revenue or directed by the probate court. The probate court shall appoint a resident of Michigan to represent the said estate at such hearing and the person so appointed shall perform such duties as shall be required by the court. The person so appointed shall have and possess all of the powers of an executor or administrator for the purposes of this section, but shall not be personally liable for any inheritance tax in said estate and shall not be required to give any bond unless so directed by the court. The said probate court shall at the hearing on said petition or at an adjourned hearing, determine whether the transfer of such property is taxable and, if found taxable, he shall proceed as in all other cases to fix and determine the amount thereof. If it is found that the transfer of such property

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is not taxable, an order to that effect shall be entered in the said probate court. A redetermination of said order may be had and an appeal therefrom may be taken in the same manner provided for in this act. A certified copy of all such orders determining that there is no inheritance tax due and payable may be procured from the probate court upon the payment of 50 cents. No order shall be entered in any such case until there is filed in said probate court receipts showing full payment of all expenses incurred including compensation due the person appointed to represent said estate, all of which expenses or compensation shall be paid by the executor, administrator or any person interested in said estate. In case it may be necessary to have any such property subjected to regular probate proceedings in this state, or if any such estate shall have been administered in this state, the right to proceed under this section shall be discretionary with the probate court. This section shall not operate to relieve any such person, as is referred to in section 9c of this act from the liability therein expressed until 60 days after the date of entry of the order determining that there is no tax upon the transfers in said estate, or in case a tax is determined, until proper receipts showing payment thereof as required in section 3 of this act have been duly signed. No proceedings shall be required and no inheritance tax shall be fixed and determined or collected, and no waivers or consents shall be required for the transfer or delivery of intangible personal property of a nonresident decedent. The department of revenue may prescribe or approve a form of affidavit which may be relied upon by corporations or their transfer agents in making delivery or transfer of intangible personal property in accordance with this act.

HISTORY: Am. 1903, p. 289, Act 195, Imd. Eff. June 9;—Am. 1911, p. 105, Act 73, Eff. Aug. 1;—CL 1915, 14541;—Am. 1925, p. 152, Act 111, Eff. Aug. 27;—Am. 1929, p. 571, Act 231, Imd. Eff. May 21;—CL 1929, 3690;—Am. 1931, p. 219, Act 141, Imd. Eff. May 21;—Am. 1947, p. 435, Act 273, Eff. Oct. 11;—CL 1948, 205.218;—Am. 1962, p. 184, Act 168, Eff. Mar. 28, 1963.

REPORTS OF COUNTY TREASURER.

205.219 Quarterly report by treasurer; interest on arrears; examiners appointed by auditor general, powers, compensation; appropriation; tax clause.

Sec. 19. Each county treasurer shall make a report under oath to the auditor general on January, April, July and October first of each year of all taxes received by him under this act during the preceding calendar quarter, stating for what estate, by whom and when paid. If in any calendar quarter the county treasurer has received no tax under this act, the report shall affirmatively show this fact. The form of such report shall be prescribed by the auditor general. If receipts issued by the county treasurer and money received thereon are not forwarded within the time specified in section 3 of this act, he shall pay interest at the rate of 8 per centum per annum in addition to the amount of such delinquent taxes then in arrears. The auditor general may employ not to exceed 4 examiners whose duties shall be to make examinations of the records in the several probate courts, county treasurers and registers of deeds in this state and report their findings to him and perform such other duties under the provisions of this act as the auditor general may direct, at a salary of not to exceed 2,000 dollars per annum, payable in the same manner as the salaries of other state officers are now paid. The expenses of said examiners shall be paid out of the general fund in the state treasury upon allowance by the state board of auditors after approval by the auditor general. There is hereby appropriated out of the general fund in the state treasury a sufficient amount of money to carry out the provisions of this section. The auditor general shall add to and incorporate in the state tax for the year 1917, and each year thereafter, a sufficient sum to reimburse the general fund in the state treasury for the amount herein appropriated.

HISTORY: Am. 1903, p. 290, Act 195, Imd. Eff. June 9;—Am. 1907, p. 207, Act 155, Imd. Eff. June 17;—Am. 1909, p. 71, Act 44, Imd. Eff. April 21;—CL 1915, 14542;—Am. 1917, p. 817, Act 336, Imd. Eff. May 10;—CL 1929, 3691;—CL 1948, 205.219.

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APPLICATION OF TAXES.

205.220 Taxes; application.

Sec. 20. All taxes levied and collected under this act shall be paid into the state treasury, and be applied in paying the interest upon the primary school, university and other educational funds, and the interest and principal of the state debt in the order herein recited, until the extinguishment of the state debt, other than the amounts due to educational funds, when such taxes shall be added to and constitute a part of the primary school interest fund, in pursuance of and in compliance with section 1 of article 14 of the constitution of this state.

HISTORY: CL 1915, 14543;—CL 1929, 3692;—CL 1948, 205.220.

DEFINITIONS.

205.221 Inheritance taxes; definitions.

Sec. 21. The word "estate" and "property" as used in this act shall be taken to mean the property or interest therein of the testator, intestate, grantor, bargainor, or vendor, passing or transferred to those not herein specifically exempted from the provisions of this act, and not as the property or interest therein passing or transferred to the individual legatees, devisees, heirs, next of kin, grantees, donees, or vendees, and shall include all property or interest therein whether situated within or without this state and including all property represented or evidenced by note, certificate, stock, land, contract, mortgage or other kind or character of evidence thereof, and regardless of whether any such evidence of property is owned, kept or possessed within or without this state. The word "transfer" as used in this act shall be taken to include the passing of property or any interest therein in possession or enjoyment, present or future, by inheritance, descent, device [devise], bequest, grant, deed, bargain, sale or gift in the manner herein prescribed. The words "county treasurer," "prosecuting attorney," as used in this act, shall be taken to mean the county treasurer or prosecuting attorney of the county having jurisdiction in section 10 of this act.

HISTORY: Am. 1903, p. 290, Act 195, Imd. Eff. June 9;—Am. 1907, p. 475, Act 328, Imd. Eff. June 28;—CL 1915, 14544;—CL 1929, 3693;—CL 1948, 205.221.

Sec. 22. (This was a severing clause section.)

HISTORY: Add. 1923, p. 410, Act 257, Eff. Aug. 30;—CL 1929, 3694;—Rep. 1945, p. 413, Act 267, Imd. Eff. May 25.

205.251 Repealed. 1964, p. 392, Act 256, Eff. Aug. 28.

Section provided for collection of inheritance taxes prior to Jan. 1, 1905.

Act 48, 1929, p. 85; Eff. Aug. 28.

AN ACT levying a specific tax to be known as the severance tax upon all producers engaged in the business of severing oil and gas from the soil; prescribing the method of collecting the tax; requiring all producers of such products or purchasers thereof to make reports; to provide penalties; to provide exemptions and refunds; to prescribe the disposition of the funds so collected; and to exempt those paying such specific tax from certain other taxes. Am. 1965, p. 574, Act 299, Imd. Eff. Jul. 22.

The People of the State of Michigan enact:

205.301 Severance tax on oil or gas.

Sec. 1. There is hereby levied upon each producer engaged in the business of severing from the soil, oil or gas, a specific tax to be known as the severance tax.

HISTORY: CL 1929, 3604;—CL 1948, 205.301;—Am. 1965, p. 574, Act 299, Imd. Eff. Jul. 22.

CITED IN OTHER SECTIONS: Sections 205.301 to 205.317 are cited in §§ 205.13 and 319.22.

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205.302 Monthly reports; contents, form.

Sec. 2. (1) Every corporation, association, person, common carrier, pipe line company or common purchaser, who shall receive or purchase or transport any such oil or gas, shall make a report on or before the twenty-fifth day of each month in the form and manner required by the department of revenue, showing the total amount of such oil and gas received, purchased, stored or transported during the preceding month, and the actual market value thereof at the time it is received, purchased, stored or transported, and such other information as may be required by the department.

(2) Each producer, when requested by the department, shall file such report in the form and manner required by the department.

HISTORY: CL 1929, 3605;—CL 1948, 205.302;—Am. 1965, p. 574, Act 299, Imd. Eff. Jul. 22.

205.303 Tax rate; computation; payor; withholding and payment.

Sec. 3. The severance tax required to be paid by each producer at the time of rendering each monthly report, or by any pipe line company, common carrier or common purchaser, for and on behalf of any such producer, shall be in the amount of 2% of the gross cash market value of the total production of such oil or gas during the preceding monthly period, exclusive of the production or proceeds therefrom attributable to the state, the government of the United States, or any political subdivisions thereof. The value of all such production shall be computed as of the time when and at the place where the same have been severed or taken from the soil immediately after such severance. Except as otherwise provided in this section, the payment of the severance tax shall be required of each producer. In case such production shall be sold or delivered to any pipe line company and transported by it through lines connected with the oil or gas well of the owner, or of any common purchaser, such pipe line company or common purchaser shall receive and accept all such oil and gas, subject to a lien as prescribed herein, and such pipe line company shall withhold out of the proceeds or price to be paid for such products severed the proportionate parts of the tax due by the respective owners of such oil and gas at the time of severance and, at the time required for the filing of the monthly reports herein required, shall pay to the department of revenue all such tax moneys so collected or withheld. Every pipe line company, common carrier or common purchaser shall deduct from any purchase price paid to any producer from whom it may receive such oil or gas the amount of the severance tax herein levied before making such payment.

HISTORY: CL 1929, 3606;—CL 1948, 205.303;—Am. 1965, p. 574, Act 299, Imd. Eff. Jul. 22.

205.304 Production record, keeping, open to inspection; penalty.

Sec. 4. Each corporation, association or person mentioned and included in sections 1 and 2 of this act shall make, keep and preserve a full and complete record of all such oil produced in this state during the time so engaged in its production, and said record shall be open at all times to the inspection of the Michigan tax commission. Any corporation, association or person failing to comply with this requirement shall be subject to a penalty of not less than 500 and not more than 1,500 dollars payable to the state of Michigan, and such penalty shall accrue for each 20 days of failure to comply with this section with reference to each separate oil or gas well.

HISTORY: CL 1929, 3607;—CL 1948, 205.304.

205.305 Report, contents.

Sec. 5. In each report required to be made by this act, such corporation, association or person making the same shall show in detail the disposition made of any such oil or

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gas. Said report shall show to whom any such oil or gas was sold or delivered to each, and shall show the name and location of the person, refinery, pipe line establishment, plant, factory, railroad, institution or place to which or to whom delivery was made.

HISTORY: CL 1929, 3608;—CL 1948, 205.305.

205.306 Commission, powers.

Sec. 6. The commission shall have the power to require any producer or other person, corporation or association required to make a report, to furnish such additional information as may be deemed necessary for the fair determination of the amount of said severance tax, and shall have the power to issue subpoenas and examine witnesses. Whenever it shall appear to the commission that any producer or other person required to make a report has unlawfully made an untrue or incorrect report, the commission shall correct such report and shall assess such severance tax thereon, together with all penalties and costs, and shall certify the same to the state treasurer for collection.

HISTORY: CL 1929, 3609;—CL 1948, 205.306.

205.307 Failure to make report; penalty; computation.

Sec. 7. If any corporation, association or person shall fail to make a report as required by this act, of the gross production of the oil or gas wells upon which the tax is levied, within 25 days after the ending of each month, the department of revenue shall examine the books, records and files of any corporation, association or person to ascertain the amount of such production, and to compute the tax thereon, as provided herein, and shall add thereto the cost of such examination, together with a penalty of 10% of such tax as computed and any other penalties herein provided for.

HISTORY: CL 1929, 3610;—CL 1948, 205.307;—Am. 1965, p. 575, Act 299, Imd. Eff. Jul. 22.

205.308 Lien of state.

Sec. 8. The state shall have a lien for the full amount of the severance tax, penalties and costs, herein provided for, on any lease-hold interest, ownership of the oil rights or interest owned by the corporation, association or person owing any tax herein provided for.

HISTORY: CL 1929, 3611;—CL 1948, 205.308.

205.309 Tax lien.

Sec. 9. The severance tax herein imposed, together with all penalties and costs, shall be a lien upon any and all of the oil or gas severed from the soil and shall continue until such taxes together with any and all penalties and costs that may accrue shall be paid.

HISTORY: CL 1929, 3612;—CL 1948, 205.309.

205.310 Injunction.

Sec. 10. Upon a bill being filed under the direction of the attorney general in the circuit court for the county of Ingham, that court shall have power to restrain by injunction, any corporation, association or person who has failed to comply with any of the provisions of this act and in the same manner to restrain any corporation, association or person from continuing to produce oil or gas while delinquent in the filing of any report or the paying of any tax, penalty or cost required under the provisions of this act.

HISTORY: CL 1929, 3613;—CL 1948, 205.310.

205.311 Oil; definition.

Sec. 11. The word "oil" as used in this law means petroleum oil, mineral oil or other oil taken from the earth.

HISTORY: CL 1929, 3614;—CL 1948, 205.311.

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205.312 Person and producer; definition.

Sec. 12. (1) "Person" as used in this act shall include any person, firm, concern, receiver, receivers, trustee, executor, administrator, agent, institution, association, partnership, company, corporations, and persons acting under declarations of trust.

Producer; defined.

(2) "Producer" as used in this act means a person who owns, or is entitled to delivery of a share in kind or a share of the monetary proceeds from the sale of, gas or oil as of the time of its production or severance.

HISTORY: CL 1929, 3615;—CL 1948, 205.312;—Am. 1965, p. 575, Act 299, Imd. Eff. Jul. 22.

205.313 Receipt; contents.

Sec. 13. Any corporation, association or person paying any tax, penalty or cost under the provisions of this act, to the state tax commission shall be entitled to a receipt for the same, showing the time of payment and the purpose for which paid.

HISTORY: CL 1929, 3616;—CL 1948, 205.313.

205.314 Severance taxes to accompany report; general fund.

Sec. 14. All taxes shall accompany the report provided for herein, and all taxes, penalties or costs paid to the state tax commission under the provisions of this act shall be paid into the state treasury and shall there be credited to the general fund of the state where it shall be available for any purpose for which such general fund is made available by law.

HISTORY: CL 1929, 3617;—Am. 1939, p. 236, Act 124, Imd. Eff. May 23;—Am. 1941, p. 524, Act 301, Eff. Jan. 10, 1942;—Am. 1947, p. 537, Act 321, Imd. Eff. July 1;—CL 1948, 205.314.

205.315 In lieu of other taxes; exceptions.

Sec. 15. The severance tax herein provided for shall be in lieu of all other taxes, state or local, upon the oil or gas, the property rights attached thereto or inherent therein, or the values created thereby; upon all leases or the rights to develop and operate any lands of this state for oil or gas, the values created thereby and the property rights attached to or inherent therein: Provided, however, Nothing herein contained shall in anywise exempt the machinery, appliances, pipe lines, tanks and other equipment used in the development or operation of said leases, or used to transmit or transport the said oil or gas: And provided further, That nothing herein contained shall in anywise relieve any corporation or association from the payment of any franchise or privilege taxes required by the provisions of the state corporation laws.

HISTORY: CL 1929, 3618;—CL 1948, 205.315.

205.316 Overpayments; credit or refund; petition by taxpayer; interest or penalty assessments; time; fraud.

Sec. 16. (1) The department of revenue may credit or refund an overpayment of the tax, a tax erroneously or illegally assessed or collected, a penalty collected without authority, and a tax that is unjustly assessed or excessive in amount, or in any manner wrongfully collected.

Petition to obtain credit or refund.

(2) A taxpayer who has paid a tax which he claims was not due under this act, on or before the expiration date of 3 years from the date set for the filing of the return or the date the tax was paid, whichever is later, may petition the department in writing to refund or credit the amount so paid.

Deficiency, interest or penalty; fraudulent concealment.

(3) No deficiency, interest or penalty shall be assessed after 3 years from the date set for the filing of the return or the date the return was filed, whichever is later. If a person subject to the tax fraudulently conceals a liability for the tax or any part thereof, the department within 2 years of the discovery of such fraud shall proceed to assess

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the tax with interest and penalties computed from the date on which the tax liability originally accrued.

HISTORY: Add. 1965, p. 575, Act 299, Imd. Eff. Jul. 22.

205.317 Information as to production; availability, conditions.

Sec. 17. The department of revenue may provide information to any person as to the quantities of oil or gas purchased or reported when the department is satisfied that the information will be used for public or petroleum industry educational or research purposes.

HISTORY: Add. 1965, p. 576, Act 299, Imd. Eff. Jul. 22.

205.401-205.413 Repealed. 1968, p. 291, Act 193, Eff. Mar. 31, 1969.

Sections related to branch or chain store or counters; licenses; fees; disposition; violations.

Act 265, 1947, p. 396; Eff. Jul. 1.

AN ACT to impose an excise and specific tax upon the sale and distribution of cigarettes; to regulate and license manufacturers, wholesalers, vending machine operators, unclassified acquirers, transportation companies, transporters and retailers thereof, as herein defined; to prescribe the powers and duties of the Michigan department of treasury, revenue division with respect thereto; to provide for the collection of such tax and the disposition thereof; to provide for the enforcement of this act; to provide for the appointment of special investigators as peace officers for the enforcement of this act; to make an appropriation; and to prescribe penalties for the violation of this act. Am. 1951, p. 100, Act 78, Imd. Eff. May 28;—Am. 1959, p. 460, Act 274, Eff. Jan. 1, 1960;—Am. 1961, p. 222, Act 156, Eff. Jul. 1;—Am. 1970, p. 24, Act 11, Imd. Eff. Apr. 1.

The People of the State of Michigan enact:

205.501 Cigarette tax; definitions.

Sec. 1. As used in this act:

(a) "Cigarettes" shall mean and include any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and irrespective of tobacco being flavored, adulterated or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. The term shall not be construed to include cigars.

(b) "Person" includes any individual, firm, copartnership, joint adventure, association, municipal or private corporation whether organized for profit or not, the state or any of its political subdivisions, company, estate, trust or any other group or combination acting as a unit, and the plural as well as the singular number, unless the intention to give a more limited meaning is disclosed by the context.

(c) "Manufacturer" means any person who manufactures or produces cigarettes whether within or without this state.

(d) "Wholesaler" means any person who purchases a portion or all of his cigarettes directly from the manufacturer and who sells at least 75% of all cigarettes purchased by him to others for resale, and who maintains an established place of business in this state where substantially all of the business is the sale of cigarettes and related merchandise at wholesale and where at all times a substantial stock of cigarettes and related merchandise is available to all retailers for resale, and any chain of stores retailing cigarettes to the consumer, provided 75% of its purchases are made directly from the manufacturer.

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(e) "Secondary wholesaler" means any person who sells for resale cigarettes purchased by him and who purchases his cigarettes from a wholesaler licensed under this act and who maintains an established place of business in this state where substantially all of the business is the sale of cigarettes and related merchandise at wholesale and where at all times a substantial stock of cigarettes and related merchandise is available to all retailers for resale. The provision requiring such a place of business shall not apply to persons holding a secondary wholesaler's license on May 28, 1951.

(f) "Vending machine operator" means any person who operates 1 or more vending machines for the sale for cigarettes and who purchases his cigarettes from a manufacturer, licensed wholesaler or secondary wholesaler.

(g) "Unclassified acquirer" means any person, except a transportation company or a purchaser at retail from a retailer licensed under Act No. 167 of the Public Acts of 1933, as amended, being sections 205.51 to 205.78 of the Compiled Laws of 1948, who imports or acquires cigarettes for use, sale or distribution from any source other than a wholesaler or a secondary wholesaler licensed under this act.

(h) "Transportation company" means any person operating, or supplying to a common carrier, cars, boats or other vehicles for the transportation or accommodation of passengers and engaged in the sale of cigarettes at retail.

(i) "Retailer" means any person, other than a transportation company, who operates a place of business for the purpose of making sales of cigarettes at retail.

(j) "Sale" or "sales" in addition to their ordinary meaning shall include or apply to use, gifts, exchanges, barter and theft.

(k) "Place of business" means any place where cigarettes are sold or where cigarettes are brought or kept for the purpose of sale or consumption, including so far as applicable any vessel, airplane, train or vending machine selling cigarettes.

(l) "Department" means the revenue division of the department of treasury, or its duly authorized assistants and employees.

(m) "Commissioner" means the commissioner of the department.

(n) "Transporter" means any person importing or transporting into this state, or transporting in this state, cigarettes obtained from a source located outside the state, or from any person not duly licensed under this act. It shall not include an interstate commerce carrier licensed by the interstate commerce commission to carry commodities in interstate commerce, or a licensee maintaining a warehouse or place of business outside of Michigan when such warehouse or place of business is licensed under this act, or any person transporting no more than 4,000 cigarettes at one time.

HISTORY: CL 1948, 205.501;—Am. 1949, p. 639, Act 312, Imd. Eff. Jun. 17;—Am. 1951, p. 100, Act 78, Imd. Eff. May 28;—Am. 1952, p. 318, Act 207, Imd. Eff. Apr. 29;—Am. 1959, p. 460, Act 274, Eff. Jan. 1, 1960;—Am. 1960, p. 52, Act 63, Imd. Eff. Apr. 21;—Am. 1961, p. 222, Act 156, Eff. Jul. 1;—Am. 1970, p. 25, Act 11, Imd. Eff. Apr. 1.

205.502 Administration and collection; department of revenue; rules; assistants; appeals.

Sec. 2. (a) The department shall administer the provisions of this act, and it is made the duty of the department to collect, supervise and enforce the collection of all taxes and penalties that may be due under the provisions of this act. The department shall also have the power and authority to make and publish rules, not inconsistent with this act, in conformity with the laws of this state, necessary and advisable for its detailed administration, to enforce the provisions thereof, and to collect the taxes, fees and penalties herein imposed. In the enforcement of the provisions of this act, the department may call to its aid the attorney general or any prosecuting attorney in the state. The department is authorized to appoint such assistants and incur such expenses as may be necessary in the enforcement of this act. The salaries and expenses of such assistants shall be paid as provided by the laws of this state. Any person may appeal from the final determination of the department as provided in Act No. 122 of the Public

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Acts of 1941, as amended, being sections 205.1 to 205.17 of the Compiled Laws of 1948.

(b) The commissioner is authorized to appoint any revenue division employee as a special investigator, who shall be vested with the power to arrest, without warrant, any person violating any of the provisions of this act in the presence of the investigator.

HISTORY: CL 1948, 205.502;—Am. 1970, p. 26, Act 11, Imd. Eff. Apr. 1.

205.503 License; application, form, issuance, display; multiple capacity; vending machines.

Sec. 3. (a) No person shall sell, purchase, possess or acquire cigarettes or act as manufacturer, wholesaler, secondary wholesaler, vending machine operator, unclassified acquirer, transportation company or transporter, in this state, unless licensed to do so as herein provided. The department, upon proper application and the payment of the applicable fee, may issue a license to each manufacturer, wholesaler, secondary wholesaler, vending machine operator, unclassified acquirer, transportation company or transporter. In the case of each licensee other than a transportation company, each place of business shall be separately licensed. If a manufacturer, wholesaler, secondary wholesaler, retailer, vending machine operator or unclassified acquirer acts in more than 1 of said capacities at any one place of business he shall procure a license for each capacity in which he acts. Every machine operated or maintained for the purpose of vending cigarettes shall for the purposes of this act be deemed to constitute a place of retail business. Each license so issued or a duplicate copy thereof shall be prominently displayed on the premises covered by the license, and in the case of vending machines there shall be attached to the same a disc or marker to be furnished by the department showing it to have been licensed. The department shall prescribe the forms of application for a license under this act, which shall be signed under penalty of perjury, and may require therein such information as it deems necessary in connection with the proper administration of this act.

Fees; refunds.

(b) The fees for licenses shall be as follows: A manufacturer's license, $100.00; a wholesaler's license, $100.00; a secondary wholesaler's license, $25.00; a vending machine operator's license, $100.00 for operators having 50 or more vending machines in operation, $50.00 for operators having not less than 25 and not more than 49 machines in operation, and $25.00 for operators having more than 3 machines and less than 25 machines in operation and $5.00 for each machine for operators having up to and including 3 machines; an unclassified acquirer's license, a sum determined by the department, but not to exceed $150.00; a transportation company's license, $5.00; a transporter's license, $50.00; except that in the case of a manufacturer, a wholesaler, secondary wholesaler or vending machine operator who maintains more than 1 place of business the fee for each additional place of business shall be ¼ of the fee prescribed above. No fee, nor any part of any fee, shall be refunded by reason of relinquishment, suspension or revocation of the license, or, except under decree of a court of competent jurisdiction, for any other reason or cause.

Vending machines; license; seizure.

(c) No person shall have in his possession a machine for vending cigarettes for a period in excess of 72 hours unless there shall be attached to the same a disc or marker as provided by this section. This provision shall not apply to any such machine while not containing cigarettes. If any person has in his possession a vending machine, containing cigarettes not properly licensed or identified as required by this section, the department may seal or seize such machine, together with any cigarettes contained

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therein. In case of seizure, the provisions of section 9 shall govern the seizure and subsequent disposition of the machines or cigarettes so seized.

Bond, amount; financial statement.

(d) The department may require any licensee under this section to furnish a surety company bond with a surety company authorized to do business in this state as surety in such amount as the department may fix, conditioned upon the payment of the tax provided by this act. The department may also require any licensee under this section to file a financial statement with the department showing all assets and liabilities and any other information the department may prescribe, said statement to be filed within 30 days of the date requested.

HISTORY: CL 1948, 205.503;—Am. 1949, p. 640, Act 312, Imd. Eff. Jun. 17;—Am. 1951, p. 102, Act 78, Imd. Eff. May 28;—Am. 1952, p. 319, Act 207, Imd. Eff. Apr. 29;—Am. 1953, p. 304, Act 209, Eff. Oct. 2;—Am. 1955, p. 300, Act 199, Imd. Eff. Jun. 17;—Am. 1958, p. 212, Act 183, Imd. Eff. Apr. 18;—Am. 1959, p. 462, Act 274, Eff. Jan. 1, 1960;—Am. 1960, p. 54, Act 63, Imd. Eff. Apr. 21;—Am. 1961, p. 223, Act 156, Eff. Jul. 1;—Am. 1970, p. 26, Act 11, Imd. Eff. Apr. 1.

205.504 Licenses; expiration; reissuance on relocation of business; renewals; assignment by secondary wholesaler; approval.

Sec. 4. Each license issued under section 3 shall expire on the 30th day of June next succeeding the date of issuance, unless sooner revoked by the department as provided in section 5 or unless the business with respect to which such license was issued shall change ownership, or unless the holder of the license shall remove his business from the premises covered by the license, in any of which cases the holder of the license shall immediately return it to the department. In the event that the holder of the license removes his business to another location within the state, the license with respect to the former place of business shall, without the payment of an additional fee, be reissued for the new location for the balance of the unexpired term. The holder of each license, on application to the department accompanied by the applicable fee prescribed in section 3, may before the expiration date of the license then held by him renew his license for a further period of 1 year: And provided further, That persons holding a secondary wholesaler's license without an established place of business on the effective date of this act may assign such license upon the sale or transfer of the business subject to the approval of the department.

HISTORY: CL 1948, 205.504;—Am. 1951, p. 102, Act 78, Imd. Eff. May 28.

205.505 Licenses; suspension, revocation, or refusal to issue or renew; sales prohibited, hearing, appeal.

Sec. 5. The department may suspend, revoke or refuse to issue or renew any license issued under this act for failure of the licensee to comply with any provision of said act, or for any other good cause, and no person whose license has been suspended, revoked or not renewed shall sell cigarettes or permit cigarettes to be sold during the period of such suspension or revocation through vending machines or otherwise on the premises occupied by him, whether owned by himself or others. Any person aggrieved by such suspension, revocation or refusal to issue or renew any license may apply to the department of revenue for a hearing as provided in section 8 and may appeal to the state board of tax appeals as provided in Act No. 122 of the Public Acts of 1941, as amended, being sections 205.1 to 205.17 of the Compiled Laws of 1948. Any person so aggrieved shall have the right to appeal to the courts of the state as provided by law.

HISTORY: CL 1948, 205.505;—Am. 1951, p. 103, Act 78, Imd. Eff. May 28;—Am. 1959, p. 463, Act 274, Eff. Jan. 1, 1960;—Am. 1961, p. 224, Act 156, Eff. Jul. 1.

205.506 Record of licensees; contents; transaction records; vending machine records; false statements; games of chance; forms; records of carriers, bailees, warehousemen.

Sec. 6. Every manufacturer, wholesaler, secondary wholesaler, vending machine operator, transportation company, unclassified acquirer or retailer shall keep a complete

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and accurate record of all cigarettes manufactured, purchased or otherwise acquired. Such records except in the case of a manufacturer shall include a written statement containing the name and address of both the seller and the purchaser, the date of delivery, the quantity of cigarettes, the trade name or brand thereof, and the price paid for each brand of cigarettes purchased. Every licensee shall keep as part of his records a true copy of all purchase orders, invoices, bills of lading and other written matter substantiating the purchase or acquisition of cigarettes. Such other records shall be kept by the foregoing persons as the department shall reasonably prescribe. Every manufacturer, every wholesaler and every secondary wholesaler shall deliver with each sale or consignment of cigarettes a written statement containing the name or trade name and address of both the seller and the purchaser, the date of delivery, the quantity of cigarettes, the trade name or brand thereof, correctly itemizing the prices paid for each brand of cigarettes purchased, and shall retain a duplicate of each such statement. Every vending machine operator shall keep a detailed record of each vending machine owned for the sale of cigarettes showing the location of the machine, the date of placing the machine on the location, the quantity of cigarettes placed in the machine, the date when placed therein, and the amount of the commission paid or earned on sales through such vending machine. He shall, whenever he fills or refills the vending machine, deliver to the owner or tenant occupying the premises where the machine is located a written statement containing his own name and address, the name and address of the owner or the tenant, the date when the machine was filled and the quantity of each brand of cigarettes sold from the machine since the date when cigarettes were last previously placed in the machine. Any person in possession of premises where a vending machine is located shall keep a record of all cigarettes sold through the vending machine so located on his premises and the amount of commission paid by the person operating the cigarette vending machine, and the records shall consist of written statements required to be given by each person operating vending machines for the sale of cigarettes as herein provided. No licensee under this act shall issue or accept any written statement which is known to him to contain any statement which falsely indicates the name of the customer, the type of merchandise, the prices, the discounts, or the terms of sale; nor shall there be inserted in any invoice given or accepted by any licensee any statement which makes the invoice a false record, wholly or in part, of the transaction represented therein; nor shall there be withheld from any invoice given or accepted by any licensee any statements which properly should be included therein, so that in the absence of such statements the invoice does not truly reflect the transaction involved. The use of any device or game of chance to aid, promote or induce sales or purchases of cigarettes or the giving of any cigarettes in connection with any device or game of chance is prohibited. All statements and other records required by this section shall be in such form as the department shall prescribe and shall be preserved for a period of 3 years and shall be offered for inspection at any time upon oral or written demand by the department or its authorized agent. Whenever cigarettes are received or acquired within this state by a wholesaler, secondary wholesaler, vending machine operator, unclassified acquirer or retailer, each original manufacturer's shipping case of such cigarettes shall bear the name and address of the person making the first purchase or such other markings as the department may prescribe. Whenever any cigarettes are found in a place of business or otherwise in the possession of any wholesaler, secondary wholesaler, vending machine operator, unclassified acquirer, transporter or retailer without proper markings on the shipping cases, boxes or containers of such cigarettes and without proper substantiation by invoices or other records as required by this section, the presumption shall be that such cigarettes are kept therein in violation of the provisions of this act. Whenever cigarettes are shipped outside the state every licensee under section 3 so

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shipping them shall cause to be placed on every shipping case or other container in which the cigarettes are shipped, the name and address of the consignee to whom the shipment is made outside of the state. The department may require reports from any common carrier who transports cigarettes to any point within this state and from any other person who, under contract, so transports cigarettes and from any bonded warehouseman or bailee who has in his possession any cigarettes, such reports to contain such information concerning shipments of cigarettes as the department shall determine. All such carriers, bailees, warehousemen and other persons shall permit the examination by the department or its duly authorized agent of any records relating to the shipment of cigarettes into or from, or the receipt thereof, within the state.

Transporters; records.

Every transporter who shall transport or possess or acquire for the purpose of transporting any cigarettes upon the public highways, roads or streets of this state shall be required to have in his actual possession invoices or bills of lading containing the name and address of both the seller and the purchaser, the date of delivery, the name and address of the transporter, the quantity of cigarettes, the trade name or brand thereof, the price paid for each brand of cigarettes in such transporter's possession or custody and the license as prescribed under this act.

Same; permits.

Any transporter desiring to possess or acquire for transportation or transport any cigarettes upon the highways, roads or streets of this state shall obtain a permit from the department authorizing such transporter to possess or acquire for transportation or transport any cigarettes and shall have such permit in his possession while such cigarettes are in his possession. This permit shall be obtained for each load being transported and shall contain therein a statement setting forth the name and address of the purchaser, seller and the transporter, the license number of the purchaser, the date of the delivery of the cigarettes or date of importation into this state, the route to be followed in the event the cigarettes are being transported from an out of state source and such other information as the department may require. The department shall make available such permits on a form prescribed by it on the application of any transporter with remittance of a fee of $1.00.

Same; imports, disclosure to state police.

Whenever any transporter transports any cigarettes into this state, such transporter shall stop at the nearest state police post within this state on the route authorized by the permit and disclose the cigarettes in his possession and the papers required to be in his possession by the provisions of this section.

HISTORY: CL 1948, 205.506;—Am. 1951, p. 103, Act 78, Eff. May 28;—Am. 1959, p. 463, Act 274, Eff. Jan. 1, 1960;—Am. 1961, p. 225, Act 156, Eff. Jul. 1.

205.507 Tax returns; rate; supplemental returns; refund.

Sec. 7. (a) Every licensee under section 3, except a retailer, shall, on or before the twentieth day of each calendar month, file with the department, on a form prescribed by it, a return under the penalties of perjury for each place of business maintained, stating the number of cigarettes purchased and sold by such licensee in the state during the preceding calendar month and such return shall contain or be accompanied by such further information as the department shall require. If the licensee required to file a return ceases to sell cigarettes within the state he shall forthwith file with the department such a return for the period ending with such cessation. The licensee shall, at the time of filing the return, pay to the department an excise equal to 5-½ mills for each cigarette so sold during the calendar month covered by the return less compensation equal to 1% of the total amount of tax due to cover the cost of expenses of the licensee incurred in the administration of this act. Nothing in this act shall be deemed

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to prohibit the department from requiring the payment of the excise tax imposed by this act upon the importation or acquisition of cigarettes and the department shall prescribe the form for such computation and payment of tax. Cigarettes with respect to which the excise under this act has once been imposed and has not been refunded if paid, shall not be subject upon a subsequent sale to the excise imposed by this act. Irrespective of any provisions of this act to the contrary, the department may, whenever it deems advisable to protect the interests of the state, require any such licensee required to file monthly returns under this act to file supplemental returns whenever so directed by the department, accompanied by a remittance of the tax due, covering the tax due on the business done for such portion of the month as the department may direct. An abatement or refund of the excise provided by this act may be made by the department for such causes as the department may deem expedient. The department shall certify said amount to the auditor general and the state treasurer shall pay said amount out of the proceeds of such excise.

Tax on consumer.

(b) It is the intent of this amendatory act to impose the tax levied by this act upon the consumer of the cigarettes by requiring him to pay the tax at the specified rate per cigarette even though the collection of the tax for administrative and compliance purposes is normally from the licensee.

HISTORY: CL 1948, 205.507;—Am. 1949, p. 640, Act 312, Imd. Eff. Jun. 17;—Am. 1951, p. 104, Act 78, Imd. Eff. May 28;—Am. 1959, p. 465, Act 274, Eff. Jan. 1, 1960;—Am. 1961, p. 226, Act 156, Eff. Jul. 1;—Am. 1962, p. 458, Act 215, Eff. Jul. 1;—Am. 1970, p. 27, Act 11, Imd. Eff. Apr. 1.

205.508 Licensee returns; examination; determination of tax; penalties; failure to file; notice and hearing; limitation on assessment of penalty; hearing, appeals; actions to recover taxes.

Sec. 8. As soon as practicable after each return is filed the department shall examine it. If it then appears that the correct amount of tax is greater or less than that shown in the return, the tax shall be recomputed and the correct tax determined. If the amount paid exceeds that which should have been paid on the basis of the tax so recomputed, the excess so paid may be credited against a subsequent tax or shall be refunded if requested by the taxpayer.

If the amount paid is less than the amount which should have been paid, the deficiency, together with interest thereon at the rate of 1/2 of 1 per cent per month from the time the tax was due, shall become due and payable after notice and hearing as herein provided.

If any part of the deficiency is due to negligent or intentional disregard of this act or of authorized rules and regulations of the department, but without intent to defraud, there shall be added as a penalty 10 per cent of the total amount of the deficiency in the tax, and interest shall be collected at the rate of 1 per cent per month on the amount of such deficiency in the tax from the time it was due, which interest and penalty shall become due and payable after notice and hearing as hereinafter provided.

If any part of the deficiency is due to a fraudulent intent to evade the tax, then there shall be added as a penalty 100 per cent of such deficiency and, in such a case, the whole amount of tax unpaid, together with the penalty, shall become due and payable after notice and hearing as hereinafter provided, and an additional 1 per cent per month on the tax shall be added from the date such tax was due until paid.

If any person fails or refuses to file a return or pay the tax required to be paid under this act, the department shall proceed to determine the tax due from such information as the department can obtain and shall assess the tax so determined against such person and shall notify him of the amount thereof. After notice and hearing as hereinafter provided, such tax shall become due and payable, together with a penalty of 25 per

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cent of such tax, or $5.00 per day for each day after the date set for the filing of such return, whichever is greater.

Whenever notice is required under the provisions of this act, such notice shall be given either by personal service or by registered mail addressed to the last known address of the taxpayer.

No deficiency, interest or penalty shall be assessed for any month after the expiration of 3 years from the date set for the filing of the return for such month, except in cases of fraud, or where no return has been filed for the period covered by the deficiency.

If the department after examining the return of any licensee and based upon such examination and on any additional information subsequently acquired, determines that the licensee is indebted to the state by reason of deficiency of the remittance accompanying such return, the department shall give such licensee notice of the intention to levy such deficiency. Such licensee may, if he so desires and serves notice thereof upon the department within 20 days, demand a hearing on the question of the levy of such deficiency. Thereupon the department shall set a time and place for public hearing and shall give the licensee reasonable notice thereof.

The licensee shall be entitled to appear before the department and be represented by counsel and present testimony and argument. After the hearing the department shall render its decision in writing and, by order, levy any deficiency found by it to be due and payable.

If any licensee is aggrieved by any decision of the department, he may appeal to the state board of tax appeals under the provisions of Act No. 122 of the Public Acts of 1941, as amended, being sections 205.1 to 205.17, inclusive, of the Compiled Laws of 1948, or he shall be required to pay the amount of taxes, interest and penalties found due by the department and shall be permitted to bring an action in the circuit court in the county in which the business for the privilege of doing which the tax is levied is carried on, to recover the amount of the taxes alleged to have been unlawfully levied upon him. Such action shall be commenced within 90 days after payment of such tax, penalties and interest so levied and shall be conducted in accordance with the statutes and rules and procedure concerning actions at law not inconsistent with the provisions of this act.

HISTORY: CL 1948, 205.508;—Am. 1949, p. 641, Act 312, Imd. Eff. Jun. 17;—Am. 1951, p. 105, Act 78, Imd. Eff. May 28.

205.509 Unlicensed possession, penalty.

Sec. 9. (a) Any person not a licensee in control or in possession of any cigarettes contrary to any provision of this act, or who offers to sell or does sell any cigarettes to others for purposes of resale without being licensed to do so under this act, shall be deemed to have possession of such cigarettes as an unclassified acquirer and shall be personally liable for the tax imposed by this act, plus a penalty of 100%.

Felony, penalty.

(b) Any person who possesses, acquires, transports or offers for sale any cigarettes contrary to any provision of this act, wherein the wholesale price of the cigarettes involved amounts to or exceeds the amount of $50.00, shall be guilty of a felony and upon conviction thereof shall be fined not more than $5,000.00, or imprisoned for not more than 5 years, or both.

Misdemeanor, penalty.

Any person who violates any provisions of this act for which no provision for criminal punishment has been made, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than $1,000.00, or shall be imprisoned for not more than 1 year, or both.

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Enforcement.

The attorney general is hereby given concurrent power with the several prosecuting attorneys of the state, and it is made the duty of both the attorney general and the several prosecuting attorneys of Michigan to attend to the enforcement of this act.

Seizure of contraband.

(c) Any cigarettes held, owned, possessed, transported or in control of any person contrary to any provision of this act and any vending machine, vehicle and other tangible personal property containing such cigarettes are hereby declared to be contraband and shall be subject to seizure and confiscation by the department as hereinafter provided.

Forfeiture of contraband.

(d) Whenever an authorized inspector of the department or any police officer has reasonable cause to believe and does believe that any cigarettes are being acquired, possessed, kept, sold or offered for sale contrary to any provision of this act, the violation of which is made a felony, such inspector or police officer may investigate or search the vehicle of transportation wherein such cigarettes are believed to be located. If any cigarettes are found in such vehicle of transportation contrary to any provision of this act, such cigarettes and any vending machine, vehicle or other tangible personal property containing such cigarettes and any books and records in possession of the person in control or possession of such cigarettes may be seized by such inspector or police officer and shall be subject to forfeiture as contraband as provided in subdivision (e) of this section.

Inventory of goods seized; notice, hearing.

(e) As soon as possible, but not to exceed 5 days after seizure of any alleged contraband, the person making the seizure shall deliver personally or by registered mail to the last known address, an inventory of the property seized to the person from whom the seizure was made, if known, and file a copy with the commissioner. If the person from whom the seizure was made is not known, the person making the seizure shall cause a copy of said inventory together with the notice hereinafter provided for to be published at least 3 times in a newspaper of general circulation in the county where such seizure was made. Within 5 days after the date of service of the inventory, or in the case of publication within 5 days after the date of last publication, the person from whom the property was seized or any person claiming an interest in the property may file with the commissioner a demand for a hearing before the commissioner or any person designated by him for a determination of the question as to whether the property was lawfully subject to seizure and forfeiture. Such inventory shall also contain a notice to the effect that unless demand for hearing as provided in this section is made within 5 days the property designated therein shall be forfeited to the state. Such person or persons shall be entitled to appear before the department and be represented by counsel and present testimony and argument. After the hearing the department shall render its decision in writing and by order either declare the property seized subject to confiscation and sale by the department or declare the property returnable to the person entitled to possession of the same.

Appeal to circuit court.

If any person is aggrieved by the decision of the department, he may appeal only to the circuit court of the county where the seizure was made to obtain judicial determination of the issue of forfeiture. Such action shall be commenced within 20 days after notice of the department's determination is sent to the person or persons claiming an interest in the property seized. The court shall hear the action and determine the issues of fact and law involved in accordance with rules of practice and procedure as in other in rem proceedings.

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Sale of deteriorating property.

In the event an appeal is taken from a decision or order of the department to the circuit court of the county where the seizure was made and a judicial determination of the issue of forfeiture cannot be made before deterioration of any of the property seized, the court shall order the sale of such property with public notice as determined by the court, and require the proceeds to be impounded with it until the issue of forfeiture is finally adjudicated.

Forfeiture without hearing.

In the event the person from whom the property was seized or any person claiming an interest in the property does not within 5 days after the date of service of inventory file with the commissioner a demand for a hearing before the department, the property seized shall be deemed forfeited to the state by operation of law and may be sold by the department as hereinafter provided.

Forfeiture after hearing.

In the event, after hearing before the commissioner or person designated by him, it is determined that the property was lawfully subject to seizure and forfeiture and the person from whom the property was seized or any persons claiming an interest in the property do not take an appeal to the circuit court of the county in which the seizure was made within the time prescribed in this section, the property seized shall be deemed forfeited to the state by operation of law and may be sold by the department as hereinafter provided.

Sale of forfeited goods, proceeds.

(f) The department may sell any cigarettes and other property forfeited pursuant to the provisions of this act at public sale. Public notice of such sale shall be given at least 5 days before the day of sale.

The proceeds derived from such sale by the department shall be credited to the general fund of the state.

Seizure, effect.

(g) The seizure and sale of any cigarettes or other property under the provisions of this act shall not relieve any person from a fine, imprisonment, or other penalty for violation of any provision of this act.

Furnishing information, compensation, affidavit.

(h) Any person not an employee or officer of the state of Michigan or of its political subdivisions who furnishes to the department or to any law enforcement agency original information concerning any violation of this act, which information results in the collection and recovery of any tax or penalty or leads to the forfeiture of any cigarettes, or other property, may be awarded and paid by the state treasurer upon the certification of the department of revenue, a compensation of not more than 10% of the net amount received from the sale of any forfeited cigarettes or other property, but not to exceed $5,000.00 in any case, which shall be paid out of the receipts from the sale of such property. If in the opinion of the attorney general, the commissioner of revenue and the commissioner of the Michigan state police it is deemed necessary to preserve the identity of the person furnishing such information, then and in that event the attorney general, the commissioner of revenue and the commissioner of the Michigan state police shall file with the state treasurer an affidavit setting forth such necessity and a warrant may be issued jointly to the attorney general, the commissioner of revenue and the commissioner of the Michigan state police. Upon payment of such

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money to the person furnishing such information, the attorney general, the commissioner of revenue and the commissioner of the Michigan state police shall file with the state treasurer an affidavit that the money has been by them paid to the person entitled thereto.

HISTORY: CL 1948, 205.509;—Am. 1949, p. 642, Act 312, Imd. Eff. Jun. 17;—Am. 1951, p. 106, Act 78, Imd. Eff. May 28;—Am. 1952, p. 320, Act 207, Imd. Eff. Apr. 29;—Am. 1953, p. 305, Act 209, Eff. Oct. 2;—Am. 1959, p. 466, Act 274, Eff. Jan. 1, 1960;—Am. 1961, p. 227, Act 156, Eff. Jul. 1.

205.510 Tax unpaid by licensee; demand, warrant, levy, sale; state bid or purchase of property.

Sec. 10. If the tax imposed by this act is not paid when the same is required to be paid under this act, the department may cause a demand to be made on the person owing such tax for the payment thereof. If such tax remains unpaid for 10 days after such demand has been made and no proceedings have been taken to review the same, the department may issue a warrant under the official seal of the department, directed to the sheriff of any county of the state or to any state officer authorized to serve process, commanding said sheriff or other officer to levy upon and sell the real and personal property of the person owing such tax, without exemption, found within his jurisdiction, for the payment of the amount of the tax, with added penalties, cost of audit and the cost of executing the warrant. Such warrant shall be returned to the department together with the money collected by virtue thereof within the time therein specified, which shall not be less than 20 nor more than 90 days from the date of the warrant. The sheriff or other officer to whom such warrant shall be directed shall proceed upon the same in all respects and with like effect and in the same manner as prescribed by law in respect to executions issued against property upon judgments by a court of record, and shall be entitled to the same fees for his services in executing the warrant, to be collected in the same manner. The state, through the department or some officer or agent designated by it, is hereby authorized to bid for and purchase any property sold under the provisions hereof.

HISTORY: CL 1948, 205.510;—Am. 1959, p. 466, Act 274, Eff. Jan. 1, 1960;—Am. 1961, p. 229, Act 156, Eff. Jul. 1.

205.510a Jeopardy assessment.

Sec. 10a. If the department finds that a person liable for tax under any provisions of this act designs quickly to depart from the state or to remove his property therefrom, or to conceal himself or his property therein, or to do any other act tending to prejudice or to render wholly or partly ineffectual proceedings to collect such tax unless such proceedings be brought without delay, the department shall cause notice of such finding to be given such person, together with a demand for an immediate return and immediate payment of such tax. Warrant may issue immediately upon issuance of such jeopardy assessments. Thereupon such tax shall become immediately due and payable. If such person (1) is not in default in making any return or paying any tax prescribed by this act, and (2) furnishes evidence satisfactory to the department under regulations to be prescribed by the department, that he will duly return and pay the tax to which the department's finding relates, then such tax shall not be payable prior to the time otherwise fixed for payment.

HISTORY: CL 1948, 205.510a.

205.511 Collection of unpaid taxes by action at law.

Sec. 11. In addition to the mode of collection provided herein, the department may bring an action at law in the county in which the business or any part thereof is carried on, to collect and recover the amount of taxes, audit costs and penalties due from any person.

HISTORY: CL 1948, 205.511.

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205.512 Seizure, forfeiture and sale of property as defense in criminal prosecution.

Sec. 12. The seizure, forfeiture and sale of cigarettes and other property as hereinbefore set forth, or action for recovery of amounts due, shall not constitute any defense to the person owning or having control or possession of such property from criminal prosecution for any act or omission made or offense committed under this act or from liability to pay penalties provided by this act.

HISTORY: CL 1948, 205.512;—Am. 1959, p. 469, Act 274, Eff. Jan. 1, 1960;—Am. 1961, p. 229, Act 156, Eff. Jul. 1.

205.513 Injunction to restrain collection of taxes; venue.

Sec. 13. Any person who shall invoke the power and remedies of injunction against the department to restrain or enjoin it from enforcement of the collection of the tax levied herein upon any grounds for which an injunction may be issued shall file such proceedings in the circuit court of the county of Ingham.

HISTORY: CL 1948, 205.513.

205.514 Tax lien; precedence.

Sec. 14. The specific tax herein imposed in addition to the interest and penalties provided in this act, and costs that may accrue in addition thereto, shall be a lien in favor of the state against all property and rights of property, both real and personal, then owned or afterwards acquired by any person or persons, firm, association or corporation, liable therefor, to secure the payment of such tax, interest, penalties and costs, which lien shall attach to the property from and after the date that any report upon which the specific tax is computed is required by this act to be filed. Such lien shall take precedence over all other liens and encumbrances whatsoever, except the lien provided by law for property taxes. In the event that the proceeds of the property levied upon and sold under the provisions of this act shall be insufficient to pay in full the lien established by this act together with other tax liens, the net proceeds recovered shall be applied pro rata to the satisfaction of all such tax liens.

Sale of business; liability of purchaser.

If any person liable for a tax levied hereunder shall sell out his business or stock of goods or shall quit the business, such person shall make a final return within 15 days after the date of selling or quitting business. His successor or succeeding successors, if any, shall be required to withhold sufficient of the purchase money to cover the amount of such taxes and interest or penalties due and unpaid until such time as the former owner shall produce a receipt from the department showing that they have been paid, or a certificate stating that no taxes are due. If the purchaser or succeeding purchasers of a business or stock of goods shall fail to withhold purchase money as above provided, he or they shall be personally liable for the payment of the taxes, interest and penalties accrued and unpaid on account of the operation of the business by the former owner.

HISTORY: CL 1948, 205.514;—Am. 1959, p. 469, Act 274, Eff. Jan. 1, 1960;—Am. 1961, p. 229, Act 156, Eff. Jul. 1.

205.515 Sales to unlicensed persons, enforcement of act.

Sec. 15. No person, either as principal or agent, shall sell or solicit orders for cigarettes to be shipped, mailed or otherwise sent or brought into the state, to any person not a licensed manufacturer, licensed wholesaler, licensed secondary wholesaler, licensed vending machine operator, licensed unclassified acquirer, licensed transporter or licensed transportation company, unless the same is to be sold to or through a licensed wholesaler. Each violation of this act shall be deemed to constitute a separate

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offense. The state police and all local police authorities shall have the authority to enforce, and shall, at the request of the department or its duly authorized agent, enforce the provisions of this act.

HISTORY: CL 1948, 205.515;—Am. 1949, p. 644, Act 312, Imd. Eff. Jun. 17;—Am. 1951, p. 108, Act 78, Imd. Eff. May 28;—Am. 1959, p. 469, Act 274, Eff. Jan. 1, 1960;—Am. 1961, p. 230, Act 156, Eff. Jul. 1.

205.516 Repealed. 1951, p. 108, Act 78, Imd. Eff. May 28.

Section required keeping of certain records by retailers, and authorized department to examine books and records.

205.517 Investigation by department; oaths; hearing; subpoenas; witnesses; self-incrimination, immunity; contempt; fees.

Sec. 17. The department and any representative of the department duly authorized to conduct any inquiry, investigation or hearing under this act shall have power to administer oaths and take testimony under oath relative to the matter of inquiry or investigation. At any hearing ordered by the department, the department or its representative authorized to conduct such hearing may subpoena witnesses and require the production of books, papers, and documents pertinent to such inquiry. No witness under subpoena authorized to be issued by any provision of this act shall be excused from testifying or producing books or papers on the ground that such testimony or the production of such books or other documentary evidence would tend to incriminate him, but such evidence or the books or papers so produced shall not be used in any criminal proceedings against him arising out of any violation of any provision of this act contrary to the provisions of article 5 of the amendments to the constitution of the United States. If any person shall disobey such process or, having appeared in obedience thereto, shall refuse to answer any pertinent question put to him by the department or its duly authorized agent or to produce any books and papers pursuant thereto, the department or such representative may apply to the circuit court for the county wherein the person, relative to whose business such hearing is ordered, resides or wherein such business has been conducted, or to any judge of said court if the same shall not be in session, setting forth such disobedience to process or refusal to answer, and said court shall cite such person to appear before said court to answer such question or to produce such books and papers, and, upon his refusal so to do, may commit him to jail until he shall testify, but not for a longer period than 60 days. Notwithstanding the serving of the term of such commitment by any person, the department may proceed in all respects with such inquiry and examination as if the witnesses had not been previously called upon to testify. Officers who serve subpoenas issued by the department or under its authority and witnesses attending a hearing conducted by it hereunder shall receive fees and compensation at the same rates as officers and witnesses before the courts of the state, to be paid on vouchers of the department or to be paid without appropriation out of the proceeds of the excise imposed by this act, on vouchers approved by the department.

HISTORY: CL 1948, 205.517;—Am. 1951, p. 108, Act 78, Imd. Eff. May 28;—Am. 1959, p. 470, Act 274, Eff. Jan. 1, 1960;—Am. 1961, p. 230, Act 156, Eff. Jul. 1.

205.518 Repealed. 1951, p. 108, Act 78, Imd. Eff. May 28.

Section authorized appeals to state board of tax appeals.

205.519 Repealed. 1961, p. 231, Act 156, Eff. Jul. 1.

Section required filing of inventory and payment of additional tax.

205.520 Revenues; disposition.

Sec. 20. The proceeds derived from the payment of taxes, fees and penalties provided for under this act, and the license fees received by the department, shall be de-

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posited with the state treasurer. The proceeds of 1 mill of the tax shall be credited to the state school aid fund established by section 23 of article 10 of the state constitution. The balance of the proceeds shall be credited to the general fund.

HISTORY: CL 1948, 205.520;—Am. 1961, p. 231, Act 156, Eff. Jul. 1.

205.521 Effective date of act.

Sec. 21. This act takes effect on July 1, 1947.

HISTORY: CL 1948, 205.521.

205.522, 205.523 Repealed. 1949, p. 645, Act 312, Imd. Eff. Jun. 17.

Sections provided for expiration date, reversion of surplus, and appropriation.

205.541-205.543 Repealed. 1959, p. 471, Act 274, Eff. Jan. 1, 1960.

Sections imposed additional specific tax on cigarettes.

205.551-205.563 Repealed. 1967, p. 572, Act 281, Eff. Jan. 1, 1968.

Sections related to income tax; rates; formulae; exemptions; payment; deficiency; penalty; refund; examination of books; lien; hearing on appeals; demand for payment; warrant.

205.564 Repealed. 1954, p. 24, Act 17, Imd. Eff. Mar. 12;—1967, p. 572, Act 281, Eff. Jan. 1, 1968.

Section related to income tax; procedure in case of failure to remit amount of tax.

205.565-205.574 Repealed. 1967, p. 572, Act 281, Eff. Jan. 1, 1968.

Sections related to income tax; withholding certificate of corporate dissolution; records; frauds; administration; proceeds; secrecy; penalty; investigations; appropriation.

Act 343, 1969, p. 770; Eff. Jul. 1, 1970.

AN ACT to adopt a multistate tax compact to facilitate and promote convenient, uniform, nonduplicative and proper determination of state and local tax liability of multistate taxpayers.

The People of the State of Michigan enact:

205.581 Multistate tax compact; enactment.

Sec. 1. The multistate tax compact is enacted into law and entered into with all jurisdictions legally joining therein, in the form substantially as follows:

MULTISTATE TAX COMPACT

Article I. Purposes.

The purposes of this compact are to:

(1) Facilitate proper determination of state and local tax liability of multistate taxpayers, including the equitable apportionment of tax bases and settlement of apportionment disputes.

(2) Promote uniformity or compatibility in significant components of tax systems.

(3) Facilitate taxpayer convenience and compliance in the filing of tax returns and in other phases of tax administration.

(4) Avoid duplicative taxation.

Article II. Definitions.

As used in this compact:

(1) "State" means a state of the United States, the district of Columbia, the commonwealth of Puerto Rico, or any territory or possession of the United States.

(2) "Subdivision" means any governmental unit or special district of a state.

(3) "Taxpayer" means any corporation, partnership, firm, association, governmental unit or agency or person acting as a business entity in more than 1 state.

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(4) "Income tax" means a tax imposed on or measured by net income including any tax imposed on or measured by an amount arrived at by deducting expenses from gross income, 1 or more forms of which expenses are not specifically and directly related to particular transactions.

(5) "Capital stock tax" means a tax measured in any way by the capital of a corporation considered in its entirety.

(6) "Gross receipts tax" means a tax, other than a sales tax, which is imposed on or measured by the gross volume of business, in terms of gross receipts or in other terms, and in the determination of which no deduction is allowed which would constitute the tax an income tax.

(7) "Sales tax" means a tax imposed with respect to the transfer for a consideration of ownership, possession or custody of tangible personal property or the rendering of services measured by the price of the tangible personal property transferred or services rendered and which is required by state or local law to be separately stated from the sales price by the seller, or which is customarily separately stated from the sales price, but does not include a tax imposed exclusively on the sale of a specifically identified commodity or article or class of commodities or articles.

(8) "Use tax" means a nonrecurring tax, other than a sales tax, which (a) is imposed on or with respect to the exercise or enjoyment of any right or power over tangible personal property incident to the ownership, possession or custody of that property or the leasing of that property from another including any consumption, keeping, retention, or other use of tangible personal property and (b) is complementary to a sales tax.

(9) "Tax" means an income tax, capital stock tax, gross receipts tax, sales tax, use tax, and any other tax which has a multistate impact, except that the provisions of articles III, IV and V of this compact shall apply only to the taxes specifically designated therein and the provisions of article IX of this compact shall apply only in respect to determinations pursuant to article IV.

Article III. Elements of Income Tax Laws.

Taxpayer Option, State and Local Taxes.

(1) Any taxpayer subject to an income tax whose income is subject to apportionment and allocation for tax purposes pursuant to the laws of a party state or pursuant to the laws of subdivisions in 2 or more party states may elect to apportion and allocate his income in the manner provided by the laws of such state or by the laws of such states and subdivisions without reference to this compact, or may elect to apportion and allocate in accordance with article IV. This election for any tax year may be made in all party states or subdivisions thereof or in any one or more of the party states or subdivisions thereof without reference to the election made in the others. For the purposes of this paragraph, taxes imposed by subdivisions shall be considered separately from state taxes and the apportionment and allocation also may be applied to the entire tax base. In no instance wherein article IV is employed for all subdivisions of a state may the sum of all apportionments and allocations to subdivisions within a state be greater than the apportionment and allocation that would be assignable to that state if the apportionment or allocation were being made with respect to a state income tax.

Taxpayer Option, Short Form.

(2) Each party state or any subdivision thereof which imposes an income tax shall provide by law that any taxpayer required to file a return, whose only activities within the taxing jurisdiction consist of sales and do not include owning or renting real estate or tangible personal property, and whose dollar volume of gross sales made during the tax year within the state or subdivision, is not in excess of $100,000.00 may elect to report and pay any tax due on the basis of a percentage of such volume, and shall adopt rates which shall produce a tax which reasonably approximates the tax otherwise due.

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The multistate tax commission, not more than once in 5 years, may adjust the $100,000.00 figure in order to reflect such changes as may occur in the real value of the dollar, and such adjusted figure, upon adoption by the commission, shall replace the $100,000.00 figure specifically provided herein. Each party state and subdivision thereof may make the same election available to taxpayers additional to those specified in this paragraph.

Coverage.

(3) Nothing in this article relates to the reporting or payment of any tax other than an income tax.

Article IV. Division of Income.

(1) As used in this article, unless the context otherwise requires:

(a) "Business income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, management and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations.

(b) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(c) "Compensation" means wages, salaries, commissions and any other form of remuneration paid to employees for personal services.

(d) "Financial organization" means any bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, savings and loan association, credit union, cooperative bank, small loan company, sales finance company, investment company, or any type of insurance company.

(e) "Nonbusiness income" means all income other than business income.

(f) "Public utility" means any business entity (1) which owns or operates any plant, equipment, property, franchise, or license for the transmission of communications, transportation of goods or persons, except by pipe line, or the production, transmission, sale, delivery, or furnishing of electricity, water or steam; and (2) whose rates of charges for goods or services have been established or approved by a federal, state or local government or governmental agency.

(g) "Sales" means all gross receipts of the taxpayer not allocated under paragraphs of this article.

(h) "State" means any state of the United States, the district of Columbia, the commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

(i) "This state" means the state in which the relevant tax return is filed or, in the case of application of this article to the apportionment and allocation of income for local tax purposes, the subdivision or local taxing district in which the relevant tax return is filed.

(2) Any taxpayer having income from business activity which is taxable both within and without this state, other than activity as a financial organization or public utility or the rendering of purely personal services by an individual, shall allocate and apportion his net income as provided in this article. If a taxpayer has income from business activity as a public utility but derives the greater percentage of his income from activities subject to this article, the taxpayer may elect to allocate and apportion his entire net income as provided in this article.

(3) For purposes of allocation and apportionment of income under this article, a taxpayer is taxable in another state if (1) in that state he is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax, or (2) that state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

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(4) Rents and royalties from real or tangible personal property, capital gains, interest, dividends or patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as provided in paragraphs 5 through 8 of this article.

(5) (a) Net rents and royalties from real property located in this state are allocable to this state.

(b) Net rents and royalties from tangible personal property are allocable to this state: (1) If and to the extent that the property is utilized in this state, or (2) in their entirety if the taxpayer's commercial domicile is in this state and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.

(c) The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer, tangible personal property is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.

(6) (a) Capital gains and losses from sales of real property located in this state are allocable to this state.

(b) Capital gains and losses from sales of tangible personal property are allocable to this state if (1) the property had a situs in this state at the time of the sale, or (2) the taxpayer's commercial domicile is in this state and the taxpayer is not taxable in the state in which the property had a situs.

(c) Capital gains and losses from sales of intangible personal property are allocable to this state if the taxpayer's commercial domicile is in this state.

(7) Interest and dividends are allocable to this state if the taxpayer's commercial domicile is in this state.

(8) (a) Patent and copyright royalties are allocable to this state: (1) if and to the extent that the patent or copyright is utilized by the payer in this state, or (2) if and to the extent that the patent copyright is utilized by the payer in a state in which the taxpayer is not taxable and the taxpayer's commercial domicile is in this state.

(b) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the taxpayer's commercial domicile is located.

(c) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in which the taxpayer's commercial domicile is located.

(9) All business income shall be apportioned to this state by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is 3.

(10) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all

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the taxpayer's real and tangible personal property owned or rented and used during the tax period.

(11) Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at 8 times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals.

(12) The average value of property shall be determined by averaging the values at the beginning and ending of the tax period but the tax administrator may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property.

(13) The payroll factor is a fraction, the numerator of which is the total amount paid in this state during the tax period by the taxpayer for compensation and the denominator of which is the total compensation paid everywhere during the tax period.

(14) Compensation is paid in this state if:

(a) The individual's service is performed entirely within the state;

(b) The individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or

(c) Some of the service is performed in the state and (1) the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state, or (2) the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

(15) The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period.

(16) Sales of tangible personal property are in this state if:

(a) The property is delivered or shipped to a purchaser, other than the United States government, within this state regardless of the f.o.b. point or other conditions of the sale; or

(b) The property is shipped from an office, store, warehouse, factory, or other place of storage in this state and (1) the purchaser is the United States government or (2) the taxpayer is not taxable in the state of the purchaser.

(17) Sales, other than sales of tangible personal property, are in this state if:

(a) The income-producing activity is performed in this state; or

(b) The income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

(18) If the allocation and apportionment provisions of this article do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the tax administrator may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

(a) Separate accounting;

(b) The exclusion of any one or more of the factors;

(c) The inclusion of 1 or more additional factors which will fairly represent the taxpayer's business activity in this state; or

(d) The employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

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Article V. Elements of Sales and Use Tax Laws.

Tax Credit.

(1) Each purchaser liable for a use tax on tangible personal property shall be entitled to full credit for the combined amount or amounts of legally imposed sales or use taxes paid by him with respect to the same property to another state and any subdivision thereof. The credit shall be applied first against the amount of any use tax due the state, and any unused portion of the credit shall then be applied against the amount of any use tax due a subdivision.

Exemption Certificates, Vendors May Rely.

(2) Whenever a vendor receives and accepts in good faith from a purchaser a resale or other exemption certificate or other written evidence of exemption authorized by the appropriate state or subdivision taxing authority, the vendor shall be relieved of liability for a sales or use tax with respect to the transaction.

Article VI. The Commission.

Organization and Management.

(1) (a) The multistate tax commission is hereby established. It shall be composed of 1 "member" from each party state who shall be the head of the state agency charged with the administration of the types of taxes to which this compact applies. If there is more than 1 such agency, the state shall provide by law for the selection of the commission member from the heads of the relevant agencies. State law may provide that a member of the commission be represented by an alternate but only if there is on file with the commission written notification of the designation and identity of the alternate. The attorney general of each party state or his designee, or other counsel if the laws of the party state specifically provide, shall be entitled to attend the meetings of the commission, but shall not vote. Such attorneys general, designees, or other counsel shall receive all notices of meetings required under paragraph 1 (e) of this article.

(b) Each party state shall provide by law for the selection of representatives from its subdivisions affected by this compact to consult with the commission member from that state.

(c) Each member shall be entitled to 1 vote. The commission shall not act unless a majority of the members are present, and no action shall be binding unless approved by a majority of the total number of members.

(d) The commission shall adopt an official seal to be used as it may provide.

(e) The commission shall hold an annual meeting and such other regular meetings as its bylaws may provide and such special meetings as its executive committee may determine. The commission bylaws shall specify the dates of the annual and any other regular meetings, and shall provide for the giving of notice of annual, regular and special meetings. Notices of special meetings shall include the reasons therefor and an agenda of the items to be considered.

(f) The commission shall elect annually, from among its members, a chairman, a vice chairman and a treasurer. The commission shall appoint an executive director who shall serve at its pleasure, and it shall fix his duties and compensation. The executive director shall be secretary of the commission. The commission shall make provision for the bonding of such of its officers and employees as it may deem appropriate.

(g) Irrespective of the civil service, personnel or other merit system laws of any party state, the executive director shall appoint or discharge such personnel as may be necessary for the performance of the functions of the commission and shall fix their duties and compensation. The commission bylaws shall provide for personnel policies and programs.

(h) The commission may borrow, accept or contract for the services of personnel from any state, the United States, or any other governmental entity.

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(i) The commission may accept for any of its purposes and functions any and all donations and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any governmental entity, and may utilize and dispose of the same.

(j) The commission may establish 1 or more offices for the transacting of its business.

(k) The commission shall adopt bylaws for the conduct of its business. The commission shall publish its bylaws in convenient form, and shall file a copy of the bylaws and any amendments thereto with the appropriate agency or officer in each of the party states.

(l) The commission annually shall make to the governor and legislature of each party state a report covering its activities for the preceding year. Any donation or grant accepted by the commission or services borrowed shall be reported in the annual report of the commission, and shall include the nature, amount and conditions, if any, of the donation, gift, grant or services borrowed and the identity of the donor or lender. The commission may make additional reports as it may deem desirable.

Committees.

(2) (a) To assist in the conduct of its business when the full commission is not meeting, the commission shall have an executive committee of 7 members, including the chairman, vice chairman, treasurer and 4 other members elected annually by the commission. The executive committee, subject to the provisions of this compact and consistent with the policies of the commission, shall function as provided in the bylaws of the commission.

(b) The commission may establish advisory and technical committees, membership on which may include private persons and public officials, in furthering any of its activities. Such committees may consider any matter of concern to the commission, including problems of special interest to any party state and problems dealing with particular types of taxes.

(c) The commission may establish such additional committees as its bylaws may provide.

Powers.

(3) In addition to powers conferred elsewhere in this compact, the commission shall have power to:

(a) Study state and local tax systems and particular types of state and local taxes.

(b) Develop and recommend proposals for an increase in uniformity or compatibility of state and local tax laws with a view toward encouraging the simplification and improvement of state and local tax law and administration.

(c) Compile and publish information as in its judgment would assist the party states in implementation of the compact and taxpayers in complying with state and local tax laws.

(d) Do all things necessary and incidental to the administration of its functions pursuant to this compact.

Finance.

(4) (a) The commission shall submit to the governor or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that state for presentation to the legislature thereof.

(b) Each of the commission's budgets of estimated expenditures shall contain specific recommendations of the amounts to be appropriated by each of the party states. The total amount of appropriations requested under any such budget shall be apportioned among the party states as follows: one-tenth in equal shares; and the remainder in proportion to the amount of revenue collected by each party state and its subdivisions from income taxes, capital stock taxes, gross receipts taxes, sales and use taxes. In

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determining such amounts, the commission shall employ such available public sources of information as, in its judgment, present the most equitable and accurate comparisons among the party states. Each of the commission's budgets of estimated expenditures and requests for appropriations shall indicate the sources used in obtaining information employed in applying the formula contained in this paragraph.

(c) The commission shall not pledge the credit of any party state. The commission may meet any of its obligations in whole or in part with funds available to it under paragraph (1) (i) of this article: provided that the commission takes specific action setting aside such funds prior to incurring any obligation to be met in whole or in part in such manner. Except where the commission makes use of funds available to it under paragraph (1) (i), the commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.

(d) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the commission.

(e) The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the commission.

(f) Nothing contained in this article shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the commission.

Article VII. Uniform Regulations and Forms.

(1) Whenever any 2 or more party states, or subdivisions of party states, have uniform or similar provisions of law relating to an income tax, capital stock tax, gross receipts tax, sales or use tax, the commission may adopt uniform regulations for any phase of the administration of such law, including assertion of jurisdiction to tax, or prescribing uniform tax forms. The commission may also act with respect to the provisions of article IV of this compact.

(2) Prior to the adoption of any regulation, the commission shall:

(a) As provided in its bylaws, hold at least 1 public hearing on due notice to all affected party states and subdivisions thereof and to all taxpayers and other persons who have made timely request of the commission for advance notice of its regulation-making proceedings.

(b) Afford all affected party states and subdivisions and interested persons an opportunity to submit relevant written data and views, which shall be considered fully by the commission.

(3) The commission shall submit any regulations adopted by it to the appropriate officials of all party states and subdivisions to which they might apply. Each such state and subdivision shall consider any such regulation for adoption in accordance with its own laws and procedures.

Article VIII. Interstate Audits.

(1) This article shall be in force only in those party states that specifically provide therefor by statute.

(2) Any party state or subdivision thereof desiring to make or participate in an audit of any accounts, books, papers, records or other documents may request the commission to perform the audit on its behalf. In responding to the request, the commission shall have access to and may examine, at any reasonable time, such accounts, books, papers, records, and other documents and any relevant property or stock of merchan-

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dise. The commission may enter into agreements with party states or their subdivisions for assistance in performance of the audit. The commission shall make charges, to be paid by the state or local government or governments for which it performs the service, for any audits performed by it in order to reimburse itself for the actual costs incurred in making the audit.

(3) The commission may require the attendance of any person within the state where it is conducting an audit or part thereof at a time and place fixed by it within such state for the purpose of giving testimony with respect to any account, book, paper, document, other record, property or stock of merchandise being examined in connection with the audit. If the person is not within the jurisdiction, he may be required to attend for such purpose at any time and place fixed by the commission within the state of which he is a resident: provided that such state has adopted this article.

(4) The commission may apply to any court having power to issue compulsory process for orders in aid of its powers and responsibilities pursuant to this article and any and all such courts shall have jurisdiction to issue such orders. Failure of any person to obey any such order shall be punishable as contempt of the issuing court. If the party or subject matter on account of which the commission seeks an order is within the jurisdiction of the court to which application is made, such application may be to a court in the state or subdivision on behalf of which the audit is being made or a court in the state in which the object of the order being sought is situated. The provisions of this paragraph apply only to courts in a state that has adopted this article.

(5) The commission may decline to perform any audit requested if it finds that its available personnel or other resources are insufficient for the purpose or that, in the terms requested, the audit is impracticable of satisfactory performance. If the commission, on the basis of its experience, has reason to believe that an audit of a particular taxpayer, either at a particular time or on a particular schedule, would be of interest to a number of party states or their subdivisions, it may offer to make the audit or audits, the offer to be contingent on sufficient participation therein as determined by the commission.

(6) Information obtained by any audit pursuant to this article shall be confidential and available only for tax purposes to party states, their subdivisions or the United States. Availability of information shall be in accordance with the laws of the states or subdivisions on whose account the commission performs the audit, and only through the appropriate agencies or officers of such states or subdivisions. Nothing in this article shall be construed to require any taxpayer to keep records for any period not otherwise required by law.

(7) Other arrangements made or authorized pursuant to law for cooperative audit by or on behalf of the party states or any of their subdivisions are not superseded or invalidated by this article.

(8) In no event shall the commission make any charge against a taxpayer for an audit.

(9) As used in this article, "tax," in addition to the meaning ascribed to it in article II, means any tax or license fee imposed in whole or in part for revenue purposes.

Article IX. Arbitration.

(1) Whenever the commission finds a need for settling disputes concerning apportionments and allocations by arbitration, it may adopt a regulation placing this article in effect, notwithstanding the provisions of article VII.

(2) The commission shall select and maintain an arbitration panel composed of officers and employees of state and local governments and private persons who shall be knowledgeable and experienced in matters of tax law and administration.

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(3) Whenever a taxpayer who has elected to employ article IV, or whenever the laws of the party state or subdivision thereof are substantially identical with the relevant provisions of article IV, the taxpayer, by written notice to the commission and to each party state or subdivision thereof that would be affected, may secure arbitration of an apportionment or allocation, if he is dissatisfied with the final administrative determination of the tax agency of the state or subdivision with respect thereto on the ground that it would subject him to double or multiple taxation by 2 or more party states or subdivisions thereof. Each party state and subdivision thereof hereby consents to the arbitration as provided herein, and agrees to be bound thereby.

(4) The arbitration board shall be composed of 1 person selected by the taxpayer, 1 by the agency or agencies involved, and 1 member of the commission's arbitration panel. If the agencies involved are unable to agree on the person to be selected by them, such person shall be selected by lot from the total membership of the arbitration panel. The 2 persons selected for the board in the manner provided by the foregoing provisions of this paragraph shall jointly select the third member of the board. If they are unable to agree on the selection, the third member shall be selected by lot from among the total membership of the arbitration panel. No member of a board selected by lot shall be qualified to serve if he is an officer or employee or is otherwise affiliated with any party to the arbitration proceeding. Residence within the jurisdiction of a party to the arbitration proceeding shall not constitute affiliation within the meaning of this paragraph.

(5) The board may sit in any state or subdivision party to the proceeding, in the state of the taxpayer's incorporation, residence or domicile, in any state where the taxpayer does business, or in any place that it finds most appropriate for gaining access to evidence relevant to the matter before it.

(6) The board shall give due notice of the times and places of its hearings. The parties shall be entitled to be heard, to present evidence, and to examine and cross-examine witnesses. The board shall act by majority vote.

(7) The board shall have power to administer oaths, take testimony, subpoena and require the attendance of witnesses and the production of accounts, books, papers, records, and other documents, and issue commissions to take testimony. Subpoenas may be signed by any member of the board. In case of failure to obey a subpoena, and upon application by the board, any judge of a court of competent jurisdiction of the state in which the board is sitting or in which the person to whom the subpoena is directed may be found may make an order requiring compliance with the subpoena, and the court may punish failure to obey the order as a contempt. The provisions of this paragraph apply only in states that have adopted this article.

(8) Unless the parties otherwise agree the expenses and other costs of the arbitration shall be assessed and allocated among the parties by the board in such manner as it may determine. The commission shall fix a schedule of compensation for members of arbitration boards and of other allowable expenses and costs. No officer or employee of a state or local government who serves as a member of a board shall be entitled to compensation therefor unless he is required on account of his service to forego the regular compensation attaching to his public employment, but any such board member shall be entitled to expenses.

(9) The board shall determine the disputed apportionment or allocation and any matters necessary thereto. The determinations of the board shall be final for purposes of making the apportionment or allocation, but for no other purpose.

(10) The board shall file with the commission and with each tax agency represented in the proceeding: the determination of the board; the board's written statement of its

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reasons therefor; the record of the board's proceedings; and any other documents required by the arbitration rules of the commission to be filed.

(11) The commission shall publish the determinations of boards together with the statements of the reasons therefor.

(12) The commission shall adopt and publish rules of procedure and practice and shall file a copy of such rules and of any amendment thereto with the appropriate agency or officer in each of the party states.

(13) Nothing contained herein shall prevent at any time a written compromise of any matter or matters in dispute, if otherwise lawful, by the parties to the arbitration proceeding.

Article X. Entry Into Force and Withdrawal.

(1) This compact shall enter into force when enacted into law by any 7 states. Thereafter, this compact shall become effective as to any other state upon its enactment thereof. The commission shall arrange for notification of all party states whenever there is a new enactment of the compact.

(2) Any party state may withdraw from this compact by enacting a statute repealing the same. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

(3) No proceeding commenced before an arbitration board prior to the withdrawal of a state and to which the withdrawing state or any subdivision thereof is a party shall be discontinued or terminated by the withdrawal, nor shall the board thereby lose jurisdiction over any of the parties to the proceeding necessary to make a binding determination therein.

Article XI. Effect on Other Laws and Jurisdiction.

Nothing in this compact shall be construed to:

(a) Affect the power of any state or subdivision thereof to fix rates of taxation, except that a party state shall be obligated to implement article III (2) of this compact.

(b) Apply to any tax or fixed fee imposed for the registration of a motor vehicle or any tax on motor fuel, other than a sales tax: provided that the definition of "tax" in article VIII (9) may apply for the purposes of that article and the commission's powers of study and recommendation pursuant to article VI (3) may apply.

(c) Withdraw or limit the jurisdiction of any state or local court or administrative officer or body with respect to any person, corporation or other entity or subject matter, except to the extent that such jurisdiction is expressly conferred by or pursuant to this compact upon another agency or body.

(d) Supersede or limit the jurisdiction of any court of the United States.

Article XII. Construction and Severability.

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

HISTORY: New 1969, p. 770, Act 343, Eff. Jul. 1, 1970.

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205.582 Short form option, computation and payment of income taxes; tax rate.

Sec. 2. (1) A taxpayer electing the short form option provided for in article III (2) shall compute and pay an income tax under the provisions of section 191 of Act No. 281 of the Public Acts of 1967, being section 206.191 of the Compiled Laws of 1948.

(2) A taxpayer subject to Act No. 284 of the Public Acts of 1964, being sections 141.501 to 141.787 of the Compiled Laws of 1948, electing the short form option shall compute and pay an income tax under the same provisions, adjusted for the difference in tax rate.

HISTORY: New 1969, p. 780, Act 343, Eff. Jul. 1, 1970.

205.583 Multistate tax commission, Michigan state treasurer.

Sec. 3. The state treasurer shall represent this state on the multistate tax commission.

HISTORY: New 1969, p. 780, Act 343, Eff. Jul. 1, 1970.

205.584 Alternate representative, designation.

Sec. 4. The member representing this state on the multistate tax commission may be represented thereon by an alternate designated by him. Any such alternate shall be a principal deputy or assistant of the department of treasury.

HISTORY: New 1969, p. 780, Act 343, Eff. Jul. 1, 1970.

205.585 Attorney general, attendance at commission meetings.

Sec. 5. The attorney general of this state, or his designee, shall be entitled to attend the meetings of the multistate tax commission and otherwise participate in the activities of the multistate tax commission as permitted by article VI (1) (a) of the multistate tax compact.

HISTORY: New 1969, p. 780, Act 343, Eff. Jul. 1, 1970.

205.586 Subdivision representatives, designation, consultation.

Sec. 6. The governor, after consultation with representatives of local governments, shall appoint 3 persons who are representative of subdivisions affected or likely to be affected by the multistate tax compact. The member of the multistate tax commission representing this state, and any alternate designated by him, shall consult regularly with these appointees, in accordance with article VI (1) (b) of the compact.

HISTORY: New 1969, p. 780, Act 343, Eff. Jul. 1, 1970.

205.587 Multistate tax compact advisory committee, membership, chairman, meetings, duties.

Sec. 7. The multistate tax compact advisory committee is established composed of the member of the multistate tax commission representing this state, any alternate designated by him, the attorney general or his designee, and 2 members of the senate, appointed by the presiding officer thereof, and 2 members of the house of representatives, appointed by the speaker thereof. The chairman shall be the member of the commission representing this state. The committee shall meet on the call of its chairman or at the request of a majority of its members, but in any event it shall meet not less than 3 times in each year. The committee may consider any and all matters relating to recommendations of the multistate tax commission and the activities of the members in representing this state thereon.

HISTORY: New 1969, p. 780, Act 343, Eff. Jul. 1, 1970.

205.588 Interstate audits.

Sec. 8. Article VIII of the multistate tax compact relating to interstate audits shall be in force in and with respect to this state.

HISTORY: New 1969, p. 781, Act 343, Eff. Jul. 1, 1970.

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205.589 Effective date.

Sec. 9. This act shall become effective July 1, 1970.

HISTORY: New 1969, p. 781, Act 343, Eff. Jul. 1, 1970.

Act 173, 1956, p. 331; Eff. Aug. 11.

AN ACT providing for the settlement of disputes respecting the domicile of decedents for death tax purposes.

The People of the State of Michigan enact:

205.601 Domicile of decedents for death tax purposes, settlement of disputes; definitions.

Sec. 1. For the purposes of this act:

(1) The term "executor" means an executor of the will or administrator of the estate of the decedent, but does not include an ancillary administrator nor an administrator with the will annexed if an executor named in the will has been appointed and has qualified in another state.

(2) The term "taxing official" means the commissioner of revenue of the state of Michigan and the designated authority of a reciprocal state.

(3) The term "death tax" means any tax levied by a state on account of the transfer or shifting of economic benefits in property at death, or in contemplation thereof, or intended to take effect in possession or enjoyment at or after death, whether denominated an "inheritance tax," "transfer tax," "succession tax," "estate tax," "death duty," "death dues," or otherwise.

(4) The term "interested person" means any person who may be entitled to receive, or who has received any property or interest which may be required to be considered in computing the death tax of any state involved.

(5) The term "state" means any state, territory, or possession of the United States, or the District of Columbia. The term "this state" means the state of Michigan.

(6) The term "board" shall mean board of arbitration.

HISTORY: New 1956, p. 331, Act 173, Eff. Aug. 11.

205.602 Domicile of decedents for death tax purposes, settlement of disputes; notice of election, rejection.

Sec. 2. In any case in which this state and 1 or more other states each claims that it was the domicile of a decedent at his death, at any time prior to the commencement of legal action for determination of domicile within this state or within 60 days thereafter, any executor, or the taxing official of any such state, may elect to invoke the provisions of this act. Such executor or taxing official shall send a notice of such election by registered mail, receipt requested, to the taxing official of each such state and to each executor, ancillary administrator, and interested person. Within 40 days after the receipt of such notice of election any executor may reject such election by sending a notice, by registered mail, receipt requested, to all persons originally required to be sent a notice of election. When an election has been rejected by an executor, no further proceedings shall be had under this act. If such election is not rejected within the 40-day period, the dispute as to death taxes shall be determined solely as hereinafter provided. No other proceedings to determine or assess such death taxes shall thereafter be instituted in any court of this state or otherwise.

HISTORY: New 1956, p. 331, Act 173, Eff. Aug. 11.

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205.603 Domicile of decedents for death tax purposes, settlement of disputes; written agreement with other taxing officials.

Sec. 3. In any case in which an election is made and not rejected the commissioner of revenue of this state may enter into a written agreement with the other taxing officials involved and with the executors to accept a certain sum in full payment of any death taxes, together with interest and penalties, that may be due this state, provided this agreement fixes the amount to be paid the other states involved in the dispute.

HISTORY: New 1956, p. 331, Act 173, Eff. Aug. 11.

205.604 Domicile of decedents for death tax purposes, settlement of disputes; arbitration board, procedure, determination.

Sec. 4. If in any such case it appears that an agreement cannot be reached, as provided in section 3, or if 1 year shall have elapsed from the date of the election without such an agreement having been reached, the domicile of the decedent at the time of his death shall be determined solely for death tax purposes as follows:

(a) Where only this state and 1 other state are involved, the commissioner of revenue of this state and the taxing official of the other state shall each appoint a member of a board of arbitration, and these members shall appoint the third member of the board. If this state and more than 1 other state are involved, the taxing officials thereof shall agree upon the authorities charged with the duty of administering death tax laws in 3 states not involved in the dispute and each of these authorities shall appoint a member of the board of arbitration. The board shall select 1 of its members as chairman.

(b) Such board shall hold hearings at such places as are deemed necessary, upon reasonable notice to the executors, ancillary administrators, all other interested persons, and to the taxing officials of the states involved, all of whom are entitled to be heard.

(c) Such board may administer oaths, take testimony, subpoena witnesses and require their attendance, require the production of books, papers and documents, issue commissions to take testimony. Subpoenas may be issued by any member of the board. Failure to obey a subpoena may be punished by any court of record in the same manner as if the subpoena had been issued by such court.

(d) Whenever practicable such board shall apply the rules of evidence then prevailing in the federal courts under the federal rules of civil procedure.

(e) Such board shall determine the domicile of the decedent at the time of his death. This determination is final and conclusive and binds this state, and all of its judicial and administrative officials on all questions concerning the domicile of the decedent for death tax purpose. If said board does not render a determination within 1 year from the time that it is fully constituted, all authority of said board shall cease and the bar to court proceedings set forth in section 2 shall no longer exist.

(f) The reasonable compensation and expenses of the members of the board and its employees shall be agreed upon among such members, the taxing officials involved, and the executors. If an agreement cannot be reached, such compensation and expenses shall be determined by such taxing officials; and, if they cannot agree, by the appropriate probate court of the state determined to be the domicile. Such amount shall be borne by the estate and shall be deemed an administration expense.

(g) The determination of such board and the record of its proceeding shall be filed with the authority having jurisdiction to assess the death tax in the state determined to be the domicile of the decedent and with the authorities which would have had jurisdiction to assess the death tax in each of the other states involved if the decedent had been found to be domiciled therein.

HISTORY: New 1956, p. 332, Act 173, Eff. Aug. 11.

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205.605 Domicile of decedents for death tax purposes, settlement of disputes; written agreement after arbitration commenced.

Sec. 5. Notwithstanding the commencement of a legal action for determination of domicile within this state or the commencement of an arbitration proceeding, as provided in section 4, the commissioner of revenue of this state may in any case enter into a written agreement with the other taxing officials involved and with the executors to accept a certain sum in full payment of any death tax, together with interest and penalties, that may be due this state, provided this agreement fixes the amount to be paid the other states involved in the dispute, at any time before such proceeding is concluded. Upon the filing of this agreement with the authority which would have jurisdiction to assess the death tax of this state, if the decedent died domiciled in this state, an assessment shall be made as provided in such agreement, and this assessment finally and conclusively fixes the amount of death tax due this state. If the aggregate amount payable under such agreement or under an agreement made in accordance with the provisions of section 3 to the states involved is less than the minimum credit allowable to the estate against the United States estate tax imposed with respect thereto, the executor forthwith shall also pay to the commissioner of taxation of this state the same percentage of the difference between such aggregate amount of such credit as the amount payable to such commissioner under such agreement bears to such aggregate amount.

HISTORY: New 1956, p. 332, Act 173, Eff. Aug. 11.

205.606 Domicile of decedents for death tax purposes, settlement of disputes; maximum interest and penalties if decedent domiciled in this state.

Sec. 6. When in any case the board of arbitration determines that a decedent died domiciled in this state, the total amount of interest and penalties for nonpayment of the tax, between the date of the election and the final determination of the board, shall not exceed 4% of the amount of the taxes per annum.

HISTORY: New 1956, p. 333, Act 173, Eff. Aug. 11.

205.607 Domicile of decedents for death tax purposes, settlement of disputes; application of act.

Sec. 7. This act shall be applicable only to cases in which each of the states involved in the dispute has in effect therein a law substantially similar hereto. Except, nothing contained in this section shall prohibit the application of this act or any part hereof where any of the other states involved in the dispute have in effect therein a law empowering the tax authority to voluntarily enter into a binding arbitration or compromise agreement and such an agreement is so entered into.

HISTORY: New 1956, p. 333, Act 173, Eff. Aug. 11.

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CHAPTER 206. TAXATION—INCOME TAX ACT OF 1967

Act 281 of 1967

CHAPTER 1

206.1 Income tax act of 1967; short title.
206.2 Income tax act; rules of construction; internal revenue code, applicability.
206.4 Board and business income; definitions.
206.6 Commercial domicile, commissioner, compensation and corporation; definitions.
206.8 Department, domestic insurer, employee and employer; definitions.
206.10 Fiduciary, financial institution and financial organization; definitions.
206.12 Gross income; internal revenue code; definitions.
206.14 Nonbusiness income, nonresident and nonresident estate or trust; definitions.
206.16 Person; definition.
206.18 Resident and domicile; definitions.
206.20 Sales and state; definitions.
206.22 Tax; definition.
206.24 Tax year or taxable year; definition.
206.26 Taxpayer; definition.
206.28 Taxable income or net income; definition.
206.30 Taxable income of individuals; definition.
206.32 Taxable income of corporations; definition.
206.34 Taxable income of financial institutions; definition.
206.36 Taxable income of resident estates or trusts; definition.

CHAPTER 2

206.51 Tax on taxable income of persons other than corporations; levy and imposition; taxable income and person, definitions; rate.
206.61 Tax rate; corporations.
206.71 Tax on taxable income of financial institutions; levy and imposition, rate.
206.81 Unincorporated organizations; taxed as corporation; election.
206.91 Common trust funds and participants; taxable status.

CHAPTER 3

206.101 Repealed.
206.102 Income producing activities solely in Michigan.
206.103 Taxable income partly attributable to Michigan.
206.105 Allocation and apportionment of business income taxable in another state.
206.110 Taxable income of individuals, estates and trusts, allocation.
206.111 Rents and royalties; allocation.
206.112 Capital gains and losses.
206.113 Interest and dividends; allocation.
206.114 Patent and copyright royalties; allocation.
206.115 Business income; apportionment factors.
206.116 Property factor; determination.
206.117 Property; value, rental rate.
206.118 Property; average value.
206.119 Payroll factor; determination.
206.120 Compensation paid in state of Michigan.
206.121 Sales factor; determination.
206.122 Sales of tangible personalty within Michigan.
206.123 Sales other than sales of tangible personalty within state.
206.125 Domestic insurers; taxable income.
206.131 Transportation services; sections applicable.
206.132 Transportation other than of oil or gas by pipeline; revenue mile; taxable income.
206.133 Transportation of oil by pipeline; taxable income.
206.134 Transportation of gas by pipeline; taxable income.
206.151 Financial organizations; taxable income.
206.191 Sales not exceeding $100,000; taxable income.
206.195 Alternative methods of allocation and apportionment; approval.

CHAPTER 4

206.201 Persons exempt from federal income tax, exemptions.
206.211 Foreign or alien insurers; exempt.
206.221 Nonresident financial institutions; exempt.

CHAPTER 5

206.251 Credit for taxes withheld; election to treat as total tax.
206.255 Tax paid in other states by residents; credit.
206.256 Tax paid in other states by nonresidents; credit.
206.257 City income tax; credit.
206.258 Taxes on homestead; credit.
206.260 Tax credit; institution of higher learning, defined; limitation.
206.271 Capital gains and losses; assets acquired before tax effective.

CHAPTER 6

206.301 Estimated tax returns and payments.
206.302 Estimated tax payments, computation.
206.311 Tax returns; filing and payment of tax; joint returns; extension of time.
206.315 Tax returns; persons other than corporations or financial institutions, due date, contents.
206.321 Tax returns; corporations and financial institutions, contents.
206.322 Whole dollar amounts, use.
206.325 Federal tax return, copies; alteration, notice; adjustments.
206.331 Information returns; unincorporated associations, returns.
206.335 Combined reports, taxes; intercorporate transactions; computation of net income; exemptions; deductions.
206.336 Agreements improperly reflecting income; commissioner's adjustments.
206.341 Returns and payments based on distributive shares of business income.

CHAPTER 7

206.351 Employer's withholding; rate, filing and payment, time; liability of employer.
206.355 Applicability of provisions to employers; payments to department or banks.
206.361 Withholding by governmental units and officers.

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206.365 Annual statement of compensation paid and taxes withheld, employees' duplicates; returns by employers; information furnished by employee; effect of failure to file.

CHAPTER 8

206.401 Examination of returns; determination of tax by department; refunds or deficiency assessment; interest; penalty.
206.405 Default in filing or payment; assessment, penalty, interest.
206.408 Default or insufficient information; deficiency assessments.
206.411 Deficiencies, interests or penalties; assessments; statute of limitations, suspension, conditions.
206.421 Notice of intent to levy tax; hearing; appeals.
206.422 Notices; injunctions prohibited.
206.423 Collection of tax; levy and sale.
Jeopardy assessment.
Actions at law.
206.431 Lien; property subject; precedence; discharge, certificate.
206.441 Credits; refunds; statute of limitations; payment.
206.451 Corporate dissolution or withdrawal, closing of estate, termination of business, liability of successor for taxes.
206.455 Records; adequacy, period, examination, penalties for failure to keep.
206.461 Offenses; penalties.
206.465 Information obtained in administration of act; confidentiality, penalty for disclosure.
206.466 Confidentiality of returns; exceptions.
206.471 Administration of tax; forms, rules.
206.475 Disposition of tax proceeds; tax remittances, form.
206.481 Disbursement of tax proceeds to local governments; net collections reduction; payment dates; adjustment of errors; balance in general fund.
206.482 Amounts distributed to local governments, lists for legislators.
206.491 Tax returns for first year by other than corporations or financial institutions.
206.492 Tax returns for first year by corporations and financial institutions.
206.495 Tax returns for first year, exclusion of business activities tax and income.
206.496 Appropriation for administration and enforcement.
206.497 Business activities act repeal; final returns.
206.498 Declaration of necessity.
206.499 Effective date of act; conditions.

Act 281, 1967, p. 550; Eff. Oct. 1.

AN ACT to meet deficiencies in state funds by providing for the imposition, levy, computation, collection, assessment, and enforcement by lien and otherwise of taxes on or measured by net income; to prescribe the manner and time of making reports and paying the taxes, and the functions of public officers and others as to the taxes; to permit the inspection of the records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits and refunds of the taxes; to prescribe penalties for the violation of this act; to provide an appropriation; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

CHAPTER 1

206.1 Income tax act of 1967; short title.

Sec. 1. This act is for the purpose of meeting deficiencies in state funds and shall be known and may be cited as the "income tax act of 1967".

HISTORY: New 1967, p. 550, Act 281, Eff. Oct. 1.

206.2 Income tax act; rules of construction; internal revenue code, applicability.

Sec. 2. (1) For the purposes of this act, the words, terms and phrases set forth in this chapter and their derivations have the meaning given therein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and in the singular number include the plural. "Shall" is always mandatory and "may" is always discretionary.

(2) Any term used in this act shall have the same meaning as when used in comparable context in the laws of the United States relating to federal income taxes unless a

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different meaning is clearly required. Any reference in this act to the internal revenue code shall include other provisions of the laws of the United States relating to federal income taxes.

(3) It is the intention of this act that the income subject to tax be the same as taxable income as defined and applicable to the subject taxpayer in the internal revenue code, except as otherwise provided in this act.

HISTORY: New 1967, p. 550, Act 281, Eff. Oct. 1.

206.4 Board and business income; definitions.

Sec. 4. (1) "Board" means the state board of tax appeals.

(2) "Business income" means income arising from transactions, activities and sources in the regular course of the taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, rental, management and disposition of the property constitutes integral parts of the taxpayer's regular trade or business operations.

HISTORY: New 1967, p. 551, Act 281, Eff. Oct. 1.

206.6 Commercial domicile, commissioner, compensation and corporation; definitions.

Sec. 6. (1) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(2) "Commissioner" means the commissioner of the department.

(3) "Compensation" means wages as defined in section 3401 of the internal revenue code.

(4) "Corporation" means, in addition to an incorporated entity, an association, trust or any unincorporated organization which is defined as a corporation in the internal revenue code.

HISTORY: New 1967, p. 551, Act 281, Eff. Oct. 1;—Am. 1969, p. 749, Act 332, Imd. Eff. Nov. 4.

206.8 Department, domestic insurer, employee and employer; definitions.

Sec. 8. (1) "Department" means the revenue division of the department of treasury.

(2) "Domestic insurer" in this act shall mean the same as in the insurance code of 1956.

(3) "Employee" means an employee as defined in section 3401(c) of the internal revenue code. Any person from whom an employer is required to withhold for federal income tax purposes shall prima facie be deemed an employee.

(4) "Employer" means an employer as defined in section 3401(d) of the internal revenue code. Any person required to withhold for federal income tax purposes shall prima facie be deemed an employer.

HISTORY: New 1967, p. 551, Act 281, Eff. Oct. 1.

206.10 Fiduciary, financial institution and financial organization; definitions.

Sec. 10. (1) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator or any person acting in any fiduciary capacity, whether or not a resident of this state.

(2) "Financial institution" means any bank, trust company, building and loan or savings and loan association or industrial bank.

(3) "Financial organization" means a bank, industrial bank, trust company, building and loan or savings and loan association, credit union, safety and collateral deposit company, regulated investment company as defined in section 851 and the following sections of the internal revenue code, under whatever authority organized, and any other association, joint stock company or corporation at least 90% of whose assets con-

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sist of intangible personal property and at least 90% of whose gross income consists of dividends or interest or other charges resulting from the use of money or credit.

HISTORY: New 1967, p. 551, Act 281, Eff. Oct. 1.

206.12 Gross income; internal revenue code; definitions.

Sec. 12. (1) "Gross income" means gross income as defined in the internal revenue code.

(2) "Internal revenue code" means the United States internal revenue code of 1954, as amended, and in effect on December 31, 1969, or at the option of the taxpayer, in effect for the taxable year.

HISTORY: New 1967, p. 551, Act 281, Eff. Oct. 1;—Am. 1969, p. 749, Act 332, Imd. Eff. Nov. 4;—Am. 1970, p. 464, Act 140, Imd. Eff. Aug. 1.

206.14 Nonbusiness income, nonresident and nonresident estate or trust; definitions.

Sec. 14. (1) "Nonbusiness income" means all income other than business income.

(2) "Nonresident" means any individual who is not a resident.

(3) "Nonresident estate or trust" means any estate or trust not included in the definition of a resident estate or trust.

HISTORY: New 1967, p. 552, Act 281, Eff. Oct. 1.

206.16 Person; definition.

Sec. 16. "Person" includes any individual, firm, association, corporation, receiver, estate, trust or any other group or combination acting as a unit, and the plural as well as the singular number.

HISTORY: New 1967, p. 552, Act 281, Eff. Oct. 1.

206.18 Resident and domicile; definitions.

Sec. 18. (1) "Resident" means:

(a) An individual domiciled in the state. "Domicile" means a place where a person has his true, fixed and permanent home and principal establishment to which, whenever absent therefrom he intends to return, and domicile continues until another permanent establishment is established. If an individual during the taxable year being a resident becomes a nonresident or vice versa, taxable income shall be determined separately for income in each status. If an individual lives in this state at least 183 days during the tax year or more than 1/2 the days during a taxable year of less than 12 months he shall be deemed a resident individual domiciled in this state.

(b) The estate of a decedent who at his death was domiciled in this state.

(c) Any trust created by will of a decedent who at his death was domiciled in this state and any trust created by, or consisting of property of, a person domiciled in this state, at the time the trust becomes irrevocable.

(2) For the purpose of the definition of "resident", a taxable year shall be deemed to be terminated at the date of death.

(3) The term "resident" when referring to a corporation means a corporation organized under the laws of this state.

HISTORY: New 1967, p. 552, Act 281, Eff. Oct. 1.

206.20 Sales and state; definitions.

Sec. 20. (1) "Sales" means all gross receipts of the taxpayer not allocated under sections 110 to 114.

(2) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country, or political subdivision, thereof.

HISTORY: New 1967, p. 552, Act 281, Eff. Oct. 1;—Am. 1969, p. 750, Act 332, Imd. Eff. Nov. 4.

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206.22 Tax; definition.

Sec. 22. "Tax" includes interest and penalties and further includes the tax required to be withheld by an employer on salaries and wages, unless the intention to give it a more limited meaning is disclosed by the context.

HISTORY: New 1967, p. 552, Act 281, Eff. Oct. 1.

206.24 Tax year or taxable year; definition.

Sec. 24. "Tax year" or "taxable year" means the calendar year, or the fiscal year ending during such calendar year, upon the basis of which taxable income is computed under this act. In the case of a return made for a fractional part of a year, the term shall mean the period for which such return is made. Except for the first return required by this act, any taxpayer's tax year shall be for the same period as is covered by his federal income tax return.

HISTORY: New 1967, p. 552, Act 281, Eff. Oct. 1.

206.26 Taxpayer; definition.

Sec. 26. "Taxpayer" means any person subject to the taxes imposed by this act or any employer required to withhold taxes on salaries and wages.

HISTORY: New 1967, p. 553, Act 281, Eff. Oct. 1.

206.28 Taxable income or net income; definition.

Sec. 28. "Taxable income" or "net income" means, unless specifically defined otherwise in this act, taxable income as defined in the internal revenue code for the subject taxpayer for federal income tax purposes, subject to any adjustment resulting from the election in section 271 but without deduction or credit for any tax on or measured by net income.

HISTORY: New 1967, p. 553, Act 281, Eff. Oct. 1.

206.30 Taxable income of individuals; definition.

Sec. 30. (1) "Taxable income" in the case of a person other than a corporation, financial institution, an estate or trust means adjusted gross income as defined in the internal revenue code subject to the following adjustments:

(a) Add gross interest income and dividends derived from obligations or securities of states other than Michigan, in the same amount which has been excluded from federal adjusted gross income less related expenses not deducted in computing federal adjusted gross income because of section 265 (1) of the internal revenue code.

(b) Add taxes on or measured by income to the extent the taxes have been deducted in arriving at federal adjusted gross income.

(c) Add losses on the sale or exchange of obligations of United States government, the income of which this state is prohibited from subjecting to a net income tax, to the extent that the loss has been deducted in arriving at federal adjusted gross income.

(d) Deduct, to the extent included in federal adjusted gross income, income derived from obligations, or the sale or exchange of obligations, of the United States government which this state is prohibited by law from subjecting to a net income tax, reduced by any interest on indebtedness incurred in carrying the obligations, and by any expenses incurred in the production of such income to the extent that the expenses, including amortizable bond premiums, were deducted in arriving at federal adjusted gross income.

(e) Deduct in the case of a husband, alimony, separate maintenance payments and principal sums payable in installments, to the extent included in the wife's adjusted gross income, pursuant to the provisions of the internal revenue code, but only to the extent otherwise deductible by the husband pursuant to the provisions of the internal revenue code.

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(f) Deduct, to the extent included in adjusted gross income, compensation, including retirement benefits, received for services in the armed forces of the United States.

(g) Deduct to the extent included in adjusted gross income, any retirement or pension benefits received from a public retirement system of or created by act of this state or any of its political subdivisions to the extent otherwise included in adjusted gross income.

(h) Any adjustments resulting from the application of section 271.

(i) Any adjustments with respect to estate and trust income as provided in section 36.

(j) Any adjustments resulting from the allocation and apportionment provisions of chapter 3.

(2) A personal exemption of the sum of $1,200.00 times the number of personal or dependency exemptions allowable on the taxpayer's federal income tax return pursuant to the internal revenue code shall be subtracted from taxable income.

HISTORY: New 1967, p. 553, Act 281, Eff. Oct. 1;—Am. 1969, p. 750, Act 332, Imd. Eff. Nov. 4;—Am. 1970, p. 464, Act 140, Imd. Eff. Aug. 1.

206.32 Taxable income of corporations; definition.

Sec. 32. (1) "Taxable income" in the case of a corporation other than a financial institution means federal taxable income subject to the following adjustments:

(a) Add gross interest income and dividends derived from obligations or securities of states other than Michigan, in the same amount which has been excluded from federal taxable income, less related expenses not deducted in computing federal taxable income because of section 265 of the internal revenue code.

(b) Add taxes on or measured by net income to the extent the taxes have been deducted in arriving at federal taxable income.

(c) Add any net operating loss deductions which have been deducted in arriving at federal taxable income, and deduct any net operating loss deductions as defined in subsection (3).

(d) Add any capital loss carry-over which has been deducted in arriving at federal taxable income, and deduct the capital loss carry-over that would be deductible under the internal revenue code if the internal revenue code had become effective on January 1, 1968.

(e) Add losses on the sale or exchange of obligations of the United States government, the income of which this state is prohibited from subjecting to a net income tax, to the extent that the loss has been deducted in arriving at federal taxable income.

(f) Deduct, to the extent included in federal taxable income, income derived from obligations or sale or exchange of obligations of the United States government, which this state is prohibited by law from subjecting to a net income tax reduced by any interest on indebtedness incurred to carry the obligations, and by any expenses incurred in the production of such income to the extent that the expenses including amortizable bond premiums were deducted in arriving at federal taxable income.

(g) Deduct the foreign dividend gross-up included in federal taxable income pursuant to section 78 of the internal revenue code.

(h) Any adjustments resulting from the application of section 271.

(i) Any adjustments resulting from the allocation and apportionment provisions of chapter 3.

(2) Federal taxable income means "taxable income" as defined in section 63 of the internal revenue code.

(3) Net operating loss means the loss that would result from the computation under subsection (1) without deducting the net operating loss deduction permitted by subdivision (c) of subsection (1), and without deducting the capital loss carry-over permit-

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ted by subdivision (d) of subsection (1). The net operating loss is first carried back to the earliest of the 3 years preceding the loss year and, if not entirely used up in offsetting taxable income in that year, the unused portion of the loss is first carried back to the second earliest year and the balance, if any, is carried back to the year next preceding the loss year. If the taxable income of the 3 preceding years is not sufficient to be offset by the loss, the unused portion of the loss is first carried over to the year next following the loss year, then successively to the next 4 years following the loss year or until the loss is used up, whichever first occurs, but in no case for more than 5 years after the loss year. A net operating loss shall not be allowed for taxable periods ending before January 1, 1968, and the loss shall not be applied to the income of any taxable periods ending before January 1, 1968.

HISTORY: New 1967, p. 553, Act 281, Eff. Oct. 1;—Am. 1969, p. 750, Act 332, Imd. Eff. Nov. 4;—Am. 1970, p. 465, Act 140, Imd. Eff. Aug. 1.

206.34 Taxable income of financial institutions; definition.

Sec. 34. (1) "Taxable income" in the case of a financial institution means federal taxable income subject to the following adjustments:

(a) Add gross interest income and dividends derived from obligations or securities of states other than Michigan, in the same amount which has been excluded from federal taxable income, less related expenses not deducted in computing federal taxable income because of section 265 of the internal revenue code.

(b) Add taxes on or measured by net income to the extent the taxes have been deducted in arriving at federal taxable income.

(c) Add any net operating loss deductions which have been deducted in arriving at federal taxable income, and deduct any net operating loss deductions as defined in subsection (3).

(d) Add any capital loss carry-over which has been deducted in arriving at federal taxable income, and deduct the capital loss carry-over that would be deductible under the internal revenue code if the internal revenue code had become effective on January 1, 1968.

(e) Deduct the foreign dividend gross-up included in federal taxable income pursuant to section 78 of the internal revenue code.

(f) Any adjustments resulting from the application of section 271.

(g) Any adjustments resulting from the allocation and apportionment provisions of chapter 3.

(2) Federal taxable income means "taxable income" as defined in section 63 of the internal revenue code.

(3) Net operating loss means the loss that would result from the computation under subsection (1) without deducting the net operating loss deduction permitted by subdivision (c) of subsection (1), and without deducting the capital loss carry-over permitted by subdivision (d) of subsection (1). The net operating loss is first carried back to the earliest of the 3 years preceding the loss year and, if not entirely used up in offsetting taxable income in that year, the unused portion of the loss is first carried back to the second earliest year and the balance, if any, is carried back to the year next preceding the loss year. If the taxable income of the 3 preceding years is not sufficient to be offset by the loss, the unused portion of the loss is first carried over to the year next following the loss year, then successively to the next 4 years following the loss year or until the loss is used up, whichever first occurs, but in no case for more than 5 years after the loss year. Net operating loss shall not be allowed for taxable periods ending before January 1, 1968, and the loss shall not be applied to the income of any taxable periods ending before January 1, 1968.

HISTORY: New 1967, p. 553, Act 281, Eff. Oct. 1;—Am. 1970, p. 466, Act 140, Imd. Eff. Aug. 1.

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206.36 Taxable income of resident estates or trusts; definition.

Sec. 36. (1) "Taxable income" in the case of a resident estate or trust means federal taxable income as defined in the internal revenue code subject to the following adjustments:

(a) Add gross interest income and dividends derived from obligations or securities of states other than Michigan, in the same amount which has been excluded from federal taxable income less related expenses not deducted in computing federal taxable income because of section 265 of the internal revenue code.

(b) Add taxes on or measured by income to the extent the taxes have been deducted in arriving at federal taxable income.

(c) Add losses on the sale or exchange of obligations of the United States government, the income of which this state is prohibited from subjecting to a net income tax, to the extent that the loss has been deducted in arriving at federal taxable income.

(d) Deduct, to the extent included in federal taxable income, income derived from obligations, or the sale or exchange of obligations, of the United States government which this state is prohibited by law from subjecting to a net income tax, reduced by any interest on indebtedness incurred in carrying the obligations, and by any expenses incurred in the production of such income to the extent that the expenses, including amortizable bond premiums, were deducted in arriving at federal taxable income.

(e) Any adjustments resulting from the application of section 271.

(f) Deduct any adjustment resulting from the allocation and apportionment provisions of chapter 3.

(2) The respective shares of an estate or trust and its beneficiaries, including, solely for the purpose of this allocation, nonresident beneficiaries, in the additions and subtractions to taxable income shall be in proportion to their respective shares of distributable net income of the estate or trust as defined in the internal revenue code. If the estate or trust has no distributable net income for the taxable year, the share of each beneficiary in the additions and subtractions shall be in proportion to his share of the estate or trust income for the year, under local law or the terms of the instrument, which is required to be distributed currently and any other amounts of such income distributed in the year. Any balance of the additions and subtractions shall be allocated to the estate or trust. If capital gains and losses are distributed or distributable to a beneficiary or beneficiaries under the internal revenue code, the fiduciary shall advise each beneficiary of his share of the adjustment under section 271. The election or failure to elect under section 271 with respect to capital gains and losses taxable to the estate or trust shall not affect the beneficiary's right to elect or not to elect under section 271.

(3) An addition or subtraction shall not be made under this section which has the effect of duplicating an item of income or deduction if the taxpayer establishes to the satisfaction of the commissioner that the item is already reflected in federal taxable income. If an addition or subtraction with respect to the sale or exchange of obligations of the United States government proper adjustment, in accordance with rules promulgated by the commissioner, of the deduction for excess of capital gains over capital losses shall be made.

HISTORY: New 1967, p. 553, Act 281, Eff. Oct. 1;—Am. 1969, p. 751, Act 332, Imd. Eff. Nov. 4;—Am. 1970, p. 466, Act 140, Imd. Eff. Aug. 1.

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CHAPTER 2

206.51 Tax on taxable income of persons other than corporations; levy and imposition; taxable income and person, definitions; rate.

Sec. 51. (1) For receiving, earning or otherwise acquiring income from any source whatsoever, there is levied and imposed a tax of 2.6% upon the taxable income of every person, other than a corporation.

(2) For the purposes of this section, "taxable income" means taxable income as defined in this act subject to the applicable source and attribution rules contained in this act.

(3) For the purposes of this section, a person other than a corporation means in addition to a resident or nonresident individual:

(a) A partner in a partnership as defined in the internal revenue code.

(b) A beneficiary of an estate or a trust as defined in the internal revenue code.

(c) An estate or trust as defined in the internal revenue code.

(4) For the purposes of this section, the taxable income of a nonresident shall be computed in the same manner as in the case of a resident, subject to the allocation and apportionment provisions of this act.

(5) A resident beneficiary of a trust whose taxable income includes all or part of an accumulation distribution by a trust, as defined in section 665 of the internal revenue code, shall be allowed a credit against the tax otherwise due under this act. The credit shall be all or a proportionate part of any tax paid by the trust under this act for any preceding taxable year which would not have been payable if the trust had in fact made distribution to its beneficiaries at the times and in the amounts specified in section 666 of the internal revenue code. The credit shall not reduce the tax otherwise due from the beneficiary to an amount less than would have been due if the accumulation distribution were excluded taxable income.

(6) Taxable income of a nonresident who is a beneficiary of a resident estate or trust shall not include the beneficiary's share of estate or trust income.

(7) The taxable income of a resident who is required to include income from a trust in his federal income tax return under the provisions of subpart E of subchapter J of the internal revenue code, sections 671 through 678, shall include items of income and deductions from the trust in taxable income to the extent required by this act with respect to property owned outright.

(8) It is the intention of this section that the income subject to tax of every person other than corporations be computed in like manner and be the same as provided in the internal revenue code, subject to adjustments specifically provided for in this act.

HISTORY: New 1967, p. 554, Act 281, Eff. Oct. 1.

206.61 Tax rate; corporations.

Sec. 61. For receiving, earning or otherwise acquiring income from any sources whatsoever there is levied and imposed on every corporation except a financial institution a tax of 5.6% of the taxable income as defined in section 32 subject to the source and attribution rules contained in this act.

HISTORY: New 1967, p. 555, Act 281, Eff. Jan. 1, 1968;—Am. 1970, p. 467, Act 140, Imd. Eff. Aug. 1.

206.71 Tax on taxable income of financial institutions; levy and imposition, rate.

Sec. 71. (1) There is levied and imposed upon every financial institution a tax measured by 7% of taxable income as defined in section 34 subject to the applicable source and attribution rules contained in this act.

(2) The tax imposed on financial institutions shall be in lieu of all other state and local taxes, however measured, upon financial institutions, except taxes imposed upon

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real property, sales, use and similar excise taxes, examination and audit fees and those taxes levied under the provisions of Act No. 156 of the Public Acts of 1964, as amended, being sections 489.501 to 489.899 of the Compiled Laws of 1948.

(3) If the application of this tax to national banking associations is held to be invalid by final judicial action, then there shall be no tax levied or imposed by this section 71 on state banks, including industrial banks and trust companies.

HISTORY: New 1967, p. 555, Act 281, Eff. Jan. 1, 1968;—Am. 1968, p. 552, Act 315, Eff. Nov. 15.

206.81 Unincorporated organizations; taxed as corporation; election.

Sec. 81. (1) An association or trust or other unincorporated organization which is taxable as a corporation pursuant to the internal revenue code for federal income tax purposes shall be taxable under this act as a corporation.

(2) A corporation which has filed a proper election under subchapter S of the internal revenue code shall not be subject to the tax imposed by this act with respect to the taxable years for which such election is in effect. Each participant shall include his proportionate share of the taxable income whether or not distributed and whether or not distributable.

HISTORY: New 1967, p. 555, Act 281, Eff. Oct. 1;—Am. 1970, p. 467, Act 140, Imd. Eff. Aug. 1.

206.91 Common trust funds and participants; taxable status.

Sec. 91. (1) A common trust fund meeting the requirements of section 584 of the internal revenue code, shall not be subject to tax under this act.

(2) Each participant in the common trust fund shall, under rules prescribed by the department, include its proportionate share of the taxable income whether or not distributed and whether or not distributable.

HISTORY: New 1967, p. 555, Act 281, Eff. Oct. 1;—Am. 1969, p. 751, Act 332, Imd. Eff. Nov. 4.

CHAPTER 3

206.101 Repealed. 1970, p. 468, Act 140, Imd. Eff. Aug. 1.

Section related to taxable income attributable to Michigan.

206.102 Income producing activities solely in Michigan.

Sec. 102. In the case of taxable income of a taxpayer whose income-producing activities are confined solely to this state, the entire taxable income of such taxpayer shall be allocated to this state, except as otherwise expressly provided in this act.

HISTORY: New 1967, p. 555, Act 281, Eff. Oct. 1.

206.103 Taxable income partly attributable to Michigan.

Sec. 103. Any taxpayer having income from business activity which is taxable both within and without this state, other than the rendering of purely personal services by an individual, shall allocate and apportion his net income as provided in this act.

HISTORY: New 1967, p. 555, Act 281, Eff. Oct. 1;—Am. 1970, p. 467, Act 140, Imd. Eff. Aug. 1.

206.105 Allocation and apportionment of business income taxable in another state.

Sec. 105. For purposes of allocation and apportionment of income from business activity under this act, a taxpayer is taxable in another state if (a) in that state he is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business or a corporate stock tax, or (b) that state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

HISTORY: New 1967, p. 555, Act 281, Eff. Oct. 1.

206.110 Taxable income of individuals, estates and trusts, allocation.

Sec. 110. (1) In the case of a resident individual, estate or trust all taxable income from any source whatsoever, except that attributable to another state under the provi-

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sions of sections 111 to 115 and subject to the credit provisions of section 255, is allocated to this state.

(2) In the case of a nonresident individual, estate or trust all taxable income is allocated to this state to the extent it is earned, received or acquired:

(a) For the rendition of personal services performed in this state.

(b) As a distributive share of the net profits of an unincorporated business, profession, enterprise, undertaking or other activity as the result of work done, services rendered and other business activities conducted in this state, except as allocated to another state pursuant to the provisions of sections 111 to 114 and subject to the credit provisions of section 256.

(3) (a) The respective shares of a nonresident estate or trust and its beneficiaries, including, solely for purposes of allocation, resident and nonresident beneficiaries, in the income attributable to Michigan, shall be in proportion to their respective shares of distributable net income under the internal revenue code. If the estate or trust has no distributable net income for the taxable year, the share of each beneficiary in the income attributable to Michigan, shall be in proportion to his share of the estate or trust income for such year, under local law or the terms of the instrument, which is required to be distributed currently and other amounts of such income distributed in such year. Any balance of the income attributable to Michigan shall be allocated to the estate or trust.

(b) A nonresident estate or trust shall be allowed the credit provided in section 256, except that the limitation shall be computed by reference to the taxable income of the estate or trust.

(4) Rents and royalties from real or tangible personal property, capital gains, interest, dividends or patent or copyright royalties, to the extent that they constitute a nonbusiness income, shall be allocated as provided in sections 111 to 114.

HISTORY: New 1967, p. 556, Act 281, Eff. Oct. 1;—Am. 1969, p. 751, Act 332, Imd. Eff. Nov. 4.

206.111 Rents and royalties; allocation.

Sec. 111. (1) Net rents and royalties from real property located in this state are allocable to this state.

(2) Net rents and royalties from tangible personal property are allocable to this state:

(a) If and to the extent that the property is utilized in this state; or

(b) In their entirety if the taxpayer is a resident partnership, estate or trust or individual of this state or has a commercial domicile in this state and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.

(3) The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer, tangible personal property is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.

HISTORY: New 1967, p. 556, Act 281, Eff. Oct. 1;—Am. 1969, p. 752, Act 332, Imd. Eff. Nov. 4.

206.112 Capital gains and losses.

Sec. 112. (1) Capital gains and losses from sales or exchanges of real property located in this state are allocable to this state.

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(2) Capital gains and losses from sales or exchanges of tangible personal property are allocable to this state if:

(a) The property had a situs in this state at the time of the sale; or

(b) The taxpayer is a resident partnership, estate or trust or individual of this state or has a commercial domicile in this state and the taxpayer is not taxable in the state in which the property had a situs.

(3) Capital gains and losses from sales or exchanges of intangible personal property are allocable to this state if the taxpayer is a resident partnership, estate or trust or individual of this state or has a commercial domicile in this state.

HISTORY: New 1967, p. 556, Act 281, Eff. Oct. 1;—Am. 1969, p. 752, Act 332, Imd. Eff. Nov. 4.

206.113 Interest and dividends; allocation.

Sec. 113. Interest and dividends are allocable to this state if the taxpayer is a resident partnership, estate or trust or individual of this state or has a commercial domicile in this state.

HISTORY: New 1967, p. 557, Act 281, Eff. Oct. 1;—Am. 1969, p. 752, Act 332, Imd. Eff. Nov. 4.

206.114 Patent and copyright royalties; allocation.

Sec. 114. (1) Patent and copyright royalties are allocable to this state:

(a) If and to the extent that the patent or copyright is utilized by the payer in this state; or

(b) If and to the extent that the patent or copyright is utilized by the payer in a state in which the taxpayer is not taxable and the taxpayer is a resident partnership, estate or trust or individual of this state or has a commercial domicile in this state.

(2) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing or other processing in the state or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in this state if the taxpayer is a resident partnership, estate or trust or individual or has a commercial domicile in this state.

(3) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in this state if the taxpayer is a resident partnership, estate or trust or individual or has a commercial domicile in this state.

HISTORY: New 1967, p. 557, Act 281, Eff. Oct. 1;—Am. 1969, p. 752, Act 332, Imd. Eff. Nov. 4.

206.115 Business income; apportionment factors.

Sec. 115. All business income, other than income from transportation services, domestic insurers and financial organizations, shall be apportioned to this state by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is 3.

HISTORY: New 1967, p. 557, Act 281, Eff. Oct. 1.

206.116 Property factor; determination.

Sec. 116. The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period.

HISTORY: New 1967, p. 557, Act 281, Eff. Oct. 1.

206.117 Property; value, rental rate.

Sec. 117. Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at 8 times the net annual rental rate. Net annual

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rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals.

HISTORY: New 1967, p. 557, Act 281, Eff. Oct. 1.

206.118 Property; average value.

Sec. 118. The average value of property shall be determined by averaging the values at the beginning and ending of the tax period but the commissioner may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property.

HISTORY: New 1967, p. 557, Act 281, Eff. Oct. 1.

206.119 Payroll factor; determination.

Sec. 119. The payroll factor is a fraction, the numerator of which is the total amount paid in this state during the tax period by the taxpayer for compensation, and the denominator of which is the total compensation paid everywhere during the tax period.

HISTORY: New 1967, p. 557, Act 281, Eff. Oct. 1.

206.120 Compensation paid in state of Michigan.

Sec. 120. Compensation is paid in this state if:

(a) The individual's service is performed entirely within the state; or

(b) The individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or

(c) Some of the service is performed in the state and (i) the base of operations, or if there is no base of operations, the place from which the service is directed or controlled is in the state, or (ii) the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

HISTORY: New 1967, p. 558, Act 281, Eff. Oct. 1.

206.121 Sales factor; determination.

Sec. 121. The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period.

HISTORY: New 1967, p. 558, Act 281, Eff. Oct. 1.

206.122 Sales of tangible personalty within Michigan.

Sec. 122. Sales of tangible personal property are in this state if:

(a) The property is delivered or shipped to a purchaser, other than the United States government, within this state regardless of the f.o.b. point or other conditions of the sale; or

(b) The property is shipped from an office, store, warehouse, factory or other place of storage in this state and (i) the purchaser is the United States government or (ii) the taxpayer is not taxable in the state of the purchaser.

HISTORY: New 1967, p. 558, Act 281, Eff. Oct. 1.

206.123 Sales other than sales of tangible personalty within state.

Sec. 123. Sales, other than sales of tangible personal property, are in this state if:

(a) The income-producing activity is performed in this state; or

(b) The income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than outside this state, based on costs of performance.

HISTORY: New 1967, p. 558, Act 281, Eff. Oct. 1.

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206.125 Domestic insurers; taxable income.

Sec. 125. The taxable income of a domestic insurer doing business both within and without the state or partly within and without the state shall be that portion of the net income of the taxpayer that the gross direct premiums received for insurance upon property or risk in this state, deducting premiums upon policies not taken and returned premiums on canceled policies from Michigan bears to the gross direct premiums received for insurance upon property or risk deducting premiums upon policies not taken and returned premiums on canceled policies everywhere.

HISTORY: New 1967, p. 558, Act 281, Eff. Oct. 1.

206.131 Transportation services; sections applicable.

Sec. 131. The taxable income of a taxpayer whose income-producing activities consist of transportation services rendered partly within and partly without the state shall be determined under the provisions of sections 132 to 134.

HISTORY: New 1967, p. 558, Act 281, Eff. Oct. 1.

206.132 Transportation other than of oil or gas by pipeline; revenue mile; taxable income.

Sec. 132. In the case of such taxable income other than that derived from the transportation of oil or gas by pipeline, that portion of the net income of the taxpayer derived from transportation services wherever performed that the revenue miles of the taxpayer in Michigan bear to the revenue miles of the taxpayer everywhere. A revenue mile means the transportation for a consideration or 1 net ton in weight or 1 passenger the distance of 1 mile. The taxable income attributable to Michigan sources in the case of a taxpayer engaged in the transportation both of property and of individuals shall be that portion of the entire net income of the taxpayer which is equal to the average of his passenger miles and ton mile fractions, separately computed and individually weighted by the ratio of gross receipts from passenger transportation to total gross receipts from all transportation, and by the ratio of gross receipts from freight transportation to total gross receipts from all transportation, respectively. If it is shown to the satisfaction of the commissioner that the foregoing information is not available or cannot be obtained without unreasonable expense to the taxpayer, the commissioner may use such other data which may be available and which in the opinion of the commissioner will result in an equitable allocation of such receipts to this state.

HISTORY: New 1967, p. 558, Act 281, Eff. Oct. 1.

206.133 Transportation of oil by pipeline; taxable income.

Sec. 133. In the case of taxable income derived from the transportation of oil by pipeline, that portion of the net income of the taxpayer derived from the pipeline transportation of oil everywhere that the barrel miles transported in Michigan bear to the barrel miles transported by the taxpayer everywhere.

HISTORY: New 1967, p. 559, Act 281, Eff. Oct. 1.

206.134 Transportation of gas by pipeline; taxable income.

Sec. 134. In the case of taxable income derived from the transportation of gas by pipeline, net income attributable to Michigan shall be that portion of the taxable income of the taxpayer derived from the pipeline transportation of gas everywhere that the thousand cubic feet miles transported in Michigan bear to the thousand cubic feet miles transported by the taxpayer everywhere.

HISTORY: New 1967, p. 559, Act 281, Eff. Oct. 1.

206.151 Financial organizations; taxable income.

Sec. 151. The taxable income of a financial organization attributable to Michigan sources shall be taken to be:

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(a) In the case of taxable income of a taxpayer whose income-producing activities are confined solely to this state, the entire net income of such taxpayer.

(b) In the case of taxable income of a taxpayer who conducts income-producing activities as a financial organization partially within and partially without this state, that portion of its net income as its gross business in this state is to its gross business everywhere during the period covered by its return, which portion shall be determined as the sum of:

(i) Fees, commissions or other compensation for financial services rendered within this state;

(ii) Gross profits from trading in stocks, bonds or other securities managed within this state;

(iii) Interest and dividends received within this state;

(iv) Interest charged to customers at places of business maintained within this state for carrying debit balances of margin accounts, without deduction of any costs incurred in carrying such accounts; and

(v) Any other gross income resulting from the operation as a financial organization within this state, divided by the aggregate amount of such items of the taxpayer everywhere.

HISTORY: New 1967, p. 559, Act 281, Eff. Oct. 1.

206.191 Sales not exceeding $100,000; taxable income.

Sec. 191. (1) If the taxpayer's only activities within this state consist of sales and do not include owning or renting real estate or tangible personal property and whose dollar volume of gross sales made during the tax year within the state is not in excess of $100,000.00 the taxpayer may elect for that year:

(a) To report and pay a tax on net income arrived at by multiplying total sales in this state for the taxable year by the ratio of net income from operations to total sales as reported on his federal income tax return for the same taxable year; or

(b) Report and pay a tax of 2/5 of 1% on total sales in this state, whichever method reflects the lesser tax liability.

(2) The election is not available for any taxable year for which a consolidated return is required.

HISTORY: New 1967, p. 559, Act 281, Eff. Oct. 1.

CITED IN OTHER SECTIONS: The above section is cited in § 205.582.

206.195 Alternative methods of allocation and apportionment; approval.

Sec. 195. If the allocation and apportionment provisions of this act do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the commissioner may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

(a) Separate accounting;

(b) The exclusion of any one or more of the factors;

(c) The inclusion of 1 or more additional factors which will fairly represent the taxpayer's business activity in this state; or

(d) The employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's taxable income.

An alternative method will be effective only with approval by the commissioner.

HISTORY: New 1967, p. 560, Act 281, Eff. Oct. 1.

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CHAPTER 4

206.201 Persons exempt from federal income tax, exemptions.

Sec. 201. (1) A person who is exempt from federal income tax pursuant to the provisions of the internal revenue code shall be exempt from the tax imposed by this act except:

(a) An organization included under section 501 (c) (12) and 501 (c) (16) of the internal revenue code.

(b) An organization exempt under section 501 (c) (4) of the internal revenue code which would be exempt under section 501 (c) (12) of the internal revenue code but for its failure to meet the requirements in section 501 (c) (12) that 85% or more of its income must consist of amounts collected from members.

(c) The unrelated taxable business income of an exempt person as determined under the provisions of the internal revenue code.

(2) Nothing in this section shall exempt any person from the withholding and information return provisions of this act.

HISTORY: New 1967, p. 560, Act 281, Eff. Oct. 1;—Am. 1969, p. 753, Act 332, Imd. Eff. Nov. 4.

206.211 Foreign or alien insurers; exempt.

Sec. 211. Any foreign or alien insurance company subject to the provisions of the premium tax under sections 440 to 446 of Act No. 218 of the Public Acts of 1956, as amended, being sections 500.400 or 500.446 of the Compiled Laws of 1948, is exempt from the provisions imposing the tax in sections 61 and 71.

HISTORY: New 1967, p. 560, Act 281, Eff. Oct. 1.

206.221 Nonresident financial institutions; exempt.

Sec. 221. Any nonresident financial institution, not otherwise doing business in this state, which acquires or, through any other person legally entitled to engage in business in this state, makes loans, or participations of interests therein, which are secured in whole or in part by mortgages on real property located in this state, is exempt from the provisions imposing the tax in section 71.

HISTORY: New 1967, p. 560, Act 281, Eff. Oct. 1;—Am. 1969, p. 753, Act 332, Imd. Eff. Nov. 4.

CHAPTER 5

206.251 Credit for taxes withheld; election to treat as total tax.

Sec. 251. (1) The amount withheld under section 351 shall be allowed to the recipient of the compensation as a credit against the tax imposed on him by this act.

(2) The amount so withheld during any calendar year shall be allowed as a credit for the taxable year beginning in such calendar year. If more than 1 taxable year begins in a calendar year, such amount shall be allowed as a credit for the last taxable year so beginning.

HISTORY: New 1967, p. 560, Act 281, Eff. Oct. 1;—Am. 1969, p. 753, Act 332, Imd. Eff. Nov. 4.

206.255 Tax paid in other states by residents; credit.

Sec. 255. (1) A resident individual or resident estate or trust shall be allowed a credit against the tax otherwise due under this act for the amount of any income tax imposed on him for the taxable year by another state of the United States or a political subdivision thereof or the District of Columbia on income derived from sources without this state which is also subject to tax under this act.

(2) The credit provided under this section shall not exceed the proportion of the tax otherwise due under this act that the amount of the taxpayer's adjusted gross income derived from sources without this state bears to his entire adjusted gross income as modified by this part.

HISTORY: New 1967, p. 561, Act 281, Eff. Oct. 1;—Am. 1969, p. 753, Act 332, Imd. Eff. Nov. 4.

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206.256 Tax paid in other states by nonresidents; credit.

Sec. 256. (1) A nonresident individual, estate or trust shall be allowed a credit against but not in excess of the tax otherwise due under this act for the amount of any income tax imposed on him for the taxable year by the state of residence or subdivision thereof on income from sources herein which is also subject to tax under this act.

(2) The credit shall be allowable only if the laws of the state of residence contain a reciprocal provision which allows credits to residents of this state under similar circumstances.

(3) If, in lieu of a credit, the laws of the state of residence contain a provision exempting a resident of this state from liability for the payment of income taxes on income earned for personal services performed in that state, then the commissioner is authorized to enter into a reciprocal agreement with that state providing a similar tax exemption for its residents on income earned for personal services performed in this state.

HISTORY: New 1967, p. 561, Act 281, Eff. Oct. 1;—Am. 1969, p. 753, Act 332, Imd. Eff. Nov. 4.

206.257 City income tax; credit.

Sec. 257. (1) With respect to city income taxes becoming due and payable for periods ending after December 31, 1967, every person shall be allowed a credit computed by the table set out in this section for city income taxes deductible in his tax year for federal income tax purposes pursuant to section 164 of the internal revenue code, or, in the case of an individual, which would have been deductible in his tax year if he had not elected the standard deduction. If the amount of city income taxes used as a basis for the credit computation differs from the city income tax liability incurred and paid by the taxpayer for the tax year, the credit for the ensuing year shall be adjusted by the amount of the difference between the city income taxes used as a basis for the credit computation and the city income taxes incurred and paid by the taxpayer for the tax year. City income taxes means the taxes under the provisions of Act No. 284 of the Public Acts of 1964, as amended, being sections 141.501 to 141.699 of the Compiled Laws of 1948, and, for purposes of this section, shall not include penalties or interest. No credit shall be allowed for any city income taxes, other than estimated payments, which are delinquent on January 1, 1968. For a return of less than 12 months, the credit shall be reduced proportionately. No credit shall be allowed unless the credit is claimed on a tax return filed within 6 months after the end of the taxable year for which the credit is claimed, or a tax return filed within the period of an authorized extension for filing. In no event shall the credit allowed by sections 258, 260 and this section be in excess of the tax liability of the taxpayer.

(2) The credit shall be computed as follows:

If the total city income tax is:	The credit shall be:
Not over $100.00	20% of the city income taxes
Over $100.00 but not over $150.00	$20.00 plus 15% of the excess over $100.00
Over $150.00 but not over $200.00	$27.50 plus 10% of the excess over $150.00
Over $200.00	$32.50 plus 5% of the excess over $200.00, but the total credit shall not exceed $10,000.00.

(3) In lieu of the credit provided for in subsection (2) the credit authorized by this section for the calendar year 1970 and any fiscal year ending after May 31, 1970 and before June 1, 1971 shall be 12% of the income taxes paid but not more than $15.00.

HISTORY: New 1967, p. 561, Act 281, Eff. Oct. 1;—Am. 1969, p. 754, Act 332, Imd. Eff. Nov. 4;—Am. 1970, p. 346, Act 101, Imd. Eff. Jul. 20.—Am. 1970, p. 628, Act 233, Imd. Eff. Dec. 3.

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206.258 Taxes on homestead; credit.

Sec. 258. (1) With respect to property taxes becoming due and payable for periods ending after December 31, 1969, every person subject to the tax levied by section 51, shall be allowed a credit computed by the table set out in this section for the property taxes on his homestead deductible in his tax year for federal income tax purposes pursuant to section 164 of the internal revenue code, or which would have been deductible in his tax year if he had not elected the standard deduction. If the amount of the property taxes used as a basis for the credit computation differs from the property tax liability incurred and paid by the taxpayer for the tax year, the credit for the ensuing year shall be adjusted by the amount of the difference between the property taxes used as a basis for the credit computation and the property tax incurred and paid by the taxpayer for the tax year. In the event property subject to taxation is sold or transferred during the calendar year, the respective amounts of credit which shall be allowable to the parties shall be based on the method of proration of taxes as applicable under the internal revenue code. Property taxes shall mean general ad valorem taxes levied within this state, including collection fees but not including special assessments, penalties or interest. For a return of less than 12 months, the credit shall be reduced proportionately. No credit shall be allowed unless the credit is claimed on a tax return filed within 6 months after the end of the taxable year for which the credit is claimed, or a tax return filed within the period of an authorized extension. No credit shall be allowed with respect to any property taxes which are delinquent on January 1, 1970. In no event shall the credit allowed by sections 257, 260 and this section be in excess of the tax liability of the taxpayer.

(2) A person who is renting or leasing a homestead shall be allowed a similar credit, computed under the same conditions. In this case the ad valorem taxes shall be considered to be 17% of the gross rent paid.

(a) "Homestead" means a dwelling or unit in a multiple-unit dwelling which is subject to ad valorem taxes, owned and occupied as a home by the owner thereof or occupied as the dwelling of the renter or lessee, including all contiguous unoccupied real property owned by the owner of the homestead or rented or leased by the renter or lessee of the dwelling.

(b) "Gross rent" means the total rental contracted to be paid by the renter or lessee of a homestead pursuant to dealing at arm's length with the landlord thereof. In any case in which the landlord and tenant have not dealt with each other at arm's length and the department is satisfied that the gross rent charged was excessive, the department may adjust such gross rent to a reasonable amount for purposes of this subsection.

(c) Only the renter or lessee shall claim the property tax credit on property which is rented or leased as a homestead.

(d) Any person who discriminates in the charging or collection of rent because the renter or lessee is receiving a credit under this act shall be guilty of a misdemeanor. Each acceptance of a payment of rent shall be considered a separate offense.

(3) The credit shall be computed as follows:

If total ad valorem property taxes are:	The credit shall be:
Not over $100.00	20% of the property taxes
Over $100.00 but not over $150.00	$20.00 plus 10% of the excess over $100.00
Over $150.00 but not over $200.00	$25.00 plus 5% of the excess over $150.00
Over $200.00	$27.50 plus 5% of the excess over $200.00
Over $10,000.00	4% of the property taxes

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(4) In lieu of the credit provided for in subsection (3), the credit authorized by this section for the calendar year 1970 and any fiscal year ending after May 31, 1970 and before June 1, 1971 shall be 12% of the property taxes paid but not more than $15.00.

HISTORY: New 1967, p. 561, Act 281, Eff. Oct. 1;—Am. 1969, p. 754, Act 332, Imd. Eff. Nov. 4;—Am. 1970, p. 347, Act 101, Imd. Eff. Jul. 20;—Am. 1970, p. 629, Act 233, Imd. Eff. Dec. 3.

206.260 Tax credit; institution of higher learning, defined; limitation.

Sec. 260. (1) At the election of the taxpayer there shall be allowed as a credit against the tax imposed by this act for the taxable year, an amount, subject to the applicable limitations provided by this section, equal to 50% of the aggregate amount of charitable contributions made by the taxpayer during such year to institutions of higher learning located within this state or the Michigan colleges foundation. The credit shall be allowed only if the contribution has been made to the general fund of the institution of higher learning.

(2) In the case of a taxpayer other than a corporation, financial institution or resident estate or trust the amount allowable as a credit under this section for any taxable year shall not exceed 20% of the taxpayer's tax liability for such year as determined without regard to this section or $100.00, whichever is less.

(3) In the case of a corporation, financial institution or resident estate or trust the amount allowable as a credit under this section for any taxable year shall not exceed 10% of the tax liability for such year as determined without regard to this section or $5,000.00, whichever is less.

(4) For the purpose of this section, the term "institution of higher learning" means only an educational institution located within this state:

(a) Which maintains a regular faculty and curriculum and has a regularly enrolled body of students in attendance at the place where its educational activities are carried on; and

(b) Which regularly offers education above the twelfth grade; and

(c) Which awards associate, bachelors, masters or doctoral degrees or any combination thereof.

(5) In no event shall the sum of the credits allowed by sections 257, 258 and this section be in excess of the tax liability of the taxpayer.

HISTORY: Add. 1968, p. 553, Act 315, Eff. Nov. 15.

206.271 Capital gains and losses; assets acquired before tax effective.

Sec. 271. (1) A taxpayer subject to the tax levied by section 61 or 71 and whose income received after December 31, 1967 is increased or diminished by the disposition of property acquired before January 1, 1968, which is described in and subject to the provisions of subchapter P of the internal revenue code, may elect to recompute taxable income by excluding therefrom the proportional gain or loss incurred prior to January 1, 1968. Taxpayers so electing shall be subject to a tax on taxable income thus recomputed at the rates imposed by this act. An election so made shall include all items of gains or losses realized during the taxable year.

(2) The proportion of gain or loss occurring after December 31, 1967, to total gain or loss is equal to the proportion the number of months after December 31, 1967, to date of disposition bears to the number of months from date of acquisition to date of disposition.

(3) A taxpayer subject to the tax levied by section 51 shall substitute for the dates contained in this section the appropriate dates that bear the same relation to October 1, 1967, as the dates in this section bear to January 1, 1968.

HISTORY: New 1967, p. 562, Act 281, Eff. Oct. 1;—Am. 1969, p. 755, Act 332, Imd. Eff. Nov. 4.

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CHAPTER 6

206.301 Estimated tax returns and payments.

Sec. 301. (1) Every individual on a calendar year basis required under the internal revenue code to file a return of and pay an estimated tax shall, if his annual tax can reasonably be expected to exceed the amount withheld under the provisions of section 351 and the credits allowed by sections 257, 258 and 260 by more than $100.00, file with the department a return of estimated tax under this act on or before April 15, June 15 and September 15 in his tax year and January 15 in the following year and, subject to the provisions of subsection (4), shall pay an amount equal to 1/4 the taxpayer's estimated tax under this act after first deducting the amount estimated to be withheld under the provisions of section 351.

(2) Any other calendar year taxpayer, except an estate or trust, whose annual tax can reasonably be expected to exceed $250.00 shall, on or before April 30, July 31 and October 31 in his tax year and January 31 in the following year, file with the department a return of estimated tax under this act and, subject to the provisions of subsection (4), shall pay an amount equal to 1/4 of the estimated tax for the tax year.

(3) In the case of a taxpayer on other than a calendar year basis, there shall be substituted for the due dates provided in subsections (1) and (2) the appropriate due dates which in the taxpayer's fiscal year corresponds to the calendar year.

(4) With respect to a taxpayer filing an estimated tax return for his first tax year of less than 12 months, the amount paid with each return shall be that fraction of the estimated tax which is obtained by dividing the total amount of estimated tax by the number of payments to be made with respect to such tax year.

(5) There shall be allowed as a credit against the tax imposed by this act the amounts paid the department pursuant to this section.

(6) Any person subject to the provisions of this section may, at his election and at his option, in lieu of the quarterly returns and payments, file an estimated annual return and pay an estimated annual tax for the succeeding tax year. Such return and payment shall be made at the same time he files the annual return for the previous full tax year.

HISTORY: New 1967, p. 562, Act 281, Eff. Oct. 1;—Am. 1969, p. 755, Act 332, Imd. Eff. Nov. 4.

206.302 Estimated tax payments, computation.

Sec. 302. Payments of estimated tax shall be computed in the same manner and subject to the same requirements concerning the proportion of estimated tax liability as provided for in the internal revenue code.

HISTORY: Add. 1969, p. 756, Act 332, Imd. Eff. Nov. 4.

206.311 Tax returns; filing and payment of tax; joint returns; extension of time.

Sec. 311. (1) The taxpayer on or before the due date set for the filing of any return or the payment of any tax, except as otherwise provided herein, shall make out a return in the form and content as prescribed by the department, verify the same, and transmit it, together with his remittance of the amount of the tax, to the department.

(2) The commissioner, upon application of the taxpayer and for good cause shown, may extend under conditions prescribed by him the time for filing the annual or final return required by this act, but interest at the rate of 6% per annum shall be added to the amount of tax unpaid for the period of the extension. The commissioner may require a tentative return and payment of an estimated tax.

(3) Taxpayers who are husband and wife and who file a joint federal income tax return pursuant to the internal revenue code shall file a joint return.

(4) When the taxpayer has been granted an extension or extensions of time within which to file his final federal return for any taxable year, the filing of a copy of such

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extension or extensions shall automatically extend the due date of the final return under this act for an equivalent period plus 60 days.

HISTORY: New 1967, p. 563, Act 281, Eff. Oct. 1.

206.315 Tax returns; persons other than corporations or financial institutions, due date, contents.

Sec. 315. Every person, other than a corporation or a financial institution, required to make a return for any taxable period under the provisions of the internal revenue code, except as otherwise herein specifically provided, if his adjusted gross income is in excess of the personal exemptions allowed by this act shall render on or before the fifteenth day of the fourth month following the close of such taxable period to the department a return setting forth:

(a) The amount of adjusted gross income on the return made to the United States internal revenue service for federal income tax purposes and as provided in the definitions contained in this act and the rules issued thereunder.

(b) The personal and dependency exemptions as allowed by this act.

(c) The amount of tax due under this act, less credits claimed against the tax.

(d) Such other information for the purposes of carrying out the provisions of this act as may be prescribed by the commissioner.

(e) The balance of the tax shown to be due on the return is due and shall be paid by the date fixed for filing the return unless the balance is less than $1.00, in which event payment is not required.

HISTORY: New 1967, p. 563, Act 281, Eff. Oct. 1;—Am. 1969, p. 756, Act 332, Imd. Eff. Nov. 4.

206.321 Tax returns; corporations and financial institutions, contents.

Sec. 321. Every corporation and financial institution required to make a return for any taxable period under the provisions of the internal revenue code shall render on or before the fifteenth day of the fourth month following the close of such taxable period to the department a return setting forth:

(a) The amount of taxable income reported on the return made to the United States internal revenue service for federal income tax purposes, and as provided in the definitions contained in this act and the rules issued thereunder, and the portion thereof attributable to Michigan.

(b) The amount of tax due under this act, less credits claimed against the tax.

(c) Such other information for the purpose of carrying out the provisions of this act as may be prescribed by the commissioner.

(d) The balance of the tax shown to be due on the return is due and shall be paid by the date fixed for filing the return unless the balance is less than $1.00, in which event payment is not required.

HISTORY: New 1967, p. 563, Act 281, Eff. Oct. 1;—Am. 1969, p. 756, Act 332, Imd. Eff. Nov. 4.

206.322 Whole dollar amounts, use.

Sec. 322. Any person electing to use "whole dollar amounts" under the provisions of section 6102 of the internal revenue code may use "whole dollar amounts" in the same manner for the purposes of this act.

HISTORY: Add. 1969, p. 757, Act 332, Imd. Eff. Nov. 4.

206.325 Federal tax return, copies; alteration, notice; adjustments.

Sec. 325. (1) Any taxpayer required to file a return under this act may be required to furnish a true and correct copy of any tax return or portion of any tax return and supporting schedules which he has filed under the provisions of the internal revenue code.

(2) Every taxpayer shall notify the department in writing of any alteration in, or modification of, his federal income tax return which affects his taxable income under this act and of any similarly related recomputation of tax or determination of defi-

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ciency under the provisions of the internal revenue code. The notice shall be given in writing within 60 days after the final alteration, modification, recomputation or determination of deficiency. If the commissioner finds upon all the facts that an additional tax under this act is owing, the taxpayer shall thereupon pay the additional tax. If the commissioner finds that the taxpayer has overpaid the tax imposed by this act, a credit or refund of the overpayment shall thereupon be made as provided in section 441.

HISTORY: New 1967, p. 564, Act 281, Eff. Oct. 1;—Am. 1969, p. 757, Act 332, Imd. Eff. Nov. 4.

206.331 Information returns; unincorporated associations, returns.

Sec. 331. (1) At the request of the department, every person required by the internal revenue code to file or submit an information return of income paid to others shall, to the extent such information is applicable to residents of this state, at the same time file or submit such information in form and content as may be prescribed to the department.

(2) Every voluntary association, joint venture, partnership, estate or trust at the request of the department shall file a copy of any tax return or portion of any tax return which has been filed under the provisions of the internal revenue code. The department may prescribe alternate forms of returns.

HISTORY: New 1967, p. 564, Act 281, Eff. Oct. 1.

206.335 Combined reports, taxes; intercorporate transactions; computation of net income; exemptions; deductions.

Sec. 335. In the discretion of the commissioner, any taxpayer which owns or controls either directly or indirectly substantially all the capital stock of 1 or more other corporations, or substantially all the capital stock of which is owned or controlled either directly or indirectly by 1 or more other corporations, or by interests which own or control either directly or indirectly substantially all the capital stock of 1 or more corporations may be required or permitted to make a report on a combined basis covering any such other corporations and setting forth such information as the commissioner may require. In addition, a combined report may be made at the election of any 2 or more taxpayers provided the ownership or control requirements contained in the preceding sentence are satisfied and such report sets forth such information as the commissioner may require. No combined report covering any corporation not a taxpayer shall be required unless the commissioner deems such a report necessary because of intercompany transactions in order to properly reflect the tax liability imposed by this act. In case of a combined report, the tax shall be measured by the combined net income of all the corporations included in the report. In computing net income, intercorporate transactions including dividends shall be eliminated. If the computation of the tax due on a combined return involves the use of any of the formulas set forth in this act, then the factors used in the formulas shall be the combined totals of the factors for each corporation included in the combined return. The exemptions and deductions permitted under this act shall be taken in the same manner as if each corporation filed a separate return.

HISTORY: New 1967, p. 564, Act 281, Eff. Oct. 1.

206.336 Agreements improperly reflecting income; commissioner's adjustments.

Sec. 336. If it appears to the commissioner that any agreement, understanding or arrangement exists between the taxpayer and any other corporation or any person or firm whereby the activity, business or income of the taxpayer within the state is improperly or inaccurately reflected, the commissioner in such manner as he determines may adjust items of income and deductions and eliminate assets in computing any allocation percentage: Provided, only That any income directly traceable thereto be also excluded from net income so as equitably to determine the tax. Where any taxpayer

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conducts its activity or business under any agreement, arrangement or understanding in such manner as either directly or indirectly to benefit its members or stockholders, or any of them, or any person directly or indirectly interested in such activity or business by entering into any transaction at more or less than a fair price which, but for such agreement, arrangement or understanding, might have been paid or received therefor, or any taxpayer, a substantial portion of whose capital stock is owned either directly or indirectly by another corporation, enters into any transaction with such other corporation on such terms as to create an improper loss of net income, the commissioner may include in the net income of the taxpayer the fair profits which, but for such agreement, arrangement or understanding, the taxpayer might have derived from such transaction.

HISTORY: New 1967, p. 564, Act 281, Eff. Oct. 1.

206.341 Returns and payments based on distributive shares of business income.

Sec. 341. Any voluntary association, joint venture, partnership, estate or trust, at its option and its election, under rules prescribed by the department, may file a return, compute and pay the tax which is due with respect to the distributive shares of the income of the business. The return shall be entitled to only 1 personal or dependency exemption. The tax thus paid shall constitute all tax due with respect to each distributive share.

HISTORY: New 1967, p. 565, Act 281, Eff. Oct. 1.

CHAPTER 7

206.351 Employer's withholding; rate, filing and payment, time; liability of employer.

Sec. 351. (1) Every employer in this state required under the provisions of the internal revenue code to withhold a tax on the compensation of an individual except as otherwise provided shall deduct and withhold a tax in an amount computed by applying the rate prescribed in section 51 to the remainder of said compensation after deducting therefrom the same proportion of the total amount of personal and dependency exemptions of the individual allowed under this act that the period of time covered by the compensation is of 1 year. The commissioner may prescribe withholding tables which may be used by employers in computing the amount of tax required to be withheld.

(2) The taxes withheld under this section shall be returned and paid to the department by the employer within 15 days after the end of any month in which the amount withheld exceeds $100.00. In the case of lesser amounts payment shall be made within 15 days after the end of the quarter period ending in March, June, September and December.

(3) Every employer required by this section to deduct and withhold taxes on compensation shall be liable for the payment thereof to the state and shall not be liable to any individual for the amount of such payment.

(4) Employers in this state shall not be required to deduct and withhold a tax on the compensation paid to nonresident individual employees, who, under the provisions of section 256, are entitled to claim a tax credit equal to or in excess of the tax estimated to be due for the taxable year, or are exempted from liability for the tax imposed by this act. In each taxable year, the nonresident individual shall furnish the employer on a form approved by the department, a verified statement of nonresidence.

HISTORY: New 1967, p. 565, Act 281, Eff. Oct. 1;—Am. 1969, p. 757, Act 332, Imd. Eff. Nov. 4.

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206.355 Applicability of provisions to employers; payments to department or banks.

Sec. 355. All provisions relating to the administration, collection and enforcement of this act shall apply to the employer required to withhold a tax and to the tax required to be withheld. If the commissioner has reasonable grounds to believe that any employer will not pay taxes withheld to the state as prescribed by this act, then the commissioner may require such employer to make the return and pay to the department the tax deducted and withheld at any time, or from time to time, or require the employer to deposit the tax in a bank approved by him in a separate account, in trust for the department and payable to the department, and to keep the amount of the tax in the account until payment over to the department.

HISTORY: New 1967, p. 565, Act 281, Eff. Oct. 1.

206.361 Withholding by governmental units and officers.

Sec. 361. If the employer is the United States or this state, or any political subdivision thereof, or any agency or instrumentality of any of the foregoing, the return of the amount deducted and withheld upon compensation may be made by any officer of the employer having control of the payment of the compensation or an officer appropriately designated for that purpose.

HISTORY: New 1967, p. 565, Act 281, Eff. Oct. 1;—Am. 1969, p. 757, Act 332, Imd. Eff. Nov. 4.

206.365 Annual statement of compensation paid and taxes withheld, employees' duplicates; returns by employers; information furnished by employee; effect of failure to file.

Sec. 365. (1) Every employer required by this act to deduct and withhold taxes on compensation, shall furnish to each employee on or before January 31 of the succeeding year a statement, in duplicate, of the total compensation paid during the preceding year and the amount deducted or withheld.

(2) Every employer required by this act to deduct or withhold taxes from compensation shall make a return or report in form and content and at such times as prescribed by the department.

(3) Every employee shall furnish to his employer such information as is required for the employer to make an accurate withholding. An employee shall file with his employer revised information within 10 days after his number of exemptions decreases or he changes his status from a nonresident to that of a resident. The employee may file revised information when his number of exemptions increases or he changes his status from that of a resident to a nonresident. Revised information shall not be given retroactive effect for withholding purposes. The employer shall rely on this information for withholding purposes unless directed by the commissioner to withhold on some other basis. If any employee fails or refuses to furnish information, the employer shall withhold the full rate of tax from the employee's total compensation.

HISTORY: New 1967, p. 566, Act 281, Eff. Oct. 1;—Am. 1969, p. 757, Act 332, Imd. Eff. Nov. 4.

CHAPTER 8

206.401 Examination of returns; determination of tax by department; refunds or deficiency assessment; interest; penalty.

Sec. 401. (1) If it appears, either from the examination of the return or from the examination authorized by section 408, that the taxpayer has not satisfied his liability under this act, the tax shall be determined by the department and the taxpayer notified thereof. If the amount paid exceeds the correct amount of tax, the excess so paid may be credited against a subsequent tax or shall be refunded if requested by the taxpayer.

(2) If the amount paid is less than the amount which should have been paid, the deficiency, together with interest thereon at the rate of ½ of 1% per month from the time

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the tax was due, shall become due and payable after notice and hearing as provided in this act.

(3) When the amount paid with a quarterly estimated tax return is less than the amount required by sections 301 and 302, interest on that deficiency at the rate of ¾ of 1% per month from the time the quarterly estimated tax payment was due, shall become due and payable after notice and hearing as provided in this act.

(4) If any part of the deficiency is due to negligence or intentional disregard of this act or of the authorized rules and regulations of the department, but without intent to defraud, there shall be added as a penalty 10% of the total amount of the deficiency in the tax, and interest shall be collected at the rate of 1% per month on the amount of such deficiency in the tax from the time it was due, which interest and penalty shall become due and payable after notice and hearing as provided in this act.

(5) If any part of the deficiency is due to a fraudulent intent to evade the tax, then there shall be added as a penalty 100% of the deficiency, and the whole amount of tax unpaid, together with the penalty, shall become due and payable after notice and hearing as provided in this act, and an additional 1% per month on the tax shall be added from the date the tax was due until paid.

HISTORY: New 1967, p. 566, Act 281, Eff. Oct. 1;—Am. 1970, p. 467, Act 140, Imd. Eff. Aug. 1.

206.405 Default in filing or payment; assessment, penalty, interest.

Sec. 405. (1) If any person fails or refuses to file a return within the time specified in this act, the department as soon as possible shall assess the tax against the person and shall notify him of the amount thereof as provided in this act.

(2) In case of failure or refusal to file any return or pay the tax required by this act, within the time prescribed by this act there shall be added as a penalty 5% of the tax if the failure is for not more than 1 month or a fraction of 1 month, with an additional 5% for each additional month or fraction thereof during which the failure continues to a maximum of 25%. In addition to the penalty, there shall be added interest, at the rate of 1% per month on the amount of the tax from the time the tax was due until the date of payment. When a return or remittance is filed after such time and it is shown to the satisfaction of the department that the failure to file was due to reasonable cause and not to wilful neglect, no such penalty shall be imposed.

HISTORY: New 1967, p. 566, Act 281, Eff. Oct. 1.

206.408 Default or insufficient information; deficiency assessments.

Sec. 408. (1) If any person fails or refuses to make a return, either in whole or in part, or if the department has reason to believe that any return made does not supply sufficient information for an accurate determination of the amount of tax due, the department may obtain information on which to base an assessment of the tax. The department by its duly authorized agents may examine the books, records and papers and audit the accounts of any person or any other records pertaining to the tax. As soon as possible after procuring such information as may be found to be available, the department shall assess the tax determined to be due and shall notify the person assessed.

(2) The assessment by the department shall be final as to any person except as may be otherwise determined under the provisions of section 421.

(3) Every person liable for any tax imposed under this act shall keep and maintain accurate records in such form as to make it possible to determine the tax due hereunder. Whenever in the judgment of the department it is necessary, it may require any person, by notice served upon him, to make a return, render under oath such statements or keep such records as the department deems sufficient to show whether or not the person is liable to tax under this act. If the taxpayer fails to file a return or to keep and maintain proper, accurate and complete records as prescribed in this section, the

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department may assess, upon such information as is available or may come into possession of the department, the amount of the tax due from the taxpayer. The assessment after notice and hearing as provided in this act shall be deemed to be prima facie correct for the purpose of this act and the burden of proof of refuting the assessment shall be upon the taxpayer.

HISTORY: New 1967, p. 567, Act 281, Eff. Oct. 1;—Am. 1969, p. 758, Act 332, Imd. Eff. Nov. 4.

206.411 Deficiencies, interests or penalties; assessments; statute of limitations, suspension, conditions.

Sec. 411. (1) No deficiency, interest or penalty shall be assessed for any year after the expiration of 3 years from the date set for the filing of the annual return for each year or the date the return was filed whichever is later. If any person subject to tax under this act fraudulently conceals any liability for the tax or any part thereof, the department within 2 years of the discovery of the fraud shall assess the tax with interest and penalties as provided in this act, computed from the date on which the tax liability originally accrued, and the tax, penalties and interest shall become due and payable after notice and hearing as provided in this act, anything herein contained to the contrary notwithstanding.

(2) The running of the statute of limitations shall be suspended for the period pending final determination of litigation of or hearing on a taxpayer's federal income tax return or of the return required by this act, or in the event any notice is required under the provisions of section 325, and for 1 year thereafter.

(3) The running of the statute of limitations shall be suspended for the period for which the taxpayer and the commissioner have consented in writing that the period be suspended. The period so extended may be further extended by subsequent consent in writing made before the expiration of the extended period.

(4) The running of the statute of limitations shall be suspended for any taxable year for which no return has been filed.

HISTORY: New 1967, p. 567, Act 281, Eff. Oct. 1.

206.421 Notice of intent to levy tax; hearing; appeals.

Sec. 421. (1) In carrying out the provisions of this act, the department after determining the amount of tax due from any taxpayer shall give notice to the taxpayer of its intent to levy the tax. The taxpayer, if he so desires and serves notice thereof upon the department within 20 days, may demand a hearing on the question of his liability for the assessment. Thereupon, the department shall set a time and place for hearing and shall give the taxpayer reasonable notice thereof.

(2) The taxpayer shall be entitled to appear before the department and be represented by counsel and present testimony and argument. After the hearing the department shall render its decision in writing and by order levy any tax, interest and penalty found by it to be due and payable.

(3) Any taxpayer aggrieved by any determination of tax liability made by the department may appeal to the state board of tax appeals under the provisions of Act No. 122 of the Public Acts of 1941, as amended, being sections 205.1 to 205.17 of the Compiled Laws of 1948, or after payment of the amount of tax, interest and penalties found to be due by the department, he may bring an action in the circuit court of the county of Ingham to recover the amount paid. The action shall be commenced within 6 months after payment of the tax or after the adverse determination by the department of the validity of the taxpayer's claim for refund, whichever occurs later, and shall be conducted in accordance with the statutes and rules of procedure concerning actions at law not inconsistent with the provisions of this act.

HISTORY: New 1967, p. 567, Act 281, Eff. Oct. 1.

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206.422 Notices; injunctions prohibited.

Sec. 422. (1) Whenever notice is required under the provisions of this act, it shall be given either by personal service or by certified mail addressed to the last known address of the taxpayer.

(2) No injunction shall issue to stay proceedings for the assessment and collection of any tax levied under this act.

HISTORY: New 1967, p. 568, Act 281, Eff. Oct. 1.

206.423 Collection of tax; levy and sale.

Sec. 423. (1) If the tax imposed by this act is not paid at the time required in this act, the department shall make a demand for payment thereof on the delinquent taxpayer. If the tax remains unpaid for 10 days after demand and no proceedings have been taken to review the same, the department may issue a warrant under its official seal, directed to the sheriff of any county of the state, or to any state officer authorized to serve process, commanding the officer to levy upon and sell the real and personal property of the delinquent taxpayer, without exception, found within his jurisdiction, for the payment of the amount of tax, including interest and penalties and the cost of executing the warrant. The warrant shall be returned to the department with the money collected by virtue thereof within the time therein specified, which shall not be less than 20 or more than 90 days from the date of the warrant. The sheriff or other officer to whom the warrant is directed shall proceed upon the same in all respects and with like effect and in the same manner as prescribed by law in respect to executions issued against property upon judgments by a court of record, and shall be entitled to the same fees for his services in executing the warrant, to be collected in the same manner. The state, through the department or its designated agent, may bid for and purchase any property sold under the provisions of this section.

Jeopardy assessment.

(2) If the department finds that a person liable for tax under any provisions of this act designs quickly to depart from the state or to remove his property therefrom, or to conceal himself or his property herein, or to do any other act tending to prejudice or to render wholly or partly ineffectual proceedings to collect the tax unless the proceedings are brought without delay, the department shall give notice of such findings to the person, together with a demand for an immediate return and immediate payment of the tax. Warrant may issue immediately upon issuance of a jeopardy assessment. Thereupon, the tax shall become immediately due and payable. If the person is not in default in making any return or paying any tax prescribed by this act, and furnishes evidence satisfactory to the department under regulations prescribed by it that he will duly return and pay the tax to which the department's finding relates, then the tax shall not be payable prior to the time otherwise fixed for payment.

Actions at law.

(3) In addition to the mode of collection provided in this section, the department may institute an action at law in any county in which the taxpayer resides or transacts business.

HISTORY: New 1967, p. 568, Act 281, Eff. Oct. 1.

206.431 Lien; property subject; precedence; discharge, certificate.

Sec. 431. (1) The specific tax imposed by this act, together with interest and penalties thereon, shall be a lien in favor of the state against all property and rights of property, both real and personal, owned at the time the lien attaches, or afterwards acquired by any person liable for the tax, to secure the payment of tax. The lien shall attach to the property from and after the date that any report or return upon which the specific tax levied by this act is required to be filed with the department and shall

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continue for 6 years thereafter and no longer unless proceedings are begun to enforce the same.

(2) The lien imposed by subsection (1) shall take precedence over all other liens and encumbrances whatsoever, except bona fide liens recorded prior to the date the lien of this act attaches, but the lien shall not be valid as against any mortgagee, pledgee, purchaser (including a contract purchaser) or judgment creditor until notice thereof has been recorded in the office of the register of deeds of the county within which the property or rights to property subject to the lien is situated. The form of the notice shall be substantially similar to the notice of lien for taxes payable to the United States referred to in Act No. 107 of the Public Acts of 1956, as amended, being sections 211.661 to 211.669 of the Compiled Laws of 1948. When notice of the lien in favor of the state is presented for recording, the register of deeds, upon receiving the same fee as is provided by law for recording real estate mortgages, shall record the notice in full and enter it in an alphabetical state tax lien index, showing on 1 line the name and last known post office address of the taxpayer named in the notice, the date and hour of presenting for recording and the amount of tax with the interest and penalties.

(3) The department shall issue a certificate of discharge of the lien when it finds that the liability for the tax imposed by this act, together with interest and penalties thereon, has been fully satisfied or has become legally unenforceable or if the department deems the action otherwise advisable. The form of the certificate of discharge shall be substantially similar to the certificate of discharge of lien for taxes payable to the United States of America referred to in Act No. 107 of the Public Acts of 1956, as amended. The certificate of discharge issued by the department may be recorded in the office of the register of deeds where the original notice of lien is recorded. Upon receiving the same fee as is provided by law for recording real estate mortgage discharges, the register of deeds shall record the certificate of discharge in full and index separately in the manner provided by law for recording real estate mortgage discharges.

HISTORY: New 1967, p. 569, Act 281, Eff. Oct. 1.

206.441 Credits; refunds; statute of limitations; payment.

Sec. 441. (1) The department shall credit or refund all overpayments of taxes, all taxes erroneously or illegally assessed or collected, all penalties collected without authority, and all taxes that are found unjustly assessed or excessive in amount, or wrongfully collected.

(2) Any taxpayer who has paid a tax which he claims was not due under this act may, on or before the expiration date of 3 years from the date set for the filing of the annual or final return for such year or the date the tax was paid, whichever is later, and not after, petition the department in writing to refund the amount so paid. If the annual return reflects an overpayment or credits in excess of the tax, the declaration thereof on the return constitutes a claim for refund. If the department agrees that the taxpayer's claim is valid, the amount of overpayment, at the request of the taxpayer, shall be refunded to the taxpayer, or credited against any current or subsequent tax liability.

(3) A refund shall be certified to the state disbursing authority who shall pay the amount out of the proceeds of the tax in accordance with the accounting laws of the state.

(4) Other provisions of this act notwithstanding, refunds for amounts of less than $1.00 shall not be paid.

HISTORY: New 1967, p. 569, Act 281, Eff. Oct. 1;—Am. 1969, p. 758, Act 332, Imd. Eff. Nov. 4.

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206.451 Corporate dissolution or withdrawal, closing of estate, termination of business, liability of successor for taxes.

Sec. 451. (1) The corporation and securities commission shall withhold the issuance of any certificate of dissolution or withdrawal in the case of any corporation organized under the laws of this state or organized under the laws of another state and admitted to do business in this state until the receipt of a notice from the department to the effect that all taxes levied under this act against the corporation have been paid, or until it is notified by the department that the applicant is not indebted for any taxes levied hereunder.

(2) No estate of a person subject to tax under this act shall be closed without the payment of the tax levied by this act, both in respect to the liability of the estate and decedent prior to his death.

(3) If any person liable for a tax levied by this act, or any employer required to deduct or withhold a tax from salaries or wages, sells out his business or stock of goods or ceases his business activity, his successor or succeeding successors shall withhold sufficient of the purchase money to satisfy the amount of tax which may be due and unpaid until the former owner produces a receipt for payment of the tax from the department or a certificate stating that no tax is due. Any successor who fails to withhold purchase money is liable personally for any tax accruing by virtue of the business of the former owner.

HISTORY: New 1967, p. 569, Act 281, Eff. Oct. 1.

206.455 Records; adequacy, period, examination, penalties for failure to keep.

Sec. 455. Every person shall keep such records, books and accounts as may be necessary to determine the amount of tax for which it is liable under the provisions of this act and as the department may require for a period of 6 years. The records, books and accounts shall be open for examination at any time during regular business hours of the taxpayer by the department and its agents. Any person who violates any provision of this section is guilty of a misdemeanor and shall be fined not more than $1,000.00 or imprisoned not more than 1 year in the county jail, or both.

HISTORY: New 1967, p. 570, Act 281, Eff. Oct. 1.

206.461 Offenses; penalties.

Sec. 461. It shall be unlawful for any person to refuse to make the return required by this act, or to make, aid, abet or assist another in making, any false or fraudulent return or false statement in any return required by this act with intent to defraud the state or to evade the payment of the tax, or any part thereof, imposed by this act; or for any person to aid, abet or assist another in any attempt to evade the payment of the tax, or any part thereof, imposed by this act; or for any person to make or permit to be made for himself or for any company or association any false return or any false statement in any return required in this act, with the intent to evade or assist in evading the payment of any tax. Any person violating any of the provisions of this act is guilty of a misdemeanor and shall be fined not more than $1,000.00 or imprisoned not more than 1 year in the county jail, or both. In addition to the foregoing penalties, any person who knowingly swears to or verifies any false or fraudulent statement, with the intent to defraud or to aid, abet or assist in defrauding the state, is guilty of perjury and shall be punished in the manner provided by law.

HISTORY: New 1967, p. 570, Act 281, Eff. Oct. 1.

206.465 Information obtained in administration of act; confidentiality, penalty for disclosure.

Sec. 465. (1) Unless in accordance with a judicial order, or as required in the proper administration of this act, or as permitted by Act No. 122 of the Public Acts of 1941, as

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amended, no member of the department or agent or employee thereof, or former member, agent or employee, shall divulge any facts or information obtained in connection with the administration of this act.

(2) Any person who violates any provision of this section is guilty of a misdemeanor and shall be fined not more than $1,000.00 or imprisoned not more than 1 year in the county jail, or both.

HISTORY: New 1967, p. 570, Act 281, Eff. Oct. 1.

206.466 Confidentiality of returns; exceptions.

Sec. 466. Any other provision of this act notwithstanding, any officer, agent or employee of this state or of any department or agency of this state may divulge any information set forth or disclosed in any return or report filed under this act or by any investigation or audit authorized hereunder to any office or department of the state government when it is required for the more effective administration or enforcement of the laws of this state, to any proper officer of the United States treasury department, and to any proper officer of any other state imposing a tax of a substantially similar nature and reciprocating in this privilege. The commissioner may enter into reciprocal agreements with the United States treasury or taxing officials of other states for the enforcement, collection and exchange of data in connection with the administration of this act.

HISTORY: New 1967, p. 570, Act 281, Eff. Oct. 1.

206.471 Administration of tax; forms, rules.

Sec. 471. The tax imposed by this act shall be administered by the department. The department shall prescribe forms for use by taxpayers and shall promulgate rules in conformity with this act for the maintenance by taxpayers of records, books and accounts, and for the computation of the tax, the manner and time of changing or electing accounting methods and of exercising the various options contained in this act, the making of returns, and the ascertainment, assessment and collection of the tax imposed hereunder. The rules insofar as possible without being inconsistent with the provisions of this act, shall follow the rulings of the United States internal revenue service with respect to the federal income tax, and the department may adopt as a part of such rules any portions of the internal revenue code or rulings, in whole or in part.

HISTORY: New 1967, p. 571, Act 281, Eff. Oct. 1.

206.475 Disposition of tax proceeds; tax remittances, form.

Sec. 475. (1) The tax imposed by this act is in addition to all other taxes for which the taxpayer may be liable and the proceeds derived from the tax shall be credited to the general fund to be allocated and distributed as hereinafter provided.

(2) All remittances of taxes imposed by this act shall be made to the department by bank draft, check, cashier's check, money order, certificate of deposit or money. No remittance other than cash is a final discharge of liability for the tax herein levied unless and until it has been paid in cash.

HISTORY: New 1967, p. 571, Act 281, Eff. Oct. 1.

206.481 Disbursement of tax proceeds to local governments; net collections reduction; payment dates; adjustment of errors; balance in general fund.

Sec. 481. (1) Beginning in May, 1968, the state disbursing authority shall remit quarterly to county treasurers on a county population basis, an amount measured by 17% of the net collection of the tax levied in section 51, subject to the credit provisions of section 257 for personal and corporate city income tax liability and section 258 for property tax liability for both personal and corporate taxes and credits for renting or leasing. For the calendar year 1970 only, the net collections shall be reduced by an

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amount determined by the state disbursing authority to be the additional net collections of the tax levied under sections 51 and 61 during the calendar year 1970 as a result of the changes in sections 257 and 258 by this 1970 amendatory act but in no event shall the net collections during the calendar year 1970 be reduced by more than $92,000,000.00. The distribution shall be made in the months of May, August, November and February on the basis of the net collections as certified by the department for the quarter periods ending the prior March, June, September and December. An appropriation for each distribution is hereby made from like taxes collected during the quarter in which the distribution is required to be made.

(2) The county treasurer shall allocate ½ of the amount received to the credit of the county general fund.

(3) The remaining ½ shall within 20 days be distributed to the cities, villages, townships and charter townships in the county on a per capita basis.

(4) Population computation shall be based on the last and each succeeding statewide federal census, or any special census as provided by law, for purposes of division among counties, and upon the same basis or upon any special federal countywide census, or any special census as provided by law, whichever is later, for purposes of division among local units. Fifty percent of the total number of persons who are wards, patients or convicts committed to or domiciled in a city institution located outside the boundaries of the city or committed to or domiciled in a county, state or federal tax supported institution, if such persons were included in the federal census, or any special census as provided by law, shall be excluded from the computation. The distribution to townships shall be based on such population outside the corporate limits of incorporated villages in that township.

(5) Any overpayments, underpayments or errors may be adjusted on the subsequent payment date.

(6) The balance in the general fund shall be disbursed only on appropriation of the legislature.

HISTORY: New 1967, p. 571, Act 281, Eff. Oct. 1;—Am. 1968, p. 194, Act 132, Imd. Eff. Jun. 11;—Am. 1970, p. 348, Act 101, Imd. Eff. Jul. 20;—Am. 1970, p. 630, Act 233, Imd. Eff. Dec. 3.

CITED IN OTHER SECTIONS: The above section is cited in § 318.380.

206.482 Amounts distributed to local governments, lists for legislators.

Sec. 482. The state disbursing authority on the determination of the amounts to be distributed under the provisions of section 481, shall furnish a list to each member of the house of representatives and the senate showing the amount to be distributed to each county.

HISTORY: Add. 1969, p. 758, Act 332, Imd. Eff. Nov. 4.

206.491 Tax returns for first year by other than corporations or financial institutions.

Sec. 491. All taxpayers, other than corporations or financial institutions, subject to the provisions of this act, may elect to compute their tax for the first taxable year of less than 12 months in accordance with any of the following methods:

(a) If the taxpayer is on a calendar year basis, the tax may be computed as if this act had been effective on January 1, 1967, with the following adjustments:

(i) The amount determined shall be divided by 4; and

(ii) The credit allowed under sections 251 and 301 shall be deducted from the tax so computed.

(b) If the taxpayer is on a fiscal year basis, other than a calendar year basis, the tax may be computed as if this act had been effective on the first day of the fiscal year with the following adjustments:

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(i) The tax determined shall be multiplied by a fraction, the numerator of which is the number of months after September 30, 1967, and the denominator of which is 12; and

(ii) The credit allowed under sections 251 and 301 shall be deducted from the tax so computed.

(c) Regardless of the annual accounting period of the taxpayer, the tax may be computed by:

(i) Determining the taxable income of the taxpayer in the first taxable year beginning October 1, 1967, in accordance with an accounting method satisfactory to the commissioner, which reflects the actual taxable income for the period;

(ii) Applying the rate specified in this act to the amount so determined; and

(iii) Deducting the credit allowed under sections 251 and 301 from the amount so computed.

HISTORY: New 1967, p. 572, Act 281, Eff. Oct. 1.

206.492 Tax returns for first year by corporations and financial institutions.

Sec. 492. All corporations and financial institutions subject to provisions of this act, may elect to compute their tax for the first taxable year of less than 12 months in accordance with any of the following methods:

(a) The tax may be computed as if this act had been effective on the first day of the taxpayer's annual accounting period and the amount so computed shall be multiplied by a fraction, the numerator of which is the number of months in the taxpayer's first taxable year, and the denominator of which is 12; or

(b) The tax may be computed by determining the taxable income in the first taxable year in accordance with an accounting method, satisfactory to the commissioner which reflects the actual taxable income attributable to the period.

HISTORY: New 1967, p. 572, Act 281, Eff. Oct. 1.

206.495 Tax returns for first year, exclusion of business activities tax and income.

Sec. 495. In the event that a person subject to the provisions of section 51 for any of the period from October 1, 1967, to December 31, 1967, is for the same period subject to the provisions of Act No. 150 of the Public Acts of 1953, as amended, being sections 205.551 to 205.574 of the Compiled Laws of 1948, there shall be excluded from the income subject to tax under this act so much of the same income that for the same period is subject to tax by Act No. 150 of the Public Acts of 1953, as amended.

HISTORY: New 1967, p. 572, Act 281, Eff. Oct. 1.

206.496 Appropriation for administration and enforcement.

Sec. 496. There is appropriated to the department from the revenue derived from this act for the fiscal year ending June 30, 1968, the sum of $3,000,000.00 for the administration and enforcement of this act.

HISTORY: New 1967, p. 572, Act 281, Eff. Oct. 1.

206.497 Business activities act repeal; final returns.

Sec. 497. (1) Act No. 150 of the Public Acts of 1953, as amended, being sections 205.551 to 205.574 of the Compiled Laws of 1948, is repealed, effective January 1, 1968.

(2) A final return shall be filed and a tax shall be paid as determined under the provisions of Act No. 150 of the Public Acts of 1953, as amended, on or before April 30, 1968, as required in this section, by any person subject to the provisions of such act.

(3) A calendar year taxpayer shall file a final return and pay the tax imposed by such act for the calendar year 1967.

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(4) A fiscal year taxpayer shall file a final return and pay the tax imposed by such act for the period subsequent to the close of his last preceding fiscal year ending December 31, 1967.

(5) The provisions of Act No. 150 of the Public Acts of 1953, as amended, shall continue in effect for the collection and enforcement of the payment of any tax, penalty or interest due and payable under the act for any period in which it was in effect prior to its repeal and for the collection and enforcement of the payment of any tax, penalty and interest in connection with the final return required by this section.

HISTORY: New 1967, p. 572, Act 281, Eff. Oct. 1.

206.498 Declaration of necessity.

Sec. 498. This act is expressly declared to be necessary to meet established deficiencies, present and future, in state funds.

HISTORY: New 1967, p. 573, Act 281, Eff. Oct. 1.

206.499 Effective date of act; conditions.

Sec. 499. (1) This act shall take effect on October 1, 1967, except sections 61 and 71 which shall take effect on January 1, 1968.

(2) This act shall not take effect unless Senate Bills Nos. 86 and 712 are enacted into law and become effective nor shall this act take effect unless the estimated revenues to be collected therefrom are required to meet deficiencies in state funds resulting from appropriations for the expenses of state government and all state institutions contained in total appropriations enacted into law during the current session of the legislature for the fiscal year ending June 30, 1968.

HISTORY: New 1967, p. 573, Act 281, Eff. Oct. 1.

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CHAPTER 207. TAXATION—OTHER SPECIFIC TAXES

STATE BOARD OF ASSESSORS AND ASSESSMENT OF PROPERTY OF CERTAIN PUBLIC UTILITIES

Act 282 of 1905

207.1 State board of assessors; secretary, duties; assistants.
207.2 State board of assessors; compensation for clerical assistance, expenses.
207.3 Access to public records; subpoena, fees; examination of witnesses and accounts; refusal, penalty.
207.4 Annual assessment of property of certain rail transportation, telephone and telegraph companies; reports.
207.5 Definitions; real estate, taxation.
207.6 Company's annual statement; contents, time.
207.7 Sleeping car company defined; annual statement, contents, time.
207.8 Blanks furnished; other reports; board, self-information; penalty, exception.
207.9 Assessment roll; contents, time; inspection of physical properties of public utilities, evaluation; ocean routes, mileage adjustment.
207.10 Assessment roll; description, form; cash valuations, place on roll.
207.11 State board of assessors; annual meeting, time, place, proceedings; assessment correction; certificate, contents.
207.12 County clerk, assessing officer, duties; failure to report, penalty; inspection by state board.
207.13 State board of assessors; average rate of taxation, public utilities; determination, method.
207.14 Tax assessment; tax roll; warrant; time payable, interest; collection; lien.
207.15 Payment of tax under protest; suit against state; unlawful taxes; disposition of recovered taxes.
207.16 Irregularities not authorizing court intervention.
207.17 Taxes on public utilities, payment into general fund.
207.18 Collection of specific taxes prior to 1909.
207.19 Wilful misfeasance; penalty.
207.20 Bribery; forfeiture, criminal prosecution.
207.21 Repeal; saving clause.

WATER CRAFT TONNAGE TAX

Act 70 of 1911

207.51 Specific tonnage tax on passenger and freight vessels; general tax exemption.
207.51a Specific tax on small watercraft; rates; exceptions; license; exemption from general property tax.
207.52 Annual statement of owners, contents, filing, payment of tax; receipt and license plate, attaching; fee.
207.52a Operation without license, or attaching license; penalty.
207.53 Revenues; state waterways fund.
207.54 Watercraft licenses; issuance, compensation; rules and regulations.

MOTOR FUEL TAX

Act 150 of 1927

CHAPTER 1.

GASOLINE TAX

207.101 Gasoline tax law; definitions.
207.102 Gasoline tax.
207.103 Wholesale gasoline distributor's license; application, fee, bond, revocation, hearing.
207.103a Reimbursement of bond premium expense; termination.
207.104 Wholesale gasoline distributor's license; issuance.
207.104a Wholesale gasoline distributor's license; identification letters and figures on vehicles.
207.105 Wholesale gasoline distributor's license; revocation of license, continuance in force.
207.106 Wholesale gasoline distributor's license; reapplication for license after revocation; payment of delinquent taxes; surety bond.
207.107 Retail dealer's certificate, filing; unlawful acts.
207.108 Wholesale distributor of gasoline; monthly statement, contents; tax computation; delivery hours.
207.108a Wholesale distributor of gasoline; tax money state property, held in separate account.
207.109 Nonpayment or delayed payment of tax; penalty, interest.
207.110 Common carrier's report of deliveries; time, contents.
207.110a Identification of vehicles transporting petroleum products other than licensed wholesale distributors.
207.111 Secretary of state; authority to inspect books and records; disclosure of information prohibited.
207.112 Gasoline tax refund; procedure; transfer of sales tax.
207.112a Gasoline tax; refund to nonprofit private, parochial or denominational school buses.
207.112b Gasoline tax; claims, false statements, forfeiture, penalty.
207.113 Gasoline tax; in lieu of other taxes.
207.114 Tax lien.
207.115 Failure to file report; estimate by secretary of state.
207.116 Tax unpaid by wholesale distributor; levy warrant, sale; state bid; action on bond; suit.
207.117 Assistants; rules and regulations.
207.118 Penalty.
207.118a Tax moneys deemed property of state; conditions; penalty.
207.118b Tax moneys; moneys received, allocation and apportionment.
207.119-207.119b Repealed.
207.119d State administrative board, order for information.
207.119e, 207.119f Repealed.
207.120 Foreign or interstate commerce.

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CHAPTER 2.

DIESEL MOTOR FUEL TAX

207.121 Definitions.
207.122 Diesel motor fuel tax; collection, refund, publicly-owned, leased or operated vehicles, exemption.
207.123 Diesel motor fuel user or dealer; license, application, contents, bond, fee, refusal.
207.123a Reimbursement of bond premium expense; termination.
207.124 License; issuance, license number, display.
207.125 License; revocation, notice; continuation.
207.126 License; payment of delinquent taxes, penalties and costs.
207.127 Motor fuel tax; determination; report, filing, contents.
Failure to file report or pay tax; penalty, interest.
207.128 Examination of books and records; maintenance, period; may issue subpoenas and take testimony; information privileged, exception.
207.129 Diesel motor fuel tax; in lieu of other taxes; exception.
207.130 Tax to be lien, priority; secretary of state may estimate amount of tax payable.
207.131 Demand for payment; warrant, execution; indemnity bond not required; property acquired by state; right to collect tax by action upon board; actions in chancery.
207.132 Clerical assistants; rules and regulations.
207.133 Misdemeanor, penalty; revocation of license.
207.134 Moneys; deposit.

CHAPTER 3.

LIQUEFIED PETROLEUM GAS TAX

207.151 Liquefied petroleum gas tax; provisions applicable, definitions.
207.152 Liquefied petroleum gas tax; tax.
207.153 Liquefied petroleum gas dealer; license; application, fee; bond; approval.
207.153a Reimbursement of bond premium expense; termination.
207.154 License; revocation, notice.
207.155 License; restoration upon payment of delinquent taxes, penalties and costs.
207.156 Certificate filed by dealer; contents.
207.157 Dealer's sworn statement of use; filing, contents; failure to file, penalty, waiving.
Failure to file correct report and pay tax; penalty, interest.
207.158 Books, records and papers; examination; kept for 2 years; subpoena; information, disclosure.
207.159 Refunds; claim, invoice.
207.160 Tax; lien, precedence, estimate, collection.
207.161 Demand for payment; warrant; levy; purchase property to be sold, disposal; chancery.
207.162 Assistants, examiners, accountants; rules and regulations.
207.163 Penalty for violation.
207.164 Money, deposit, allocation.

CHAPTER 4.

RESIDENT OR NONRESIDENT MOTOR VEHICLES AND RECIPROCITY

207.181 Reciprocal motor fuel tax chapter; application of chapter.
207.182 Reciprocal motor fuel tax; definitions.
207.183 Motor fuel tax; payment, report.
207.184 Motor fuel tax; refund, report.
207.185 Refund; payment.
207.186 Deposit of collections; appropriation, apportionment.

CHAPTER 5.

MACKINAC BRIDGE AUTHORITY BONDS

207.191 Mackinac bridge authority bonds; appropriation; time.
207.192 Mackinac bridge tolls; reduction.
207.193 Appropriation; use; continuation of tolls; reimbursement; operation as a free bridge.
207.194 Legislative intent; interstate route.

DIESEL MOTOR FUEL, TAX
Act 319 of 1947

207.201-207.214 Repealed.

HIGHWAY CONSTRUCTION FINANCE ACT OF 1955
Act 87 of 1955

207.251-207.254 Repealed.
207.255-207.260 Repealed.
207.261, 207.262 Repealed.
207.263-207.265 Repealed.

IRON ORE TAX
Act 68 of 1963

207.271 Specific taxation of underground beneficiated iron ore; definitions.
207.272 Specific taxation of underground beneficiated iron ore; computation formula; following completion of first agglomerating facility.
207.273 Specific taxation of underground beneficiated iron ore; computation of tax prior to completion of agglomerating or beneficiating facility.
207.274 Minimum tax.
207.275 State geologist; determination of tax, apportionment among taxing districts.
207.276 Curtailment and resumption of agglomeration or beneficiation.
207.277 Separate roll; spread of tax; nonpayment; distribution of collections.
207.278 Appeal.
207.279 Specific taxes in lieu of ad valorem taxes.

GRAIN, TAXATION
Act 33 of 1945

207.301 Specific tax on grain; definition of grain.
207.302 Specific tax upon ownership or possession.
207.303 Specific tax upon ownership or possession; determination; taxable status.
207.304 Owner's statement to assessor; penalty for refusal to file.
207.305 Investigation by assessing officer; entry of determination.
207.306 Collection and return of tax; distribution; lien on grain.
207.307 Grain exempt from personal property tax.

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SPECIFIC STATE TAXES AND DUTIES

TAX UPON RAILROAD, CANAL AND TURNPIKE CORPORATIONS

Ch. 21, R.S. 1846

207.407-207.409 Repealed.

TAXES ON PLANK ROAD, MINING, ETC., CORPORATIONS

Act 64 of 1848

207.421 Lien for specific state tax.
207.422 Tax enforcement.

COLLECTION OF SPECIFIC TAXES

Act 226 of 1889

207.441 Unpaid specific tax, interest; penalty after demand; collection suit, proceedings; decree; sale; accounting.
207.442 Sale proceeds insufficient; payment refusal, charter rights forfeited.
207.443 Failure to report; tax estimate, auditor general; notice.
207.444 Failure to report after notice; tax collection; failure forfeitures.
207.445 Appeal, contents; bond; trial proceedings; collection of execution.
207.446 Lien, time.
207.447 Property subject to tax distraint and sale.

REAL ESTATE TRANSFER TAX

Act 134 of 1966

207.501 Real estate transfer tax; definitions.
207.502 Instruments executed within state subject to tax.
207.503 Instruments executed outside state subject to tax.
207.504 Tax rate; value of real property, affidavit; sale or transfer of mixed property.
207.505 Exemptions.
207.506 Bankruptcy or insolvency proceedings; transfer to receivers.
207.507 Documentary stamps; purchase, methods of affixation, cancellation.
207.508 Preparation of stamps; duty of treasurer, use of tax meter machine.
207.509 Revenue, disposition; credit to general fund.
207.510 Tax to be paid only once; exemptions; new consideration.
207.511 Recording, requirements; detachment of affidavit; use.
207.512 Unlawful acts; penalty for violations. Violation of act, penalty.
207.513 Effective date.

Act 282, 1905, p. 439; Eff. Sep. 16.

AN ACT to provide for the assessment of the property, by whomsoever owned, operated or conducted, of railroad companies, union station and depot companies, telegraph companies, telephone companies, sleeping car companies, express companies, car loaning companies, stock car companies, refrigerator car companies, and fast freight companies, and all other companies owning, leasing, running or operating any freight, stock, refrigerator, or any other cars, not being exclusively the property of any railroad company paying taxes upon its rolling stock under the provisions of this act, over or upon the line or lines of any railroad or railroads in this state, and for the levy of taxes thereon by a state board of assessors, and for the collection of such taxes, and to repeal all acts or parts of acts contravening any of the provisions of this act. Am. 1909, p. 77, Act 49, Eff. Sep. 1.

The People of the State of Michigan enact:

207.1 State board of assessors; secretary, duties; assistants.

Sec. 1. The board of state tax commissioners, created under the laws of this state, together with the governor, shall ex officio, constitute a state board of assessors, 1 of whom shall be elected chairman of said board. The secretary of the board of state tax commissioners shall be ex officio secretary of the state board of assessors without extra compensation, and shall keep a record of all its proceedings in addition to such other duties as may be required of him by said board, and shall devote his whole time to the duties of his office. In addition to the secretary, said board may employ such other clerical assistance as may be necessary and required to perform the duties imposed upon it by this act.

HISTORY: Am. 1909, p. 77, Act 49, Eff. Sept. 1;—CL 1915, 4213;—CL 1929, 3552;—CL 1948, 207.1.

See Art. III of Act 198 of 1873, being Compilers' §§ 465.1 to 465.5 and notes.

FORMER ACTS SUPERSEDED BY THIS ACT: Act 168 of 1881, (How. 1237-1243 incl.;—CL 1897, 4000-4006 incl.), which repealed Act 77 of 1879;—Act 152 of 1883, (How. 1236a,-1; CL 1897, 4007-17), as amended by Act 263 of 1887, which Act of 1883 repealed Act 178 of 1873; —Act 19 of 1899;—Act 179 of 1899;—Act 173 of 1901, as amended by Act 45 of 1903. However, Acts 152 of 1883, 19 of 1899, 179 of 1899, and

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173 of 1901 were expressly repealed 1915, p. 407,-8, Act 240, being CL 1929, 120. Sec. 8 of Act 179 of 1899, above referred to, repeals Act 48 of 1899, but this is evidently an error for Act 48 of 1899 is in no way kindred in subject matter to repealing act, it being a law entitled, "An act to prohibit the taking or catching of fish in that portion of Pine River, etc." See Compilers' §§ 465.1 to 465.5, which undoubtedly are superseded by this act.

CITED IN OTHER SECTIONS: Sections 207.1 to 207.21 are cited in §§ 16.185, 205.13, 205.133, 206.258, and 450.304.

207.2 State board of assessors; compensation for clerical assistance, expenses.

Sec. 2. Provided, That the compensation paid for such clerical assistance shall be as appropriated by the legislature. All other necessary expenses incurred in carrying out the provisions of this act, shall be allowed by the board of state auditors upon proper vouchers approved by the chairman and secretary of the board of the state tax commissioners, and paid by the state treasurer out of the general fund.

HISTORY: CL 1915, 4214;—CL 1929, 3553;—Am. 1933, p. 27, Act 29, Imd. Eff. March 14;—CL 1948, 207.2.

207.3 Access to public records; subpoena, fees; examination of witnesses and accounts; refusal, penalty.

Sec. 3. Said board shall have access to all books, papers, documents, statements and accounts, on file or of record in any of the departments of state, subject to the rules and regulations of the respective departments relative to the care of public records. It shall have like access to all books, papers, documents, statements and accounts, on file or of record in counties, townships and municipalities. It shall have the right to subpoena witnesses, upon a subpoena signed by the chairman of said board and attested by the secretary thereof, delivered to such witnesses, which subpoenas may be served by any person authorized to serve subpoenas from courts of record in this state, and the attendance of witnesses may be compelled by attachment, to be issued by any circuit court in this state, upon proper showing that such witness has been properly subpoenaed, and has refused to obey such subpoena. The person appearing in response to such subpoena shall receive like compensation as is allowed by the statutes of this state to witnesses in the circuit court, to be allowed by the board of state auditors upon the presentation of a copy of such subpoena, with the number of days' service and mileage endorsed thereon and approved by a member of said board of assessors, or the secretary thereof. The person serving such subpoena shall receive the same compensation now allowed to sheriffs or other officers for serving subpoenas. Said board shall have power to examine witnesses under oath, said oath to be administered by any member of the board, or by the secretary thereof. It shall have the right to inspect and examine the books, papers or accounts of any corporation, firm or individual owning property to be assessed by said board, and if such corporation, firm or individual refuse to permit said inspection and examination, or neglect or fail to appear before said board in response to its subpoena, said corporation, firm or individual shall, for each such refusal, neglect or failure, forfeit the sum of 500 dollars to the state, the sum so forfeited to be recovered in a proper action brought in the name of the people of the state of Michigan, in any court of competent jurisdiction.

HISTORY: CL 1915, 4215;—CL 1929, 3554;—CL 1948, 207.3.

207.4 Annual assessment of property of certain rail transportation, telephone and telegraph companies; reports.

Sec. 4. It shall be the duty of said board to make an annual assessment upon an assessment roll, to be prepared by said board, of the property, by whomsoever owned, operated or conducted, and having a situs in this state as hereinafter defined, of railroad companies, union station and depot companies, telegraph companies, telephone companies, sleeping car companies, express companies, car loaning companies, stock car companies, refrigerator car companies and fast freight line companies, and all other companies owning, leasing, running or operating any freight, stock, refrigerator, or any other cars not being exclusively the property of any railroad company paying taxes upon its rolling stock under the provisions of this act, over or upon the line or

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lines of any railroad or railroads in this state: Provided, That the property of telegraph and telephone companies whose gross receipts within this state for the year ending December thirty-first do not exceed $1,000.00 shall be exempt from taxation. All telegraph and telephone companies doing business in this state shall make the report required by section 6 of this act to the state board of assessors.

HISTORY: Am. 1909, p. 78, Act 49, Eff. Sep. 1;—CL 1915, 4216;—Am. 1917, p. 837, Act 339, Eff. Aug. 10;—CL 1929, 3555;—CL 1948, 207.4;—Am. 1956, p. 403, Act 203, Eff. Aug. 11.

207.5 Definitions; real estate, taxation.

Sec. 5. The term property, as used in this act, shall be deemed to include all property, real or personal, belonging to the persons, corporations, companies, copartnerships and associations subject to taxation under this act, including the right of way, road bed, stations, cars, rolling stock, tracks, wagons, horses, office furniture, telegraph and telephone poles, wires, conduits, switchboards, and all other property used in carrying on their business and owned by them respectively, and all other real and personal property, and all franchises, said franchises not to be directly assessed, but to be taken into consideration in determining the value of the other property: Provided, however, That this definition shall not include, apply to, or subject to taxation, such real estate as is owned and can be conveyed by such persons, corporations, companies, copartnerships and associations under the laws of this state which is not actually occupied in the exercise of their franchises, or in use in the proper operation and conduct of their business; but such real estate so excepted shall be liable to taxation in the same manner and for the same purposes and to the same extent and subject to the same conditions and limitations as to the collection and return of taxes thereon as is other real estate in the several townships or municipalities in which the same may be situated. The term company, corporation, copartnership, association, or person, wherever used in this act, shall apply to and be construed as referring respectively to any railroad company, union station and depot company, telegraph company, telephone company, sleeping car company, express company, car loaning company, stock car company, refrigerator or fast freight line company, and any other companies owning, leasing, running or operating any freight, stock, refrigerator, or any other cars, not being exclusively the property of any railroad company paying taxes upon its rolling stock under the provisions of this act, over or upon the line or lines of any railroad or railroads in this state; and to any firm, joint stock association, copartnership, corporation, or other association or person, engaged in carrying on any business, the property of which is subject to taxation under this act. The term "property having a situs in this state," shall include all the property, real and personal, of the persons, corporations, companies, copartnerships and associations enumerated in this act, owned, used and occupied by them within the limits of this state, and also such proportion of their rolling stock, cars and other property as is used partly within and partly without this state, as herein provided to be determined.

HISTORY: Am. 1909, p. 78, Act 49, Eff. Sept. 1;—CL 1915, 4217;—CL 1929, 3556;—CL 1948, 207.5.

207.6 Company's annual statement; contents, time.

Sec. 6. The several corporations, persons, copartnerships, companies and associations whose property is subject to assessment and taxation under the provisions of this act, and whose annual gross receipts exceed $1,000,000.00 shall annually between the first day of January and the thirty-first day of March in each year, and the several corporations, persons, copartnerships, companies and associations whose property is subject to assessment and taxation under the provisions of this act, and whose annual gross receipts do not exceed $1,000,000.00, shall annually between the first day of January and the fifteenth day of March in each year, under oath of the president, secretary, superintendent, or chief officer of such corporation, company or association, or of the person or persons owning such property, make and file with the state board of as-

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sessors an annual report, in such form as said board may provide, upon blanks to be furnished by said board setting forth specifically upon blanks so furnished by the board the information prescribed by said board to enable them to make the assessment required in this act.

HISTORY: Am. 1909, p. 79, Act 49, Eff. Sep. 1;—CL 1915, 4218;—Am. 1917, p. 837, Act 339, Eff. Aug. 10;—CL 1929, 3557;—CL 1948, 207.6;—Am. 1956, p. 403, Act 203, Eff. Aug. 11.

207.7 Sleeping car company defined; annual statement, contents, time.

Sec. 7. Every joint stock association, company, copartnership or association incorporated or acting under the laws of this or any other state, or of any foreign nation, and conveying to, from, through, in or across this state, or any part thereof, passengers or travelers, in palace cars, drawing room cars, sleeping cars or tourist cars, under any contract, express or implied with any railroad company, or the managers, lessees, agents or receivers thereof, shall be deemed and held to be a sleeping car company for the purposes of this act; and every such sleeping car company doing business in this state, shall annually between the first day of January and the thirty-first day of March, make out and deliver to the state board of assessors, a statement, verified by the oath of the officer or agent of such company making such statement, with reference to the thirty-first day of December next preceding, setting forth the information prescribed by the board to enable them to make the assessment required in this act.

HISTORY: CL 1915, 4219;—Am. 1917, p. 840, Act 339, Eff. Aug. 10;—CL 1929, 3558;—CL 1948, 207.7;—Am. 1956, p. 403, Act 203, Eff. Aug. 11.

207.8 Blanks furnished; other reports; board, self-information; penalty, exception.

Sec. 8. Blanks for making the statements provided for in section 6 and 7 shall be furnished to such companies on making application to said board: Provided, That the reports hereby provided for shall not in any way relieve any of said companies from making the reports now required to be made to other state officers. In case any company fails or refuses to make the statement required by this act, or refuses to furnish any information requested, the board shall inform itself as best it may on the matters necessary to be known, in order to discharge its duties with respect to the assessment of the property of such companies. Any company which shall refuse or neglect to make the report required by this act or any part thereof, within the time specified, shall be subject to a penalty of 500 dollars for each day of the continuance of such neglect or refusal to file said report, to be recovered in a proper action brought in the name of the people of the state of Michigan in any court of competent jurisdiction: Provided, That when any company shall show to the satisfaction of said board that it cannot furnish any of the information requested, said board may excuse said company from furnishing such information.

HISTORY: Am. 1909, p. 82, Act 49, Eff. Sept. 1;—CL 1915, 4220;—CL 1929, 3559;—CL 1948, 207.8.

207.9 Assessment roll; contents, time; inspection of physical properties of public utilities, evaluation; ocean routes, mileage adjustment.

Sec. 9. Subsequent to the filing of the reports required in the preceding sections, and prior to the fifteenth day of May in each year, it shall be the duty of the state board of assessors to prepare an assessment roll as provided in section 4 of this act, upon which they shall assess, at the true cash value, on the thirty-first day of December next preceding the time of making said assessment, all the property of the companies herein enumerated, subject to taxation under this act, which said assessments shall not be final until reviewed as hereinafter provided. For the purpose of arriving at the amount and character and true cash value of the property belonging to said companies as appearing upon the assessment roll for the purpose of assessment and taxation, the said board may personally inspect the property belonging to said companies, and may take into consideration the reports filed under this act, the reports and returns of said

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companies filed in the office of any officer of this state, or in the office of any other governmental agency, and such other evidence or information as may be obtainable or possessed by said board, bearing thereon. In determining the true cash value of the property of each railroad and union station and depot company which owns, leases, operates or uses lines partly within or partly without this state, the said board shall be guided, in ascertaining the property subject to taxation in Michigan, by the proportion which the number of miles of all track controlled or used by said company as owner, lessee or otherwise, within the state of Michigan, bears to the entire mileage of all track controlled or used by said company as owner, lessee or otherwise, both within and without this state, and by any other uniform factors which reflect a fair allocation of value to this state. In determining the true cash value of the property of each telegraph company and telephone company, which owns, leases, operates or uses lines partly within and partly without this state, the said board shall be guided, in ascertaining the property subject to taxation in Michigan, by the proportion which the number of miles of telegraph or telephone lines controlled or used by said company as owner, lessee or otherwise, within the state of Michigan, bears to the entire mileage of telegraph or telephone lines controlled or used by said company as owner, lessee, or otherwise, both within and without this state, and by any other uniform factors which reflect a fair allocation of value to this state. In determining the true cash value of the property of express companies, they shall ascertain and determine the actual value in money of the entire amount of the capital stock and bonded indebtedness of such express company. From the amount so obtained and determined, said board shall deduct the actual value of all real estate owned by it as ascertained by said board, and the actual value of all its personal property as ascertained by said board, which is not used in the express business of such express company. And the remainder thus obtained shall be used in determining the assessment of such express company in the following manner: The said board shall then divide the amount as obtained above by the total number of miles, as determined by said board, of railroad, stage, water and other routes over which the company did business to obtain the value per mile, and shall then multiply the value per mile thus obtained by the total number of miles of such routes within this state, as determined by said board to which result shall be added the value of all real estate owned by such express companies in this state, as determined by said board, and the sum so obtained shall be taken and considered as the actual value of the property of such express company, subject to assessment and taxation in this state: Provided, That if in any case it shall become apparent to the said board that the ocean routes of any company are so different in character from its other routes that the mileage basis of apportionment of the value of the entire property to be apportioned in Michigan would be unfair if the full mileage of such ocean routes were included, then it may make such allowance for such ocean routes of any company as in its judgment will bring such routes upon a parity with its other routes, being guided therein by the relative mileage values and earning capacities of such ocean and other routes. For this purpose the board of assessors shall require special reports of the character, mileage, earnings and value of such ocean routes and may exclude from its aggregate mileage any ocean routes respecting which the company shall fail to furnish reports, and no further penalty shall be imposed for the failure to report the mileage of ocean routes: Provided further, That if any such company shall claim, in writing, that the mileage basis of apportionment of the value of the entire property to be attributed to Michigan is unfair, then such board shall make such apportionment as shall in its judgment be fair, being guided by the mileage within and without the state, making proper allowance for ocean mileage as above provided for. In ascertaining the true cash value of the property in Michigan, of car loaning, stock car, refrigerator, fast freight lines and other car companies, and other companies owning, leasing, running or operating cars

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subject to taxation under this act, the said state board of assessors shall be guided by the relation which the aggregate car mileage made or run by the entire number of cars owned or operated by each of such companies bears to the car mileage made or run by the entire number of cars owned or operated by any such company within this state.

HISTORY: Am. 1909, p. 82, Act 49, Eff. Sep. 1;—CL 1915, 4221;—Am. 1917, p. 841, Act 339, Eff. Aug. 10;—CL 1929, 3560;—CL 1948, 207.9;—Am. 1956, p. 404, Act 203, Eff. Aug. 11.

207.10 Assessment roll; description, form; cash valuations, place on roll.

Sec. 10. Upon said assessment roll, after the name of each of the companies assessed thereon, shall be placed a general description of the property of said companies, which shall be deemed to include all of the properties of said companies liable to taxation under this act. In the case of railroad, union station and depot companies, such general description may be as follows: "Real estate, rolling stock, right of way and appurtenances, and all other property used in carrying on the corporate business and subject to taxation by a state board of assessors." In the case of telegraph and telephone companies, the following general description may be used: "Real estate, exchanges, switchboards, conduits, telegraph and telephone poles, and lines, and other appurtenances, and all other property used in carrying on the business of said company, and subject to taxation by a state board of assessors." In the case of car loaning, stock car, refrigerator and fast freight line, and other car companies and other companies, owning, leasing, running or operating any cars subject to taxation under this act, the following general description may be used: "Cars subject to taxation by a state board of assessors." In the case of express companies and sleeping car companies, the following general description may be used: "Property subject to taxation by a state board of assessors." In an appropriate column opposite the names of said corporations shall be extended the cash valuations of the properties of the said companies so assessed.

HISTORY: Am. 1909, p. 84, Act 49, Eff. Sept. 1;—CL 1915, 4222;—CL 1929, 3561;—CL 1948, 207.10.

207.11 State board of assessors; annual meeting, time, place, proceedings; assessment correction; certificate, contents.

Sec. 11. On the third Monday in May in each year it shall be the duty of the state board of assessors to meet at its office in the city of Lansing, and to continue in session from day to day for so long a period as may be necessary, not later than the fifteenth day of June next thereafter, for the purpose of reviewing said assessment roll, and any companies or persons interested shall have the right to appear during said period and be heard as to the valuation of the property of any company, and said board of assessors may, on such application or on its own motion, correct the assessment or valuation of the property of such company in such manner as will, in its judgment, make the valuation thereof just and equal; and for the purpose of arriving at the true cash value of the properties assessed on said assessment roll, may subpoena witnesses as provided in section 3 of this act, and have such hearing as may be deemed necessary. In case it shall appear or be made to appear to the members of said board, acting in review for assessment purposes, that the property of any corporation subject to taxation under the provisions of this act shall have been omitted from said assessment roll, it shall place the same thereon and make the assessment thereof as required in sections 9 and 10 of this act: Provided, That any such assessment shall take place in time to allow 5 full days for the review of the same before the expiration of the time herein provided for the completion of the review. After said state board of assessors shall have completed the review of said rolls as herein provided, they shall place opposite each description of property in said roll, in a column provided for that purpose, the true cash value of the same as ascertained and determined by them and such valuation so fixed by them shall be the final valuation upon which the tax upon said property shall be levied and spread as herein provided. After said board shall have completed the review of said roll, a majority thereof shall certify under their hands officially and spread

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on said roll, a certificate to the effect that the same has been acted upon and reviewed in accordance with law, which certificate shall state all the alterations, changes, corrections and additions made in or to the assessment or valuation of the property appearing on said roll, and all the alterations, changes and corrections made in the determination of the true cash value of the property of the state other than that included in this act upon which ad valorem taxes are assessed for state, county, township, school and municipal purposes for the current year, and also all the alterations, changes and corrections made in the computation of the average rate as hereinafter provided.

HISTORY: CL 1915, 4223;—Am. 1917, p. 843, Act 339, Eff. Aug. 10;—CL 1929, 3562;—CL 1948, 207.11;—Am. 1956, p. 405, Act 203, Eff. Aug. 11.

207.12 County clerk, assessing officer, duties; failure to report, penalty; inspection by state board.

Sec. 12. It shall be the duty of the county clerk in each county in this state, as soon as possible after the equalization of the board of supervisors of his county of the assessment rolls of the several municipalities therein, and not later than the first day of December in each year to make a report, duly certified, to the state board of assessors, upon a form to be provided by said board, of the amount of ad valorem taxes to be raised in the several municipalities of such county, for state, county, municipal, township, school and other purposes, also a statement of the aggregate valuation of the property in each of said several municipalities, as taken from the assessment rolls of said municipalities for the year in which such equalization is made, and the equalized valuation of each such municipality. It shall be the duty of the supervisor or other assessing officer of each township, city and village in this state to make, within the time above limited, a report to the state board of assessors, upon a form to be provided by said board, of all ad valorem taxes raised in his assessing district for the current year, and of the assessed valuation of real estate and personal property upon which such taxes are levied. In case any county clerk or any supervisor or assessing officer shall neglect or fail to make the report by this section required within the time limited, the said state board of assessors shall inspect and examine or cause an inspection and examination of the records of said board of supervisors or of the proper township, city or village officers, for the purpose of procuring the information required for the purpose of arriving at the average rate of taxation in this state. Any county clerk, supervisor or assessing officer, who shall fail to make the report required by this section shall be subject to a penalty of 100 dollars, to be recovered in a proper action in the name of the people of the state of Michigan in any court of competent jurisdiction.

HISTORY: CL 1915, 4224;—Am. 1917, p. 844, Act 339, Eff. Aug. 10;—CL 1929, 3563;—CL 1948, 207.12.

207.13 State board of assessors; average rate of taxation, public utilities; determination, method.

Sec. 13. It shall be the duty of the said state board of assessors, from the information contained in the reports provided for in section 12 of this act, to ascertain and determine the average rate of taxation for the year in which said reports are required to be made, levied upon other property upon which ad valorem taxes are assessed for state, county, township, school and municipal purposes, and enter the same upon its records forthwith, together with the method by which such average rate was ascertained and determined. In ascertaining and determining the average rate of taxation for the year of 1953 and each year thereafter, the board shall divide the state equalized value as set by the state board of equalization for the previous year into the total ad valorem taxes as reported by the several county clerks as provided for under section 12 of this act.

HISTORY: Am. 1909, p. 84, Act 49, Eff. Sep. 1;—CL 1915, 4225;—Am. 1917, p. 844, Act 339, Eff. Aug. 10;—CL 1929, 3564;—CL 1948, 207.13;—Am. 1953, p. 27, Act 30, Imd. Eff. Apr. 15.

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207.14 Tax assessment; tax roll; warrant; time payable, interest; collection; lien.

Sec. 14. Said board shall tax the property of the several companies as assessed by it at the rate as determined by it, and the amount of tax to be paid by each of said companies shall be extended upon said assessment roll, opposite the description of their respective properties. After the completion of said tax roll, and prior to the twentieth day of June, in each year, the said board shall attach thereto a certificate, signed by the members of the board, or a majority thereof, which shall be as follows: "We do hereby certify that we have set down in the above assessment roll, all the property of railroad companies, express companies, union station and depot companies, telegraph and telephone companies, car loaning, stock car, refrigerator and fast freight line and other car companies, and other companies owning, leasing, running or operating cars, and sleeping car companies, liable to be taxed in this state, according to our best information, and that we have estimated the same at what we believe to be the true cash value thereof, and that we have assessed the taxes thereon at the average rate of taxes for state, county, township, school, municipal and other purposes levied through this state during the preceding year as determined by us." The said tax roll shall thereupon be forthwith delivered to the commissioner of revenue, who shall immediately notify by registered mail the several companies taxed thereon to pay the taxes extended thereon to the state treasurer. The said taxes shall be payable on the first day of July following the assessment and levy thereof, and shall be in lieu of all taxes for state and local purposes, not including special assessments on property particularly benefited, made in any county, city, village or township. All taxes not paid before the first day of August in the year in which the same are payable shall bear interest thereafter at the rate of 1% per month or any fraction thereof, except that if 1/2 of the amount of said taxes shall be paid before the first day of August, then the remainder may be paid before the first day of December following without interest, otherwise the amount of said taxes unpaid on the first day of August shall bear interest as above provided. The taxes so extended against said company shall forthwith become a debt from each of said companies to the state and shall constitute a lien upon all the property of said companies, real, personal and mixed, which lien shall take precedence of all demands, judgments, assignments by warranty deed or otherwise, or decrees against said companies, which lien and debt may be enforced by seizure, or sale of said property or such portion thereof as may be necessary to satisfy the same as hereinbefore provided. The state board of assessors shall, upon the completion of said roll and the correction hereinbefore provided for, annex to said roll a warrant, signed by the said state board, or a majority of them, commanding the commissioner of revenue to collect the several sums mentioned in the last column of such roll, and being the sum for which the said company was assessed and was liable to pay for a tax upon its property, under the provisions of this act for the purposes provided for in this act; and the said warrant shall authorize and command the commissioner of revenue, in case any corporation, company or person named in the assessment roll shall neglect or refuse to pay its tax, to levy the same by distress and sale of the properties of said corporation, company or person or such portion thereof as shall be necessary to raise sufficient money to satisfy said tax and the expense of said sale, after giving the same notice of said sales as provided for in the general laws of this state for the sale of property seized for taxes and offered for sale: Provided, That he may bring an action in the name of the people of the state of Michigan in any court of competent jurisdiction in the state of Michigan, or in any other state, for the enforcement of said lien and upon the recovery of judgment or decree therein, the same may be collected by execution, levy and sale, as in other cases, upon judgments in courts of record.

HISTORY: Am. 1909, p. 85, Act 49, Eff. Sep. 1;—CL 1915, 4226;—Am. 1917, p. 845, Act 339, Eff. Aug. 10;—CL 1929, 3565;—Am. 1935, p. 158, Act 104, Imd. Eff. May 28;—CL 1948, 207.14;—Am. 1956, p. 406, Act 203, Eff. Aug. 11.

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207.15 Payment of tax under protest; suit against state; unlawful taxes; disposition of recovered taxes.

Sec. 15. A person upon whom any tax is levied under the provisions of this act may pay such tax under protest, specifying at the time, in a writing signed by him, the reasons for the protest. The person paying under protest may sue the state in the court of claims within 30 days for the amount protested, and recover if the tax is shown to be unlawful for the reason specified in the protest. Taxes levied under the provisions of this act are unlawful if the average rate has not been ascertained and determined according to law, or if valuation of property was based upon fraud, error of law or the adoption of wrong principles. Any tax recovered may be refunded or applied upon future taxes payable under this act.

HISTORY: CL 1915, 4227;—CL 1929, 3566;—CL 1948, 207.15;—Am. 1966, p. 235, Act 208, Imd. Eff. Jul. 11.

207.16 Irregularities not authorizing court intervention.

Sec. 16. No tax assessed upon any property and no average rate determined by said state board of assessors as hereinbefore required, shall be held invalid by any court of this state on account of any irregularity in any assessment, or on account of any assessment or tax roll not having been made or proceeding had within the time required by law, or on account of the property having been assessed without the name of the owner, or in the name of any corporation or person other than the owner, or on account of any other irregularity, informality or omission, if the method and manner of ascertaining and determining the average rate of taxation on property in this state is in accordance with the constitution and statutes of this state.

HISTORY: CL 1915, 4228;—CL 1929, 3567;—CL 1948, 207.16.

207.17 Taxes on public utilities, payment into general fund.

Sec. 17. All taxes collected under this act shall be paid into the state treasury to the credit of the general fund.

HISTORY: CL 1915, 4229;—CL 1929, 3568;—CL 1948, 207.17;—Am. 1964, p. 90, Act 90, Eff. Jul. 1.

207.18 Collection of specific taxes prior to 1909.

Sec. 18. Nothing herein contained shall be deemed a waiver or affect the collection of the specific taxes required to be paid by the companies hereby affected, on the first day of July in the year 1909, and previous years, under the general laws upon the property or business of such companies within this state. The existing laws providing for the collection of such specific taxes shall be continued in force until the collection and payment of all taxes levied thereunder for the year 1909 and previous years.

HISTORY: Am. 1909, p. 86, Act 49, Eff. Sept. 1;—CL 1915, 4230;—CL 1929, 3569;—CL 1948, 207.18.

207.19 Wilful misfeasance; penalty.

Sec. 19. If said board shall wilfully assess any property at more or less than what the members taking part in making such assessment believe to be its true cash value, the members voting in favor of such assessment shall be guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment in the county jail not exceeding 1 year, or by a fine not exceeding 5,000 dollars each.

HISTORY: CL 1915, 4231;—CL 1929, 3570;—CL 1948, 207.19.

207.20 Bribery; forfeiture, criminal prosecution.

Sec. 20. If any person, company, association or corporation whose property is subject to assessment under this act shall directly or indirectly promise, offer or give to any member of said board, during his term of office, or to any other person at his request, any gratuity of any kind whatever, such person or corporation shall forfeit to the state the sum of 10,000 dollars for each such offense, to be recovered in an action in the name of the people of the state of Michigan, in any court of competent jurisdic-

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tion. And the recovery of such fine under this act shall not constitute a bar to any prosecution of the person or corporation so offending under the criminal laws of this state.

HISTORY: CL 1915, 4232;—CL 1929, 3571;—CL 1948, 207.20.

207.21 Repeal; saving clause.

Sec. 21. All acts or parts of acts, whether contained in any act for the incorporation of railroad companies, union station and depot companies, telegraph and telephone companies, express companies, car loaning companies, stock car companies, refrigerator car companies, sleeping car companies, fast freight line companies, or other car companies, or in any other law of this state, so far as such acts or parts of acts are inconsistent with the provisions of this act, are hereby repealed, except as herein expressly stated: Provided, however, That all taxes levied or in process of assessment and levy, under the act to which this act is amendatory, shall be assessed, levied and collected under said act; all rights which the state now has under any of said acts for taxes or penalties shall not be in any way affected by this act; nor shall this act constitute a bar to any prosecution or suit for such taxes or penalties or the recovery of judgment therefor.

HISTORY: Am. 1909, p. 86, Act 49, Eff. Sept. 1;—CL 1915, 4233;—CL 1929, 3572;—CL 1948, 207.21.

Act 70, 1911, p. 101; Eff. Aug. 1.

AN ACT regulating the taxation of certain vessels, boats and other watercraft; to prescribe the powers and duties of the secretary of state and the department of conservation with respect thereto; to provide for the disposition of the revenue received therefrom; and to prescribe penalties for violation of the provisions of this act. Am. 1943, p. 170, Act 133, Imd. Eff. Apr. 13;—Am. 1947, p. 650, Act 348, Eff. Oct. 11;—Am. 1952, p. 232, Act 179, Imd. Eff. Apr. 25;—Am. 1968, p. 471, Act 272, Eff. Jul. 1.

The People of the State of Michigan enact:

207.51 Specific tonnage tax on passenger and freight vessels; general tax exemption.

Sec. 1. In consideration of an annual payment to the secretary of state by the owner of any vessel, barge or boat exclusively engaged in the carrying of passengers, holding license for such purpose, or carrying passengers and freight, owned within this state or hailing from any port thereof, and employed in the navigation of international waters or waters of the great lakes, of a sum equal to 20 cents per net ton on the registered tonnage thereof, and the annual payment to the secretary of state by the owner of any vessel, barge or boat exclusively engaged in the carrying of freight only, owned within this state or hailing from any port thereof and employed in the navigation of international waters, of a sum equal to 10 cents per net ton on the registered tonnage thereof and such payment shall be received in lieu of all taxes, and such vessel, barge or boat shall be and the same is hereby made exempt from all further taxation, either state, county or municipal, upon the payment of the sums herein provided. No payment made under the provisions of this section shall be less than $10.00.

HISTORY: CL 1915, 4248;—CL 1929, 3573;—Am. 1943, p. 170, Act 133, Imd. Eff. Apr. 13;—Am. 1947, p. 650, Act 348, Eff. Oct. 11;—CL 1948, 207.51;—Am. 1952, p. 232, Act 179, Imd. Eff. Apr. 25;—Am. 1955, p. 116, Act 73, Imd. Eff. May 24;—Am. 1958, p. 211, Act 181, Imd. Eff. Apr. 18.

CITED IN OTHER SECTIONS: Sections 207.51 to 207.53 are cited in § 205.13.

207.51a Specific tax on small watercraft; rates; exceptions; license; exemption from general property tax.

Sec. 1a. Every vessel, boat or other watercraft, except those as provided for in section 1, except those registered or licensed under Act No. 84 of the Public Acts of 1929, as amended, being sections 308.1 to 308.51 of the Compiled Laws of 1948, except

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those owned or operated by the United States or the state, or by local agencies of government of this state or by the boy scouts of America, chiefly for training scouts and seamanship, or canoes of any length powered by motors of 2 horsepower or less, except those propelled solely by muscular power and except those having a length of less than 16 feet, measured from end to end on a horizontal center line from a perpendicular raised from the forward part of the stem, or the foremost part in boats without a stem, to a perpendicular raised from the aftermost part of the vessel, boat or watercraft, which is owned by a resident of the state or in the possession, custody, care or control of a dealer for resale, or hails from any port within this state whether owned by a resident or nonresident shall be licensed by the secretary of state and shall be subject to a specific tax, payable annually by its owner, in an amount equal to the following rates: Overall length 16 feet or over but not over 20 feet, $5.00; overall length over 20 feet but not over 28 feet, $15.00; overall length over 28 feet but not over 35 feet, $25.00; overall length over 35 feet but not over 42 feet, $35.00; overall length over 42 feet but not over 50 feet, $45.00; overall length over 50 feet but not over 65 feet, $75.00; overall length over 65 feet, $1.00 per foot, and $1.00 per ton additional for each registered gross ton thereof, which shall exempt it from the general property tax imposed by Act No. 206 of the Public Acts of 1893, as amended, being sections 211.1 to 211.157 of the Compiled Laws of 1948. This specific tax shall be levied only on boats operating on the Great Lakes and waters connecting thereto navigable in fact by boats subject to this act.

HISTORY: Add. 1947, p. 650, Act 348, Eff. Oct. 11;—CL 1948, 207.51a;—Am. 1952, p. 232, Act 179, Imd. Eff. Apr. 25;—Am. 1955, p. 116, Act 73, Imd. Eff. May 24;—Am. 1963, p. 285, Act 195, Eff. Sep. 6;—Am. 1966, p. 323, Act 240, Imd. Eff. Jul. 11.

207.52 Annual statement of owners, contents, filing, payment of tax; receipt and license plate, attaching; fee.

Sec. 2. The owner of any vessel, barge, boat or other watercraft as defined in section 1 and section 1a shall annually, on or before December 1, file with the secretary of state a verified statement in writing, containing the name, port-of-hail, overall length, tonnage, and the name and address of the owner of such vessel, barge, boat or other watercraft, and shall thereupon pay to said secretary of state the sum of money due to the state as determined by the provisions of sections 1 or 1a. In the case of a vessel, barge, boat or other watercraft not over 65 feet in length and subject to the license fee as provided in section 1a, it shall be unnecessary for such statement to include the tonnage of such vessel, barge or other watercraft. Upon the payment of said amount the secretary of state shall thereupon issue its receipt for vessels specified in section 1 and a license plate in duplicate for the vessels specified in section 1a. Such license plates shall be attached to each side of each vessel, boat or other watercraft in the place and manner to be prescribed by the secretary of state in regulations which it is hereby authorized to issue for the purpose of carrying out the intent of this act and facilitating the collection of the taxes hereby imposed. Upon receipt of an application from a local agency of government of this state upon a form prescribed by him, the secretary of state may issue such plates at a fee of $1.00 per pair.

HISTORY: CL 1915, 4249;—CL 1929, 3574;—Am. 1943, p. 171, Act 133, Imd. Eff. Apr. 13;—Am. 1947, p. 651, Act 348, Eff. Oct. 11;—Am. 1948, 1st Ex. Ses., p. 6, Act 4, Imd. Eff. Apr. 22;—CL 1948, 207.52;—Am. 1952, p. 233, Act 179, Imd. Eff. Apr. 25;—Am. 1966, p. 323, Act 240, Imd. Eff. Jul. 11.

207.52a Operation without license, or attaching license; penalty.

Sec. 2a. Any person liable for the tax imposed under section 1a of this act who uses or permits the use of any vessel, boat or other watercraft as in section 1a defined, before such license has been issued and attached to said vessel, boat or watercraft shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $100.00 or imprisoned for not more than 30 days, or both. Any person who uses or operates a vessel, boat or watercraft as defined in section 1a hereof at a time when the li-

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cense is not attached thereto as provided above or in the regulations prescribed by the secretary of state shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $100.00.

HISTORY: Add. 1947, p. 651, Act 348, Eff. Oct. 11;—CL 1948, 207.52a;—Am. 1952, p. 233, Act 179, Imd. Eff. Apr. 25.

207.53 Revenues; state waterways fund.

Sec. 3. The revenue received under the provisions of this act shall be turned over to the state treasury and credited to a revolving fund to be known as the Michigan state waterways fund, to be disbursed by the Michigan state waterways commission, subject to the accounting laws of the state, for the purpose of carrying out the laws of this state vested in the commission.

HISTORY: CL 1915, 4250;—CL 1929, 3575;—Am. 1943, p. 171, Act 133, Imd. Eff. Apr. 13;—Am. 1947, p. 651, Act 348, Eff. Oct. 11;—CL 1948, 207.53;—Am. 1952, p. 233, Act 179, Imd. Eff. Apr. 25;—Am. 1955, p. 116, Act 73, Imd. Eff. May 24.

207.54 Watercraft licenses; issuance, compensation; rules and regulations.

Sec. 4. The secretary of state may authorize any persons, firms, partnerships or corporations to issue licenses on his behalf. Such persons as shall be authorized by the secretary of state to issue licenses shall retain as compensation for issuing licenses 50 cents for each watercraft so licensed and shall remit to the secretary of state the balance of all moneys received from the sale of such watercraft licenses at such times and places as may be specified by the secretary of state, and all such moneys shall be turned over by the secretary of state as soon as practical to the state treasury.

The secretary of state may promulgate the necessary rules to carry out the registration provisions of this act and the department of conservation may promulgate the necessary rules in carrying out the enforcement of the provisions of this act, which rules shall be subject to the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: Add. 1952, p. 233, Act 179, Imd. Eff. Apr. 25;—Am. 1954, p. 16, Act 14, Imd. Eff. Mar. 12;—Am. 1968, p. 471, Act 272, Eff. Jul. 1.

Act 150, 1927, p. 228; Eff. Sep. 5.

AN ACT to prescribe a privilege tax for the use of the public highways by owners and drivers of motor vehicles by imposing a specific tax upon the sale or use within the state of Michigan, of motor fuel; to prescribe the manner and the time of paying such tax and the duties of officials and others respecting such payment and collection; to provide for the licensing of wholesale distributors and the registration of retail dealers and users as defined herein; to require identification markings upon certain vehicles transporting petroleum products; to fix a time when such tax and interest and penalties thereon become a lien upon the property of persons, firms, associations or corporations, subject to the payment of such tax and to provide for the enforcement of said lien; to permit the inspection and testing of petroleum products; to provide for certain exemptions and refunds and for the disposition of the proceeds of such tax; and to prescribe penalties for the violation of this act. Am. 1937, p. 299, Act 191, Imd. Eff. Jul. 14;—Am. 1951, p. 66, Act 54, Eff. Jun. 1.

The People of the State of Michigan enact:

CHAPTER 1.
GASOLINE TAX.

207.101 Gasoline tax law; definitions.

Sec. 1. The term "gasoline" means and includes gasoline, casing head or natural gas-

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oline, benzol, benzine, and naphtha; also, any liquid prepared, advertised, offered for sale, sold for use as, or used for, the generation of power for the propulsion of motor vehicles, airplanes or motor boats, including any product obtained by blending together any 1 or more products of petroleum, with or without other products, and regardless of the original character of the petroleum products so blended, provided the resultant product so obtained is capable of use for the generation of power for the propulsion of motor vehicles, airplanes or motor boats; it being the intention that the blending of such products, regardless of their name or characteristics, shall conclusively be presumed to produce motor fuel, unless such resultant product be entirely incapable for use as such: Provided, That the term "gasoline" shall not include (1) diesel fuel, the taxation of which is provided under this act, nor (2) commercial or industrial naphthas or solvents manufactured, imported, received, stored, distributed, sold or used for exclusive use other than as a fuel for motor vehicles, airplanes or motor boats.

The term "blending" means the mixing together by any process whatsoever, of any 1 or more products of petroleum, with or without other products, and regardless of the original character of the product so blended, provided the resultant product so obtained is capable of use for the generation of power for the propulsion of motor vehicles, airplanes or motor boats, except only such blending as may occur in the process known as refining by the original refiner of crude petroleum, and except also the blending of products known as lubricating oil in the production of lubricating oils and greases.

The term "blender" means any person who engages in the practice of blending, as herein defined.

The term "motor vehicles" means motor vehicles as defined in section 33 of Act No. 300 of the Public Acts of 1949, being section 257.33 of the Compiled Laws of 1948.

The term "wholesale distributor" shall include any person or persons, firm, association or corporation, both private and municipal, who imports into the state gasoline from any other state, territory or possession of the United States, or foreign country, or who produces, manufactures, refines or blends gasoline within this state, or who receives gasoline from a refiner or manufacturer of gasoline or boat terminal transfer in this state for storage and subsequent sale and distribution by tank cars or tank trucks or both, or who receives gasoline from a refiner or manufacturer of gasoline or from a boat terminal transfer in this state solely for storage and consumption by such person, persons, firms, associations or corporations.

The term "retail dealer" shall include any person or persons, firm, association or corporation, both private and municipal, other than a wholesale distributor, who engages in the business of selling or distributing gasoline within this state. The term "boat terminal transfer" shall include docks, tanks and equipment contiguous thereto used in unloading of gasoline as defined in this act from tank steamers and transferring the same to tanks pending wholesale bulk reshipment and shall also include tanks and equipment used in receiving and storing gasoline from interstate pipe lines pending wholesale bulk reshipment.

HISTORY: Am. 1929, p. 550, Act 219, Imd. Eff. May 20;—CL 1929, 3576;—Am. 1935, p. 260, Act 166, Eff. Sep. 21;—Am. 1941, p. 339, Act 226, Eff. Jan. 10, 1942;—CL 1948, 207.101;—Am. 1953, p. 34, Act 38, Eff. Oct. 2.

CITED IN OTHER SECTIONS: Sections 207.101 to 207.186 are cited in §§ 205.42, 247.660, and 281.509.

207.102 Gasoline tax.

Sec. 2. A tax of 7 cents per gallon is imposed on all gasoline sold or used in producing or generating power for propelling motor vehicles used upon the public roads and

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highways in this state, which tax shall be paid at the times, in the manner and by the persons hereinafter specified. It is the intent of this act to impose a tax upon the owners and drivers of motor vehicles using an internal combustion type of engine upon the public roads and highways of this state by requiring them to pay for the privilege thereof, in addition to the motor vehicle license tax, at the rate of 7 cents per gallon for all motor vehicle fuel so used.

HISTORY: CL 1929, 3577;—CL 1948, 207.102;—Am. 1951, p. 66, Act 54, Eff. Jun. 1;—Am. 1967, 1st Ex. Ses., p. 748, Act 5, Eff. Jan. 1, 1968.

207.103 Wholesale gasoline distributor's license; application, fee, bond, revocation, hearing.

Sec. 3. It is unlawful for any person, firm, association or corporation to engage in business in this state as a wholesale distributor unless the person, firm, association or corporation is the holder of an unrevoked license issued by the department to engage in such business. To procure a license every wholesale distributor shall file with the department a verified application upon a form prescribed and to be furnished by the department. The application shall contain the name under which the applicant intends to transact business; the names and addresses of the several persons constituting the firm or partnership, and if a corporation, the corporate name, the state where and time when incorporated, the name of its officers and directors, and if a foreign corporation, the name of its resident agent; the location of its place or places of business; the date such business was established; and any other information the department may require. The application shall be verified by the owner of such business, if an individual, partnership or unincorporated association, and if a corporation, by the president and secretary thereof. At the time of applying for a license every applicant shall pay to the department an annual license fee of $5.00, which fee shall be credited to the general fund; and if the applicant cannot satisfy the department as to his financial responsibility he shall file with the department a surety bond payable to the state, upon which the applicant is the obligor, in the sum of not less than $1,000.00 nor more than $25,000.00, conditioned that the applicant shall comply with the laws pertaining to wholesale distributors of gasoline and will promptly file true reports and pay the taxes and penalties provided for or required by this act, which bonds shall be approved as to amount and sureties by the department. The department may require the wholesale distributor to furnish such other and further bond as he shall deem necessary, within the limits in this section, on the giving of 10 days' notice in writing. Upon approval of the department in lieu of such new or further surety bond the applicant may file with the department good and sufficient security or personal bond in such form and amount as the department may require but the amount of personal bond may not exceed 3 times his known or estimated highest tax payable to the department for 1 month and shall not exceed $25,000.00. The premium paid by a wholesale distributor on any bond required under the provisions of this section shall be reimbursed to the wholesale distributor by the state, and the reimbursement shall be considered a proper expense in carrying out the provisions of this act, payable from the revenue received hereunder. Upon the failure to file a new and further bond the department shall forthwith revoke the license of the wholesale distributor in the same manner as provided in section 5. If any application for a license is filed by any persons whose license shall at any time theretofore have been canceled for cause by the administering official, or in case the official shall be of the opinion that the application is not filed in good faith, or that the application is filed by some person as a subterfuge for the real person in interest whose license shall theretofore have been canceled for cause by the official, then the official after a hearing, of which the applicant shall have been given 5 days' notice in writing and in which the applicant shall have the right to appear in person or by

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counsel and present testimony, shall have the right to refuse to issue to the person a license certificate.

HISTORY: CL 1929, 3578;—Am. 1931, p. 315; Act 192, Imd. Eff. May 28;—Am. 1935, p. 261, Act 166, Eff. Sep. 21;—Am. 1941, p. 73, Act 64, Eff. Jan. 10, 1942;—CL 1948, 207.103;—Am. 1954, p. 441, Act 185, Eff. Aug. 13;—Am. 1969, p. 127, Act 70, Imd. Eff. Jul. 21.

207.103a Reimbursement of bond premium expense; termination.

Sec. 3a. Reimbursement of bond premium expense herein provided to wholesale distributors is hereby terminated December 31, 1954, which shall be deemed to include any claim for refund of premium expense covering bonds furnished the secretary of state for the calendar year of 1954 and all prior years: Provided, That reimbursement of bond premium expense on bonds required by the secretary of state after the termination date herein established may be made only during the year for which subject bond has been filed.

HISTORY: Add. 1954, p. 442, Act 185, Eff. Aug. 13.

207.104 Wholesale gasoline distributor's license; issuance.

Sec. 4. Upon the filing of such application and bond and the payment of the fee, the secretary of state shall issue to such applicant a license which shall authorize the holder thereof to engage in business in this state as a wholesale distributor, as defined herein, until the first day of January following the date of its issuance, unless such license shall be revoked within that period by the secretary of state as provided in section 5 hereof.

HISTORY: CL 1929, 3579;—Am. 1931, p. 316, Act 192, Imd. Eff. May 28;—CL 1948, 207.104.

207.104a Wholesale gasoline distributor's license; identification letters and figures on vehicles.

Sec. 4a. Every licensed wholesale distributor of gasoline transporting petroleum products in vehicles upon the highways of this state shall exhibit upon such transporting vehicles, in colors of distinct contrast to those of the vehicle, with letters and figures of a size as shall be determined by the secretary of state, the wholesale distributor's name, and the license number identified as Mich. G.T. No. .....

HISTORY: Add. 1937, p. 299, Act 191, Imd. Eff. July 14;—CL 1948, 207.104a.

207.105 Wholesale gasoline distributor's license; revocation of license, continuance in force.

Sec. 5. If the holder of such license shall at any time fail, refuse or neglect to file his or its monthly report and pay the full amount of the tax at the times, in the manner and at the place such report is required to be filed and the tax required to be paid under the provisions of section 8 hereof, the secretary of state shall forthwith revoke such license and shall promptly notify the holder thereof by notice sent by registered mail to the address of such holder appearing in the records of the gasoline tax division of the department of state: Provided, That if said report is filed and the tax paid within 7 days after the same becomes due, and it be established under oath that such delay was due to accident or justifiable oversight, then the secretary of state may continue the force and effect of such license.

HISTORY: CL 1929, 3580;—CL 1948, 207.105;—Am. 1954, p. 91, Act 74, Eff. Aug. 13.

207.106 Wholesale gasoline distributor's license; reapplication for license after revocation; payment of delinquent taxes; surety bond.

Sec. 6. Before any wholesale distributor, whose license has been revoked, shall be entitled to apply for or obtain a license as provided in section 3, the wholesale distributor shall pay to the department any and all delinquent taxes, penalties and costs that remain unpaid by the wholesale distributor, and shall file with the department a surety bond, upon which the wholesale distributor is the obligor, to secure the prompt filing of true reports and the full payment of any and all taxes that may thereafter accrue and become payable under the provisions of section 8. The bond shall be in such

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amount and with such sureties, as the department shall determine, which shall not exceed 4 times the applicable rate of tax per gallon of all gasoline received or manufactured or produced by such wholesale distributor during the preceding month. In case no gasoline was received or manufactured or produced by the wholesale distributor during the preceding month, or for any reason the amount of gasoline received or manufactured or produced cannot be computed, then in such amount as the department shall determine, not exceeding 4 times the applicable rate of tax per gallon of gasoline the department may estimate has been or will be received or manufactured or produced by the wholesale distributor during any average month, which estimate may be based upon any information available. The bond shall run to the people of the state and shall be conditioned upon the prompt filing of true reports and the payment of the full amount of the tax at the times, in the manner and at the place required under the provisions of section 8. In the event any such wholesale distributor shall fail to promptly file his or its monthly reports and pay the full amount of the tax provided in section 8, after having filed a surety bond with the department as herein provided, the department may require the wholesale distributor to furnish such other and further bond as it shall deem necessary to at all times secure the payment of any and all taxes due to the state under the provisions of this act. Upon the failure to file such new and further bond the department shall forthwith revoke the license of the wholesale distributor in the same manner as provided in section 5.

HISTORY: Am. 1929, p. 551, Act 219, Imd. Eff. May 20;—CL 1929, 3581;—Am. 1931, p. 316, Act 192, Imd. Eff. May 28;—Am. 1941, p. 74, Act 64, Eff. Jan. 10, 1942;—CL 1948, 207.106;—Am. 1951, p. 66, Act 54, Eff. Jun. 1;—Am. 1969, p. 128, Act 70, Imd. Eff. Jul. 21.

207.107 Retail dealer's certificate, filing; unlawful acts.

Sec. 7. Every retail dealer as defined herein shall file a duly acknowledged certificate with the secretary of state on a form prescribed and furnished by him, which certificate shall contain the information and be signed and sworn to in the same manner as required of applicants for licenses as wholesale distributors under the provisions of section 3 hereof. It shall be unlawful for any retail dealer to engage in business as such in this state without having filed the certificate as herein required. It shall also be unlawful for any retail dealer to knowingly purchase gasoline for sale or use on the public highways of this state from any other than a licensed wholesale distributor.

HISTORY: CL 1929, 3582;—CL 1948, 207.107.

207.108 Wholesale distributor of gasoline; monthly statement, contents; tax computation; delivery hours.

Sec. 8. For the purpose of determining the amount of the specific tax herein imposed, every wholesale distributor shall, on or before the twentieth day of each month, except when the twentieth day of any month falls on a Saturday, Sunday or legal holiday, then on the next regular business day, file with the department, on forms prescribed and furnished by it, a verified statement, showing the number of gallons of gasoline which has been or is in his or its possession in the state on the date this act became effective upon which the tax has not been paid, and all gasoline thereafter received, as shown by the shipper's invoices thereof, by the wholesale distributor in the state from any source whatsoever, during the preceding calendar month; the date of purchase; the name of the manufacturer or person, persons, firm, association or corporation from whom purchased; the date of receipt of the shipment of gasoline; the point of origin; the point of destination of each shipment; the quantity of each of the purchases or shipments; the name of the carrier; the number of the car in which the same was shipped, if shipped by rail, or the name and owner of the boat, ship, barge or vessel, if shipped by water; the owner and license number of the automobile or motor truck used in transporting the gasoline within this state, when the gasoline was purchased from the manufacturer; the name and address of the owner of the wagon, or other means of transportation, if brought into this state by such mode; and in case gas-

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oline is not so received and the wholesale distributor manufactures or produces within this state the gasoline in his or its possession in the state, the report required shall in lieu of the foregoing information set forth the following: All gasoline manufactured, stored, used, distributed and sold within this state during the preceding calendar month, and date of each sale, use or distribution; the quantity of each sale; the name and address of each purchaser; the name of the carrier; the number of the car in which the same was shipped, if shipped by rail; or the name and owner of the boat, ship, barge or vessel, if shipped by water; the owner and license number of the automobile or motor truck used in transporting the gasoline; the name and address of the owner of the wagon or other means of transportation employed in the delivery of the gasoline so sold or distributed within this state, and such other information pertaining to such receipts, manufacture, use, distribution or sales of gasoline as the department may require. It shall be the duty of each wholesale distributor, at the time of filing such report, to compute the amount of tax payable on account thereof at the applicable rate of tax per gallon, and to pay to the department at the time of filing the report the full amount of such tax. In computing the tax, a deduction of 3% of the quantity of gasoline received shall be deducted to allow for evaporation and loss. At the time of filing the report and paying the tax, the wholesale distributor shall submit satisfactory evidence to the department that the amount of tax represented by 1/3 of the deduction shall have been paid or credited to the registered retail dealers on quantities sold to them during the period covered by the report. In computing the tax all gasoline while in process of transfer from tank steamers at boat terminal transfers, as defined in this act, and while held in storage, pending wholesale bulk distribution by land transportation, or in tanks and equipment used in receiving and storing gasoline from interstate pipe lines pending wholesale bulk reshipment, shall be exempt from the payment of the tax. Gasoline refined at a refinery in this state or gasoline stored at a boat terminal transfer in this state may be sold, shipped or delivered to wholesale distributors who are holders of unrevoked wholesale distributors' licenses issued by the department as in this act provided, without liability on the part of the seller for the tax herein imposed but the purchasers shall be liable for the tax on the gasoline and shall for the purposes of this act be deemed to be the wholesale distributors of the gasoline so received. No wholesale distributor or retail dealer or any other person selling gasoline to the consumer shall receive and have delivered into the storage tanks or other equipment of the wholesale distributor or retail dealer or any other person any gasoline between the hours of 9 p.m. and 5 a.m. without prior written consent of the department, and the receipt of any gasoline by the wholesale distributor or retail dealer or any other person during those hours shall be prima facie evidence of a violation of the provisions of this act.

HISTORY: Am. 1929, p. 552, Act 219, Imd. Eff. May 20;—CL 1929, 3583;—Am. 1935, p. 262, Act 166, Eff. Sep. 21;—Am. 1941, p. 340, Act 226, Eff. Jan. 10, 1942;—CL 1948, 207.108;—Am. 1951, p. 67, Act 54, Eff. Jun. 1;—Am. 1952, p. 18, Act 18, Imd. Eff. Feb. 28;—Am. 1957, p. 190, Act 169, Eff. Sep. 27;—Am. 1969, p. 128, Act 70, Imd. Eff. Jul. 21.

207.108a Wholesale distributor of gasoline; tax money state property, held in separate account.

Sec. 8a. Every registered wholesale distributor as defined in this act, who sells or distributes any gasoline for any purpose, shall collect from the purchaser, the applicable rate of tax per gallon or fraction of a gallon on all gasoline sold and any and all sums of money paid by the purchaser to the registered wholesale distributor as taxes upon gasoline, upon which the tax imposed by this act has not theretofore been paid to the department of revenue, shall be and remain public money, the property of the

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state, and shall be held in trust in a separate account and fund by the wholesale distributor for the sole use and benefit of the state until paid over to the department of treasury.

HISTORY: Add. 1937, p. 300, Act 191, Imd. Eff. Jul. 14;—CL 1948, 207.108a;—Am. 1951, p. 68, Act 54, Eff. Jun. 1;—Am. 1967, 1st Ex. Ses., p. 748, Act 5, Eff. Jan. 1, 1968.

207.109 Nonpayment or delayed payment of tax; penalty, interest.

Sec. 9. In case any tax imposed herein is not paid when due a penalty of 5% thereof shall immediately accrue and thereafter said tax and penalty shall bear interest at the rate of 1% per month until the same is paid. If the said tax be paid within 7 days after it becomes due, and it be established that such delay was due to accident or justifiable oversight, said penalty may be waived by the secretary of state. The penalty for late filing shall be effective as of December 1, 1956.

HISTORY: CL 1929, 3584;—CL 1948, 207.109;—Am. 1954, p. 92, Act 74, Eff. Aug. 13;—Am. 1957, p. 191, Act 169, Eff. Sep. 27.

207.110 Common carrier's report of deliveries; time, contents.

Sec. 10. On or before the fifth day of each month it shall be the duty of every resident agent or employe of every contract or common carrier doing business in this state and having the custody of books and records showing the receipts of gasoline delivered to a consignee in this state, whether for storage, use, sale or distribution, to forward to the secretary of state a report of all gasoline delivered by such carrier during the preceding calendar month. Such report shall state the name of the carrier; the month for which the report is rendered; the station or place where delivered; the initial and number of the car in which the gasoline was delivered, if shipped by rail; the name of the owner of the boat, ship, barge or vessel, if shipped by water; the names and addresses of the consignor and consignee; the number of gallons of gasoline in each car, if shipped by rail, and the number of gallons of gasoline in each shipment, if shipped by water; the date of delivery to the consignee by such carrier and any other information that the secretary of state may require.

HISTORY: CL 1929, 3585;—Am. 1935, p. 262, Act 166, Eff. Sept. 21;—CL 1948, 207.110.

207.110a Identification of vehicles transporting petroleum products other than licensed wholesale distributors.

Sec. 10a. Every person, firm, association, partnership, and corporation other than licensed wholesale distributors, transporting petroleum products in vehicles upon the highways of this state, shall exhibit upon such transporting vehicles, in colors of distinct contrast to those of the vehicle, with letters and figures of a size as shall be determined by the secretary of state, the name of the owner of such vehicle.

HISTORY: Add. 1937, p. 300, Act 191, Imd. Eff. July 14;—CL 1948, 207.110a.

207.111 Secretary of state; authority to inspect books and records; disclosure of information prohibited.

Sec. 11. The secretary of state, or his duly authorized agent, is hereby authorized to examine the books, records and papers of any wholesale distributor, retail dealer, contract or common carrier, pertaining to the records of gasoline received, sold, shipped or delivered, as the case may be, to verify the truth and accuracy of any statement, report or return. The secretary of state, or his duly authorized agent, is further authorized to enter in and upon the premises of any "blender," "wholesale distributor," "retail dealer," as defined in this act, user and dealer in petroleum products within the state of Michigan, at all reasonable times for the purpose of taking samples of gasoline, kerosene, and other petroleum products: To obtain samples of gasoline, kerosene, and other petroleum products brought into the state by means of pipe lines, trucks, barrels, or any other containers, or in carload lots, at such times and places and under such conditions as may be deemed expedient; and to make such tests and inspections as may be necessary in the enforcement of this act and the collection of the tax herein

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provided. Each wholesale distributor and retail dealer shall maintain and keep, for a period of 2 years, suitable books, records and accounts of all gasoline received, manufactured, stored, used, sold and/or delivered within this state, together with all invoices, delivery tickets, bills of lading and other pertinent records and papers as may be required by the secretary of state for the reasonable administration of this act. The secretary of state shall have power to take the testimony of any person and for such purpose shall be authorized to issue subpoenas and compel the attendance of witnesses: Provided, That it shall be unlawful for any person to disclose the information acquired by the secretary of state, or such agent, under the provisions of this section, except when required so to do in a court of law: Provided further, That this provision shall not be construed to mean that such information or evidence is privileged when used by the state or any officer thereof in any proceeding for the collection of the tax, or in any prosecution for violation of any of the provisions of this act.

HISTORY: CL 1929, 3586;—Am. 1935, p. 263, Act 166, Eff. Sept. 21;—Am. 1937, p. 300, Act 191, Imd. Eff. July 14;—Am. 1941, p. 341, Act 226, Eff. Jan. 10, 1942;—CL 1948, 207.111.

207.112 Gasoline tax refund; procedure; transfer of sales tax.

Sec. 12. The purchaser of gasoline used for any purpose other than the operation of motor vehicles on the public roads, streets and highways of this state, and the state government and the federal government using gasoline in state and federally owned motor vehicles, and persons operating passenger vehicles of a capacity of 10 or more under any municipal franchise, license, permit, agreement or grant, respectively, and the political subdivisions of the state using gasoline in vehicles owned by or leased and operated by the political subdivisions of the state shall be entitled to a refund of the tax paid thereon, upon filing a verified claim with the department of revenue upon forms prescribed and to be furnished by it, within 6 months from the date of purchase, as shown by the invoice. Any claim mailed within the 6 months' period, as evidenced by the postmark, shall, when received by the department of revenue, be considered as filed within the required time. Only 4 cents per gallon shall be refunded to persons operating passenger vehicles of a capacity of 10 or more under any municipal franchise, license, permit, agreement or grant, respectively, and operated over regularly traveled routes expressly provided for in such municipal licenses, permits, agreements or grants. The retail dealer shall furnish any such purchaser with an invoice, showing the amount of gasoline purchased, the date thereof, and the amount of tax paid thereon, and every such dealer shall at the request of the department of revenue forthwith supply the department with a copy of any invoice issued by said dealer during any 6 months' period preceding such request. All claims for refund shall have attached thereto the original invoice received by the purchaser and, when approved by the department of revenue, shall be paid out of the motor vehicle highway fund upon the warrant of the state treasurer. No claims for refund shall be assignable without the prior written consent of the department of revenue. In any case where the verified claim of the purchaser, in form and content as prescribed by the department, shall show or it shall otherwise appear that the amount of gasoline used by the purchaser for purposes on which the taxes under Act No. 167 of the Public Acts of 1933, as amended, being sections 205.51 to 205.78 of the Compiled Laws of 1948, are deductible pursuant to subsection (f) of section 4a of said act is not the total amount included in the statement of the transferee under said subsection (f), the department of revenue shall deduct from the amount of the refund authorized by this section the rate of sales tax as is established in Act No. 167 of the Public Acts of 1933, as amended, applicable

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to the retail sales price paid by the transferee on that portion of the gasoline not used for purposes described in subsection (f) of section 4a of Act No. 167 of the Public Acts of 1933, as amended, and shall transfer the sales tax so deducted to the sales tax account of the department of revenue.

HISTORY: CL 1929, 3587;—Am. 1935, p. 263, Act 166, Eff. Sep. 21;—Am. 1939, p. 330, Act 170, Eff. Sep. 29;—CL 1948, 207.112;—Am. 1951, p. 68, Act 54, Eff. Jun. 1;—Am. 1952, p. 12, Act 12, Imd. Eff. Feb. 28;—Am. 1955, p. 201, Act 136, Imd. Eff. Jun. 7;—Am. 1956, p. 313, Act 165, Eff. Aug. 11;—Am. 1962, p. 193, Act 172, Eff. Mar. 28, 1963;—Am. 1967, 1st Ex. Ses., p. 748, Act 5, Eff. Jan. 1, 1968.

207.112a Gasoline tax; refund to nonprofit private, parochial or denominational school buses.

Sec. 12a. The purchaser of gasoline for use in school buses owned and operated by nonprofit private, parochial or denominational schools, colleges and universities and used in the transportation of students to and from school, and to and from school functions authorized by the administration of the eligible institution, shall be entitled to a refund of the tax paid thereon, and the provisions of section 12 with respect to refunds shall govern.

HISTORY: Add. 1951, p. 224, Act 176, Imd. Eff. Jun. 8;—Am. 1968, p. 245, Act 158, Eff. Nov. 15.

207.112b Gasoline tax; claims, false statements, forfeiture, penalty.

Sec. 12b. Any person, firm, company, corporation, municipality, or any agent, employee, or representative thereof, who shall make a false statement in any claim under chapters 1 or 3 of this act or shall submit invoice or invoices in support thereof upon which alteration or changes exist in the date, name, number of gallons, or amount of tax paid, or who shall knowingly present any claim or invoice containing any false statement, or shall collect, or cause to be paid to him or any other person any such refund without being entitled thereto, shall forfeit the full amount of such claim and be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than $1,000.00, or imprisonment in the county jail for a term of not more than 1 year, or by both such fine and imprisonment in the discretion of the court.

HISTORY: Add. 1954, p. 114, Act 96, Eff. Aug. 13.

207.113 Gasoline tax; in lieu of other taxes.

Sec. 13. The tax herein provided shall be in lieu of all other taxes imposed or to be imposed upon the sale or use of gasoline by the state or any political subdivision thereof.

HISTORY: CL 1929, 3588;—CL 1948, 207.113.

207.114 Tax lien.

Sec. 14. The specific tax herein imposed in addition to the interest and penalties provided in section 9 hereof, and costs that may accrue in addition thereto, shall be a lien in favor of the state against all property and rights of property, both real and personal, then owned or afterwards acquired by any person or persons, firm, association or corporation, liable therefor, to secure the payment of such tax, interest, penalties and costs, which lien shall attach to the property from and after the date that any report upon which the specific tax is computed is required by this act to be filed. Such lien shall take precedence over all other liens and incumbrances whatsoever.

HISTORY: CL 1929, 3589;—CL 1948, 207.114.

207.115 Failure to file report; estimate by secretary of state.

Sec. 15. Whenever any person or persons, firm, association or corporation shall neglect or refuse to make and file any report as required by law upon which the amount of specific tax imposed by this act is computed, the secretary of state may estimate the amount thereof from any information obtainable in his office or elsewhere and he may proceed to collect such tax in the same manner as is hereinafter provided in case of failure to pay such tax after the report required by law has been made and filed.

HISTORY: CL 1929, 3590;—CL 1948, 207.115.

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207.116 Tax unpaid by wholesale distributor; levy warrant, sale; state bid; action on bond; suit.

Sec. 16. If the tax imposed by this act is not paid on the date the same is required to be paid under the provisions of section 8 hereof the secretary of state, or some person designated by him, may cause a demand to be made on the wholesale distributor liable therefor for the payment thereof, and if such tax remains unpaid for 5 days after such demand has been made and no proceedings have been taken to review the same, the secretary of state may issue a warrant under the official seal of his office, directed to the sheriff of any county of the state or to any state officer authorized to serve process, commanding said sheriff or other officer to levy upon and sell the real and personal property of the person or persons, firm, association or corporation, without exemption, found within his jurisdiction, for the payment of the amount thereof with the added penalties, interest and the cost of executing the warrant, and to return such warrant to the secretary of state and to pay him the money collected by virtue thereof within the time to be therein specified, which shall not be less than 20 nor more than 90 days from the date of the warrant. The sheriff or other officer to whom any such warrant shall be directed shall proceed upon the same in all respects and with like effect and in the same manner as prescribed by law in respect to executions issued against property upon judgments by a court of record, and shall be entitled to the same fees for his services in executing the warrant, to be collected in the same manner: Provided, That no indemnity bond shall be required or demanded by any sheriff or constable or other officer serving such warrant. The state of Michigan through the secretary of state or some officer or agent designated by him is hereby authorized to bid for and purchase any property sold under the provisions hereof, and whenever any such property has been acquired or shall be acquired through purchase at any such sale by the state of Michigan, the secretary of state shall have the power in the name of the state of Michigan, and with the approval of the state administrative board, to dispose of such property, by public or private sale, and to convey title thereto: And provided further, That nothing in sections 14, 15 and 16 hereof shall be construed as forfeiting or waiving any rights to collect such taxes by an action upon any bond that may be filed with the secretary of state under the provisions of sections 3 and 6 of this act, or by suit or otherwise, and in case such suit, action or other proceeding is instituted for the collection of such tax, such suit, action or other proceeding shall not be construed as waiving any right to proceed to foreclose the lien herein provided. Any and all actions in chancery arising out of the construction or enforcement of this act may be brought in the circuit court for the county of Ingham in chancery.

HISTORY: CL 1929, 3591;—Am. 1931, p. 316, Act 192, Imd. Eff. May 28;—Am. 1934, 1st Ex. Ses., p. 105, Act 29, Imd. Eff. March 28;—Am. 1935, p. 263, Act 166, Eff. Sept. 21;—CL 1948, 207.116.

207.117 Assistants; rules and regulations.

Sec. 17. The secretary of state may employ such clerical assistants, examiners and certified public accountants as may be necessary to carry out the provisions of this act. He shall also have authority to prescribe such rules and regulations as shall by him be deemed appropriate and necessary to the administration of this act, including any reasonable method by metering or otherwise to verify the accuracy of withdrawals from refineries, boat terminal transfers, and storage tanks and equipment used in receiving and storing gasoline from interstate pipe lines.

HISTORY: CL 1929, 3592;—Am. 1935, p. 264, Act 166, Eff. Sept. 21;—CL 1948, 207.117.

207.118 Penalty.

Sec. 18. Any person or persons, firm, association or corporation who shall make any false statement or return, or who shall refuse or neglect to make any statement or return required by the provisions of this act, or who shall engage in business in this state as a wholesale distributor without being a holder of an unrevoked license to engage in

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such business as provided in section 3 hereof, or who shall engage in business as a retail dealer without having filed a certificate with the secretary of state as required by section 7 hereof, or who shall knowingly purchase gasoline for resale from any one other than a licensed wholesale distributor, or who shall knowingly sell or use on the public highway any gasoline upon which the tax herein imposed has not been paid, or who shall in any way violate any of the provisions of this act, except as herein specifically provided, shall be punished by a fine of not less than 50 dollars nor more than 1,000 dollars, or imprisonment in the county jail for a term not less than 30 days, and not more than 1 year, or both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1929, 3593;—Am. 1935, p. 264, Act 166, Eff. Sept. 21;—CL 1948, 207.118.

207.118a Tax moneys deemed property of state; conditions; penalty.

Sec. 18a. If any person or persons, firm, association or corporation sells any gasoline upon which the tax imposed by this chapter has not been paid all tax moneys received by such person or persons, firm, association or corporation because of said sale or sales are trust funds in the hands of the persons, firm, association or corporation and the property of the state of Michigan. Any person or persons, firm, association or corporation who fails or refuses to pay over to the secretary of state the tax money collected on said gasoline at the time required in this act, or any person or persons, firm, association or corporation who with intent to defraud withholds or appropriates any portion thereof belonging to the state, shall be guilty of embezzlement and shall be punished as provided in section 174 of Act No. 328 of the Public Acts of 1931.

HISTORY: Add. 1937, p. 301, Act 191, Imd. Eff. July 14;—CL 1948, 207.118a.

NOTE: Sec. 174, Act 328, 1931, above referred to, is Compilers' § 750.174.

207.118b Tax moneys; moneys received, allocation and apportionment.

Sec. 18b. All sums of money received and collected under the provisions of this act, except the license fees provided for herein, shall be deposited in the state treasury to the credit of the motor vehicle highway fund and, after the payment of the necessary expenses incurred in the enforcement of this act, are hereby appropriated, allocated and apportioned therefrom to the state highway department, the several county road commissions, and incorporated cities and villages of the state in the manner and for the specific highway purposes prescribed by law.

HISTORY: Add. 1951, p. 68, Act 54, Eff. Jun. 1.

207.119-207.119b Repealed. 1951, p. 62, Act 51, Eff. Jun. 1.

Sections provided for disposition of gasoline tax moneys.

Sec. 19-c.

HISTORY: Add. 1932, 1st Ex. Ses., p. 68, Act 41, Imd. Eff. May 17;—Rep. 1934, 1st Ex. Ses., p. 76, Act 8, Imd. Eff. March 14.

207.119d State administrative board, order for information.

Sec. 19-d. The state administrative board may demand by a written order any information or records from any officer of the state, or from any officer of any county, township, city or incorporated village, required by said board in the performance of the duties hereby imposed, and it shall be the duty of such officer to obey such order.

HISTORY: Add. 1932, 1st Ex. Ses., p. 68, Act 41, Imd. Eff. May 17;—CL 1948, 207.119d.

207.119e, 207.119f Repealed. 1951, p. 62, Act 51, Eff. Jun. 1.

Sections required reports showing disposition by local units of funds allotted under gasoline tax act.

207.120 Foreign or interstate commerce.

Sec. 20. Neither this act, nor any of its provisions, shall apply to foreign or interstate commerce.

HISTORY: CL 1929, 3595;—CL 1948, 207.120.

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CHAPTER 2.
DIESEL MOTOR FUEL TAX.

207.121 Definitions.

Sec. 21. The provisions of chapter 2 of this act shall apply only to diesel motor fuel and the definitions in this section shall apply only to chapter 2 of this act.

"Use" means and includes the receipt, delivery or placing of diesel motor fuel into the fuel tank of a motor vehicle.

"Diesel motor fuel" means any liquid fuel used in the operation of engines of the diesel type.

"Motor vehicle" means all vehicles propelled by engines or motors of the diesel type, on the public roads and highways of this state, except such vehicles as run on rails or tracks.

"User" means any person who is the "owner" in this or any other state of a motor vehicle into the fuel supply tank of which diesel motor fuel is received, delivered or placed in this state.

"Dealer" shall mean and include any person selling and delivering diesel motor fuel into the fuel supply tanks of motor vehicles in this state.

"Licensed dealer" shall mean and include any dealer holding an unrevoked license issued by the secretary of state as hereinafter provided.

"Public roads and highways" means every way or place generally open to the use of the public as a matter of right for the purpose of vehicular travel, notwithstanding that they may be temporarily closed or travel thereon restricted for the purpose of construction, maintenance, repair or reconstruction.

"Person" means and includes a natural person, and partnership, firm, association, joint stock company, syndicate and corporation, and any receiver, trustee, conservator, or any other officer having jurisdiction and control of property by virtue of the provisions of any law, or by appointment of a court other than units of government.

HISTORY: Add. 1951, p. 68, Act 54, Eff. Jun. 1.

Original section 21 of Act 150, of 1927, p. 228, was a severing clause section and was repealed by Act 267 of 1945.

207.122 Diesel motor fuel tax; collection, refund, publicly-owned, leased or operated vehicles, exemption.

Sec. 22. A tax of 7 cents per gallon is imposed upon all diesel motor fuel used in this state within the meaning of "use" as defined in section 21, which tax shall be paid at the times, in the manner and by the users herein specified. The tax on diesel motor fuel sold and delivered in this state by the seller into the fuel supply tanks of motor vehicles shall be collected by the seller from the purchaser and paid over monthly to the department of revenue as hereinafter provided. Persons operating passenger vehicles of a capacity of 10 or more under any municipal franchise, license, permit, agreement or grant, respectively, and operating over regularly traveled routes expressly provided for in such municipal licenses, permits, agreements or grants, shall be entitled to a refund of 2 cents of the tax paid thereon, under the rules and regulations prescribed by the department of revenue. The tax on diesel motor fuel delivered in this state into the storage of any user or acquired by any user in any manner, other than by delivery into the fuel supply tank of a motor vehicle by a duly licensed dealer, shall upon the use thereof be paid monthly by the user to the department of revenue as hereinafter provided. No tax is imposed under the provisions of this act, nor shall any tax be collected by any dealer, on fuel used in motor vehicles owned by or leased and operated by any

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political subdivision of this state, or motor vehicles owned and operated by the state or federal government.

HISTORY: Add. 1951, p. 69, Act 54, Eff. Jun. 1;—Am. 1952, p. 11, Act 11, Imd. Eff. Feb. 28;—Am. 1956, p. 314, Act 165, Eff. Aug. 11,—Am. 1967, 1st Ex. Ses., p. 749, Act 5, Eff. Jan. 1, 1968.

Original section 22 of Act 150 of 1927, p. 228, was a repeal and saving clause section and was repealed by Act 129 of 1947.

207.123 Diesel motor fuel user or dealer; license, application, contents, bond, fee, refusal.

Sec. 23. Except for fuel delivered by licensed dealers into the fuel supply tanks of motor vehicles, it is unlawful for any user to use diesel motor fuel within this state, unless he is the holder of an unrevoked license issued by the department.

It is unlawful for any person to act as a dealer unless he is the holder of an unrevoked dealer license issued by the department.

To procure a license every user and dealer shall file with the department a verified application upon a form prescribed and to be furnished by the department. The application in the case of users shall contain the name under which the user registers his motor vehicle or motor vehicles and the name and address of the owner, and if a partnership or corporation the names and addresses of the several persons constituting the firm, partnership, association, joint stock company, syndicate or corporation; when incorporated, the names of its officers and directors, and if a foreign corporation, the name of its resident agent, the location of its place of business, and such other pertinent information as the department may require. The application shall be signed and verified by the user. The application in the case of dealers shall show the name and address of the dealer and of each place of business operated by him at which diesel motor fuel is or will be dispensed into fuel supply tanks of motor vehicles, and such other information as the department may reasonably require for the purposes of this chapter.

At the time of applying for a license, every applicant shall pay to the department an annual license fee of $1.00, which fee shall be credited to the general fund, and if the applicant cannot satisfy the department as to his financial responsibility he shall file with the department a surety bond payable to the state upon which the applicant shall be the obligor, in the sum of not less than $500.00 nor more than $5,000.00, conditioned that the applicant shall comply with all of the laws pertaining to users of or dealers in diesel motor fuel and will promptly file true reports and pay the taxes and penalties provided for or required by this chapter, which bond shall be approved as to amount and sureties by the department. In lieu of the surety bond, the applicant may deposit a sum of money with the department in such amount as the department determines to guarantee the payment of the tax, penalty and interest and compliance with this act. The amount of the deposit shall not exceed 3 times his known or estimated highest tax payable to the department for 1 month and shall not exceed $5,000.00. The premium paid on any bond required under the provisions of this section shall be reimbursed to the user or dealer by the state, and the reimbursement shall be considered a proper expense in carrying out the provisions of this chapter, payable from the revenue received hereunder. If any application for license shall be filed by any person whose license shall at any time theretofore have been canceled for cause by the department, or if the department shall be of the opinion that such application is not filed in good faith, or that such application is filed by some person as a subterfuge for the real person in interest whose license shall theretofore have been canceled for cause by the department, then the department, after a hearing of which the applicant shall have been given 5 days' notice in writing and in which the applicant shall have the right to appear in person or by counsel and present testimony, shall have the right to refuse to issue such person a license.

HISTORY: Add. 1951, p. 69, Act 54, Eff. Jun. 1;—Am. 1954, p. 442, Act 185, Eff. Aug. 13,—Am. 1969, p. 129, Act 70, Imd. Eff. Jul. 21.

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207.123a Reimbursement of bond premium expense; termination.

Sec. 23a. Reimbursement of bond premium expense herein provided to diesel fuel dealers and/or users is hereby terminated December 31, 1954, which shall be deemed to include any claim for refund of premium expense covering bonds furnished the secretary of state for the calendar year of 1954 and all prior years: Provided, That reimbursement of bond premium expense on bonds required by the secretary of state after the termination date herein established may be made only during the year for which subject bond has been filed.

HISTORY: Add. 1954, p. 443, Act 185, Eff. Aug. 13.

207.124 License; issuance, license number, display.

Sec. 24. Upon filing of such application and bond, and upon the payment of the fee, the secretary of state shall in the case of a user issue to such applicant a license which shall authorize the holder thereof to operate a motor vehicle or motor vehicles using and consuming diesel motor fuel upon the public roads and highways of this state, and in the case of a dealer shall authorize the holder thereof to sell and dispense diesel motor fuel into fuel supply tanks of motor vehicles in this state, until the 1st day of January following the date of its issuance, unless such license shall be revoked within that period by the secretary of state under any of the provisions of this chapter. At the time of issuance of such license to any user, the secretary of state shall assign the applicant a license number, which said number the user shall exhibit on each motor vehicle used by him, in colors of distinct contrast to those of the motor vehicle with letters or figures of a size to be determined by the secretary of state. Every law enforcement officer of this state shall be empowered to halt any motor vehicle which such officer or employee may have reason to believe is using diesel motor fuel as defined in this chapter, for the purpose of ascertaining whether the provisions of this chapter have been complied with.

HISTORY: Add. 1951, p. 70, Act 54, Eff. Jun. 1.

207.125 License; revocation, notice; continuation.

Sec. 25. If the holder of such license shall at any time refuse or neglect to file his or its monthly report, and pay the full amount of tax at the time and in the manner and place such report is required to be filed, and the tax required to be paid under the provisions of this chapter the secretary of state shall forthwith revoke such license, and shall promptly notify the holder thereof by notice sent by registered mail to the address of such holder appearing in the records of the department of state: Provided, That if said report is filed and the tax paid within 7 days after the same becomes due and it is established under oath that such delay was due to accident or justifiable oversight, then the secretary of state may continue the force and effect of such license.

HISTORY: Add. 1951, p. 70, Act 54, Eff. Jun. 1;—Am. 1954, p. 92, Act 74, Eff. Aug. 13.

207.126 License; payment of delinquent taxes, penalties and costs.

Sec. 26. Before any user or dealer whose license has been revoked shall be entitled to apply for and obtain the license provided for in this chapter, such user or dealer shall pay to the secretary of state any and all delinquent taxes, penalties and costs that remain unpaid by such user or dealer.

HISTORY: Add. 1951, p. 70, Act 54, Eff. Jun. 1.

207.127 Motor fuel tax; determination; report, filing, contents.

Sec. 27. For the purpose of determining the amount of tax payable hereunder to the department, each user shall on or before the twentieth day of each calendar month, except when the twentieth day of any month falls on a Saturday, Sunday or legal holiday, then on the next regular business day, file with the department, on forms prescribed and furnished by it, a statement verified by the user which shall include the number of gallons of diesel motor fuel used by the user during the next preceding cal-

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endar month and such other information as the department may require. The report shall also show the date, place and number of gallons and from whom purchased. Each user at the time of filing the report shall compute the amount of tax payable on account thereof at the applicable rate of tax per gallon, and pay to the department at the time of filing the report the full amount of tax less any amount paid to licensed dealers on account of diesel motor fuel delivered into fuel supply tanks of motor vehicles operated by such user. For the purpose of determining the amount of tax payable hereunder to the department, each dealer shall on or before the twentieth day of each calendar month file with the department on forms prescribed and furnished by the department, a statement verified by the dealer which shall include the number of gallons of diesel motor fuel delivered by the dealer during the preceding calendar month into fuel supply tanks of motor vehicles together with such other information as the department may require as to the amount of diesel motor fuel on hand at the beginning of the month, the amount purchased or otherwise acquired during the month and the amount remaining on hand at the close of the month. Each dealer at the time of filing the report shall compute the amount of tax payable by the dealer as provided in this chapter and pay to the department at the time of filing the report the full amount of tax. The department shall not require inventory or purchase or acquirement reports covering the wholesale business of any dealer who is also a wholesale distributor of diesel motor fuel, but every dealer shall with respect to such business be subject to the provisions of section 28.

Failure to file report or pay tax; penalty, interest.

If any user or dealer shall neglect or refuse to make and file the monthly report, and to pay the tax due for any calendar month, or if any user or dealer shall make or file any incorrect monthly report, or return for any calendar month, as required by this chapter, the department upon such information as is available in its office or elsewhere shall determine the amount of diesel motor fuel taxes due from the user or dealer, and shall add to the amount a penalty of 10% thereof for failure to file such report, or for filing such incorrect report, and collect the amount of the tax and penalty, plus interest on the whole amount due, from the user or dealer at the rate of 1% per month until the same is paid. If the user or dealer shall pay the amount of tax thus determined by the department within 7 days after it becomes due, and it is established that the delay was due to accident or justifiable oversight, the department is authorized to waive the 10% penalty.

HISTORY: Add. 1951, p. 70, Act 54, Eff. Jun. 1;—Am. 1954, p. 92, Act 74, Eff. Aug. 13;—Am. 1957, p. 191, Act 169, Eff. Sep. 27;—Am. 1969, p. 130, Act 70, Imd. Eff. Jul. 21.

207.128 Examination of books and records; maintenance, period; may issue subpoenas and take testimony; information privileged, exception.

Sec. 28. The secretary of state, or his duly authorized agent, is hereby authorized to examine the books, records and papers of any user or dealer or his supplier, pertaining to the records of diesel motor fuel, received, used, purchased, shipped or delivered, as the case may be, to verify the truth and accuracy of any statement, report or return. Each user and dealer shall maintain and keep for a period of 2 years suitable books, records and accounts of all diesel motor fuel purchased, sold, dispensed or used within this state, together with all invoices, delivery tickets, bills of lading, and other pertinent records and papers as may be required by the secretary of state for the reasonable administration of this chapter. The secretary of state, or his duly authorized agent, shall have the power to take the testimony of any person, and for such purpose shall be authorized to issued subpoenas and compel attendance of witnesses: Provided, That it shall be unlawful for any person to disclose the information required by the secretary of state or such agent under the provisions of this section, except when required so to do in a court of law: Provided further, That this provision shall not be

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construed to mean that such information or evidence is privileged when used by the state, or any officer thereof, in any proceeding for the collection of the tax or in any prosecution for the violation of any of the provisions of this chapter.

HISTORY: Add. 1951, p. 71, Act 54, Eff. Jun. 1.

207.129 Diesel motor fuel tax; in lieu of other taxes; exception.

Sec. 29. The tax herein provided shall be in lieu of all other taxes imposed or to be imposed upon the sale or use of diesel motor fuel by the state or any political subdivision thereof, except the taxes imposed by Act No. 167 of the Public Acts of 1933, as amended, being sections 205.51 to 205.78 of the Compiled Laws of 1948 and Act No. 94 of the Public Acts of 1937, as amended, being sections 205.91 to 205.111 of the Compiled Laws of 1948. The foregoing exception shall not apply to diesel motor fuel used in passenger vehicles of a capacity of 10 or more operated for hire under a certificate issued by the public service commission over regularly scheduled routes in this state.

HISTORY: Add. 1951, p. 72, Act 54, Eff. Jun. 1;—Am. 1970, p. 62, Act 17, Imd. Eff. Apr. 20.

207.130 Tax to be lien, priority; secretary of state may estimate amount of tax payable.

Sec. 30. The tax herein imposed, in addition to the interest and penalties provided herein and the costs that may accrue in addition thereto, shall be a lien in favor of the state against all property and rights of property, both real and personal, then owned or afterward acquired by any person, as defined herein, liable therefor, to secure the payment of such tax, interest, penalties and costs, which lien shall attach to the property from and after the date that any report upon which the tax herein imposed is computed is required by this chapter to be filed. Such lien shall take precedence over all other liens and encumbrances whatsoever. Whenever any person as defined in this chapter shall neglect or refuse to make and file any report as required by law, upon which the amount of tax imposed by this chapter is computed, the secretary of state may estimate the amount thereof from any information obtainable in his office or elsewhere, and he may proceed to collect such tax in the same manner as is herein provided in the case of failure to pay such tax after the report required by law has been filed.

HISTORY: Add. 1951, p. 72, Act 54, Eff. Jun. 1.

207.131 Demand for payment; warrant, execution; indemnity bond not required; property acquired by state; right to collect tax by action upon board; actions in chancery.

Sec. 31. If the tax imposed by this chapter is not paid on the date same is required to be paid under the provisions hereof, the secretary of state, or some person designated by him, may cause a demand to be made on the user or dealer liable for the payment thereof, and if such tax remains unpaid for 5 days after such demand has been made and no proceedings have been taken to review the same, the secretary of state may issue a warrant under the official seal of his office directed to the sheriff of any county of the state, or to any state officer authorized to serve process, commanding said sheriff or other officer to levy upon and sell the real and personal property of the user or dealer as defined in this chapter, without exemption, found within his jurisdiction for the payment of the amount thereof, with added penalties, interest, and the cost of executing the warrant, and to return such warrant to the secretary of state, and to pay him the money collected by virtue thereof within the time to be herein specified, which shall not be less than 20 nor more than 90 days from the date of the warrant. The sheriff or other officer to whom any such warrant shall be directed shall proceed upon the same, and in all respects and with like effect, and in the same manner as prescribed by law in respect to executions issued against property upon judgments by a

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court of record, and shall be entitled to the same fees for his services in executing the warrant to be collected in the same manner: Provided, That no indemnity bond shall be required or demanded by any sheriff or constable or other officer serving such warrant. The state of Michigan through the secretary of state, or some officer or agent designated by him, is hereby authorized to bid for and purchase any property sold under the provisions hereof, and whenever any such property has been acquired or shall be acquired through purchase at any such sale by the state of Michigan, the secretary of state shall have the power in the name of the state of Michigan, and with the approval of the state administrative board, to dispose of such property, by public or private sale, and to convey title thereto: Provided, however, That nothing contained in any section hereof shall be construed as forfeiting or waiving any rights to collect such taxes by action upon any bond that may be filed with the secretary of state under the provisions of any such sections of this chapter, or by suit or otherwise, and in case such suit, action or other proceeding is instituted for the collection of such tax, such suit, action or other proceeding shall not be construed as waiving any right to proceed to foreclose the lien herein provided. Any and all actions in chancery arising out of the construction or enforcement of this chapter may be brought in the circuit court for the county of Ingham in chancery.

HISTORY: Add. 1951, p. 72, Act 54, Eff. Jun. 1.

207.132 Clerical assistants; rules and regulations.

Sec. 32. The secretary of state may employ such clerical assistants, examiners and certified public accountants as may be necessary to carry out the provisions of this chapter. He shall also have authority to prescribe such rules and regulations as shall by him be deemed appropriate and necessary to the administration of this chapter subject to the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82, inclusive, of the Compiled Laws of 1948, including any reasonable method by metering or otherwise to verify the accuracy of any statements made in reporting or in any other manner necessary to the enforcement of the provisions of this chapter.

HISTORY: Add. 1951, p. 73, Act 54, Eff. Jun. 1.

207.133 Misdemeanor, penalty; revocation of license.

Sec. 33. Any person as defined in this chapter who shall make any false statement or return, or who shall in any way wilfully violate any of the provisions of this chapter, except as herein specifically provided, shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than $1,000.00 or by imprisonment in the county jail for not more than 1 year, or by both such fine and imprisonment in the discretion of the court. In addition to the foregoing penalties, the secretary of state shall revoke the license of any user or dealer who shall have been convicted of a misdemeanor for such violations.

HISTORY: Add. 1951, p. 73, Act 54, Eff. Jun. 1.

207.134 Moneys; deposit.

Sec. 34. All sums of money received and collected by the secretary of state under the provisions of this chapter, except the license fees herein provided, shall be deposited in the state treasury to the credit of the motor vehicle highway fund, and after the payment of the necessary expenses incurred in the enforcement of this chapter shall be appropriated, allocated and apportioned therefrom to the state highway department, the several county road commissions and incorporated cities and villages of the state in the manner and for the specific highway purposes prescribed by law.

HISTORY: Add. 1951, p. 73, Act 54, Eff. Jun. 1.

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CHAPTER 3.

LIQUEFIED PETROLEUM GAS TAX.

207.151 Liquefied petroleum gas tax; provisions applicable, definitions.

Sec. 51. The provisions of chapter 3 of this act shall apply only to liquefied petroleum gas and the definitions in this section shall apply only to chapter 3 of this act.

"Liquefied petroleum gas" shall be deemed to mean gases derived from petroleum or natural gases which are in the gaseous state at normal atmospheric temperature and pressure, but which may be maintained in the liquid state at normal atmospheric temperature by suitable pressure. The term shall be deemed to include those products predominately composed of propane, propylene, butylene, butane, and similar products not covered in chapter 1 and chapter 2 of Act No. 150 of the Public Acts of 1927, as amended.

"Use" shall mean and include: (1) Selling or delivering liquefied petroleum gas not previously subjected to tax under part 2 hereof, either by placing it into permanently attached fuel supply tanks of motor vehicles, or exchanging or replacing of the fuel supply tanks of a motor vehicle, or (2) making delivery of liquefied petroleum gas into storage, devoted exclusively to the storage of liquefied petroleum gas to be consumed in motor vehicles on the public roads and highways, or (3) the withdrawal of liquefied petroleum gas from the cargo tank of a truck, trailer or semi-trailer for the operation of a motor vehicle upon the public roads and highways of this state, whether same be used in vapor or liquid form.

"Motor vehicle" means and includes all vehicles propelled by internal combustion engine or motors either manufactured for use of liquefied petroleum gas, or as may be converted to such use by mechanical devices, on the public roads and highways in the state, except such vehicles as run on rails or tracks.

"Licensed dealer" shall mean and include any person using liquefied petroleum gas within the meaning of "use", as defined herein, holding an unrevoked license issued by the secretary of state as hereinafter provided.

"Dealer" shall mean and include any person other than a "licensed dealer" who engages in the business of selling or handling of liquefied petroleum gas for any purpose whatsoever within this state.

"Public roads and highways" means every way or place generally opened to the use of the public as a matter of right for the purpose of vehicular travel, notwithstanding that they may be temporarily closed or travel thereon restricted for the purpose of construction, maintenance, repair or reconstruction.

"Person" means and includes a natural person, partnership, firm, association, joint stock company, syndicate and corporations, and any receiver, trustee, conservator, or any other official having jurisdiction or control of property by virtue of the provisions of any law, or by appointment of a court other than units of government.

HISTORY: Add. 1953, p. 152, Act 147, Imd. Eff. May 29.

Former section 207.151 (Sec. 1, Act 150, 1925, p. 215, Imd. Eff. April 30) was repealed by Act 147, 1953, p. 156, Imd. Eff. May 29. It created a gasoline tax enforcement fund.

207.152 Liquefied petroleum gas tax; tax.

Sec. 52. A tax of 7 cents per gallon is imposed upon all liquefied petroleum gas used in this state within the meaning of use as defined in section 51, which tax shall be paid at the times and in the manner herein specified. The tax on liquefied petroleum gas fuel sold or delivered either by placing into permanently attached fuel supply tank on a motor vehicle, or exchanging or replacing the fuel supply tank of a motor vehicle, shall be collected by the licensed dealer from the purchaser and paid over monthly to the department of revenue as hereinafter provided. The tax on liquefied petroleum gas fuel delivered in this state into the storage facility of any person when the exclusive

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purpose of such storage facility shall be known to be for resale or use of such liquefied petroleum gas for the use of motor vehicles on the public roads and highways of this state, shall, upon delivery to storage facility, be subject to tax, and such duly licensed dealer shall upon delivery thereof collect such tax, and same shall be paid monthly by such licensed dealer to the department of revenue as hereinafter provided. It shall be unlawful to operate a motor vehicle on the public roads and highways of this state from the cargo containers of a truck, trailer or semitrailer with liquefied petroleum gas in vapor or liquid form, except when such fuel in the liquid or vapor phase is withdrawn from such cargo container for use in motor vehicles through a permanently installed and approved metering device. The tax on liquefied petroleum gas withdrawn from such cargo container through permanently installed and approved metering device shall apply in accordance with measured gallons as reflected by meter reading, and shall be paid monthly by such licensed dealer to the department of revenue as hereinafter provided.

HISTORY: Add. 1953, p. 152, Act 147, Imd. Eff. May 29;—Am. 1967, 1st Ex. Ses., p. 749, Act 5, Eff. Jan. 1, 1968.

Former section 207.152 (Sec. 2, Act 150, 1925, p. 215, Imd. Eff. April 30) was repealed by Act 147, 1953, p. 156, Imd. Eff. May 29. It provided for disbursements from gasoline tax enforcement fund.

207.153 Liquefied petroleum gas dealer; license; application, fee; bond; approval.

Sec. 53. It is unlawful for any person to act as a licensed dealer unless such person is the holder of an unrevoked dealer license issued by the department.

To procure a license every applicant shall file with the department a verified application upon a form prescribed and to be furnished by the department. The application shall show the name and address of the dealer and of each place of business operated by him at which liquefied petroleum gas will be used within the meaning of the term "use" and such other information as the department may reasonably require for the purpose of this chapter.

At the time of applying for such license, every applicant shall pay to the department an annual license fee of $1.00, which fee shall be credited to the general fund, and if the applicant cannot satisfy the department as to his financial responsibility he shall file with the department a surety bond payable to the state upon which the applicant is the obligor, in the sum of not less than $500.00 nor more than $5,000.00, conditioned that the applicant shall comply with all of the laws pertaining to licensed dealers in liquefied petroleum gas and will promptly file true reports and pay the taxes and penalties provided for or required by this chapter, which bond shall be approved as to amount and sureties by the department. In lieu of the surety bond, the applicant may deposit a sum of money with the department in such amount as the department may determine to guarantee the payment of the tax, penalty and interest and compliance with this act, but the amount of such deposit shall not exceed 3 times his known or estimated highest tax payable to the department for 1 month and shall not exceed $5,000.00. The premium paid on any bond required under the provisions of this section shall be reimbursed to such licensed dealer by the state, and such reimbursement shall be considered a proper expense in carrying out the provisions of this chapter, payable from the revenue received hereunder. If any application for the license is filed by any person whose license shall at any time theretofore have been canceled for cause by the department, or if the department shall be of the opinion that the application is not filed in good faith, or that the application is filed by some person as a subterfuge for the real person in interest whose license shall theretofore have been canceled for cause by the department, then the department, after a hearing of which the applicant shall have been given 5 days' notice in writing, and in which the applicant shall have the right to appear in person or by counsel and present testimony, shall have the right to refuse to issue such person a license.

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Upon filing of the application and bond and upon payment of the fee, the department shall issue to the applicant a license which shall authorize the holder thereof to act as a licensed dealer in this state until January 1 following the date of its issuance, unless the license is revoked before that period by the department under the provisions of this chapter.

HISTORY: Add. 1953, p. 153, Act 147, Imd. Eff. May 29;—Am. 1954, p. 443, Act 185, Eff. Aug. 13;—Am. 1969, p. 131, Act 70, Imd. Eff. Jul. 21.

207.153a Reimbursement of bond premium expense; termination.

Sec. 53a. Reimbursement of bond premium expense herein provided to licensed dealers of liquefied petroleum gas is hereby terminated December 31, 1954, which shall be deemed to include any claim for refund of premium expense covering bonds furnished the secretary of state for the calendar year of 1954 and all prior years: Provided, That reimbursement of bond premium expense on bonds required by the secretary of state after the termination date herein established may be made only during the year for which subject bond has been filed.

HISTORY: Add. 1954, p. 444, Act 185, Eff. Aug. 13.

207.154 License; revocation, notice.

Sec. 54. If the holder of such license shall at any time refuse or neglect to file his or its monthly report, and pay the full amount of tax at the time and in the manner and place such report is required to be filed, and the tax required to be paid under the provisions of this chapter, the secretary of state shall forthwith revoke such license, and shall promptly notify the holder thereof by notice sent by registered mail to the address of such holder appearing in the records of the department of state: Provided, That if said report is filed and the tax paid within 7 days after the same becomes due, and it is established under oath that such delay was due to accident or justifiable oversight, then the secretary of state may continue the force and effect of such license.

HISTORY: Add. 1953, p. 153, Act 147, Imd. Eff. May 29;—Am. 1954, p. 93, Act 74, Eff. Aug. 13.

207.155 License; restoration upon payment of delinquent taxes, penalties and costs.

Sec. 55. Before any licensed dealer whose license has been revoked shall be entitled to apply for and obtain the license provided for in this chapter, such licensed dealer shall pay to the secretary of state any and all delinquent taxes, penalties and costs that remain unpaid by such licensed dealer.

HISTORY: Add. 1953, p. 154, Act 147, Imd. Eff. May 29.

207.156 Certificate filed by dealer; contents.

Sec. 56. Every dealer as defined herein shall file a duly acknowledged certificate with the secretary of state on form prescribed and furnished by him, which certificate shall contain the information and be signed and sworn to in the same manner as required of applicants for licenses under the provisions of this section. It shall be unlawful for any dealer to engage in business as such in this state without having filed the certificate herein required.

HISTORY: Add. 1953, p. 154, Act 147, Imd. Eff. May 29.

207.157 Dealer's sworn statement of use; filing, contents; failure to file, penalty, waiving.

Sec. 57. For the purpose of determining the amount of tax payable hereunder to the secretary of state, each licensed dealer shall on or before the twentieth day of each calendar month, except when the twentieth day of any month falls on a Saturday, Sunday or legal holiday, then on the next regular business day, file with the secretary of state on forms prescribed and furnished by the secretary of state, a statement sworn to by the licensed dealer, which shall include the number of gallons of liquefied petroleum gas used within the meaning of the term "use" as defined herein, by such li-

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censed dealer during the preceding calendar month, together with such other information as the secretary of state may require. It shall be the duty of each licensed dealer at the time of filing such report to compute the amount of tax payable by such licensed dealer as provided in this chapter, and to pay to the secretary of state at the time of filing such report the full amount of such tax.

Failure to file correct report and pay tax; penalty, interest.

If any licensed dealer shall neglect or refuse to make and file the monthly report, and to pay the tax due for any calendar month, or if any licensed dealer shall make or file any incorrect monthly report, or return, for any calendar month, as required by this chapter, the secretary of state, upon such information as is available in his office or elsewhere, shall determine the amount of liquefied petroleum gas taxes due from said licensed dealer, and shall add to the said amount a penalty of 10% thereof for failure to file such report, or for filing such incorrect report, and collect the amount of the said tax and penalty plus interest on the whole amount due from the licensed dealer at the rate of 1% per month until same is paid. If such licensed dealer shall pay the amount of tax thus determined by the secretary of state within 7 days after it becomes due, and it be established that such delay was due to accident or justifiable oversight, the secretary of state is authorized to waive the 10% penalty.

HISTORY: Add. 1953, p. 154, Act 147, Imd. Eff. May 29;—Am. 1954, p. 93, Act 74, Eff. Aug. 13;—Am. 1957, p. 192, Act 169, Eff. Sep. 27.

207.158 Books, records and papers; examination; kept for 2 years; subpoena; information, disclosure.

Sec. 58. The secretary of state, or his duly authorized agent, is hereby authorized to examine the books, records and papers of any dealer or licensed dealer or his supplier, pertaining to the records of liquefied petroleum gas fuel, received, used, purchased, shipped or delivered, as the case may be, to verify the truth and accuracy of any statement, report or return. Each dealer and licensed dealer shall maintain and keep for a period of 2 years, suitable books, records and accounts of all liquefied petroleum gas fuel purchased, sold, dispensed or used within this state, together with all invoices, delivery tickets, bills of lading and other pertinent records and papers as may be required by the secretary of state for the reasonable administration of this chapter. The secretary of state or his duly authorized agent shall have the power to take the testimony of any person, and for such purpose shall be authorized to issue subpoenas and compel attendance of witnesses: Provided, That it shall be unlawful for any person to disclose the information required by the secretary of state or such agent under the provisions of this section, except when required so to do in a court of law: Provided further, That this provision shall not be construed to mean that such information or evidence is privileged when used by the state, or any officer thereof, in any proceeding for the collection of the tax, or in any prosecution for the violation of any of the provisions of this chapter.

HISTORY: Add. 1953, p. 154, Act 147, Imd. Eff. May 29.

207.159 Refunds; claim, invoice.

Sec. 59. Any person consuming liquefied petroleum gas for any purpose other than the operation of motor vehicles on the public roads, streets and highways in this state and the state government and the federal government using liquefied petroleum gas in state and federally owned motor vehicles, and the political subdivisions of the state using liquefied petroleum gas in vehicles owned by or leased and operated by the political subdivisions of the state upon which the tax imposed by this section may have been paid, shall be entitled to a refund of the tax paid thereon upon filing a sworn claim with the secretary of state, upon forms prescribed and to be furnished by him, within 6 months of the date of purchase, as shown on the invoice. It shall be the duty of the seller to furnish any such purchaser with an invoice showing the amount of liquefied

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petroleum gas purchased, the date thereof, and the amount of tax paid thereon. All claims for refund shall have attached thereto the original invoice, receipted by the purchaser, and when approved by the secretary of state shall be paid out of the motor vehicle highway fund.

HISTORY: Add. 1953, p. 155, Act 147, Imd. Eff. May 29;—Am. 1956, p. 314, Act 165, Eff. Aug. 11.

207.160 Tax; lien, precedence, estimate, collection.

Sec. 60. The tax herein imposed, in addition to the interest and penalties provided herein and the costs that may accrue in addition thereto, shall be a lien in favor of the state against all property and rights of property, both real and personal, then owned or afterward acquired by any person, as defined herein, liable therefor, to secure the payment of such tax, interest, penalties and costs, which lien shall attach to the property from and after the date that any report upon which the tax herein imposed is computed, as required by this chapter to be filed. Such lien shall take precedence over all other liens and encumbrances whatsoever. Whenever any person, as defined in this chapter, shall neglect or refuse to make and file any report, as required by law, upon which the amount of tax imposed by this chapter is computed, the secretary of state may estimate the amount thereof from any information obtainable in his office or elsewhere, and he may proceed to collect such tax in the same manner as is herein provided in the case of failure to pay such tax after the report required by law has been filed.

HISTORY: Add. 1953, p. 155, Act 147, Imd. Eff. May 29.

207.161 Demand for payment; warrant; levy; purchase property to be sold, disposal; chancery.

Sec. 61. If the tax imposed by this chapter is not paid on the date same is required to be paid under the provisions hereof, the secretary of state, or some person designated by him, may cause a demand to be made on the licensed dealer liable for the payment thereof, and if such tax remains unpaid for 5 days after such demand has been made, and no proceedings have been taken to review the same, the secretary of state may issue a warrant under the official seal of his office directed to the sheriff of any county of the state, or to any state officer authorized to serve process, commanding said sheriff or other officer, authorized to serve process, to levy upon and sell the real and personal property of the licensed dealer, as defined in this chapter, without exemption, found within his jurisdiction, for the payment of the amount thereof, with added penalties, interest, and the cost of executing the warrant, and to return such warrant to the secretary of state, and to pay him the money collected by virtue thereof within the time to be herein specified, which shall not be less than 20 nor more than 90 days from the date of the warrant. The sheriff or other officer to whom any such warrant shall be directed shall proceed upon the same, in all respects and with like effect and in the same manner as prescribed by law in respect to executions issued against property upon judgments by a court of record, and shall be entitled to the same fees for his services in executing the warrant to be collected in the same manner: Provided, That no indemnity bond shall be required or demanded by any sheriff, or constable, or other officer serving such warrant. The state of Michigan through the secretary of state, or some officer or agent designated by him, is hereby authorized to bid for and purchase any property sold under the provisions hereof, and whenever any such property has been acquired or shall be acquired through purchase at any such sale by the state of Michigan, the secretary of state shall have the power in the name of the state of Michigan, and with the approval of the state administrative board, to dispose of such property by public or private sale and to convey title thereto: Provided, however, That nothing contained in any section hereof shall be construed as forfeiting or waiving of any rights to collect such taxes by action upon any bond that may be filed with

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the secretary of state under the provisions of any such sections of this chapter, or by suit or otherwise, and in case such suit, action or other proceeding shall not be construed as waiving any right to proceed to foreclose the lien herein provided. Any and all actions in chancery arising out of the construction or enforcement of this chapter may be brought in the circuit court for the county of Ingham in chancery.

HISTORY: Add. 1953, p. 155, Act 147, Imd. Eff. May 29.

207.162 Assistants, examiners, accountants; rules and regulations.

Sec. 62. The secretary of state may employ such clerical assistants, examiners, and certified public accountants as may be necessary to carry out the provisions of this chapter. He shall also have authority to prescribe such rules and regulations as shall by him be deemed appropriate and necessary to the administration of this chapter, subject to the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82, inclusive, of the Compiled Laws of 1948, including any reasonable method by metering or otherwise to verify the accuracy of any statements made in reporting or in any other manner necessary to the enforcement of the provisions of this chapter.

HISTORY: Add. 1953, p. 156, Act 147, Imd. Eff. May 29.

207.163 Penalty for violation.

Sec. 63. Any person as defined in this chapter who shall make any false statement or return, or who shall in any way wilfully violate any of the provisions of this chapter, except as herein specifically provided, shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than $100.00, or by imprisonment in the county jail for not more than 90 days, or by both such fine and imprisonment in the discretion of the court. In addition to the foregoing penalties, the secretary of state shall revoke the license of any licensed dealer who shall have been convicted under this section.

HISTORY: Add. 1953, p. 156, Act 147, Imd. Eff. May 29.

207.164 Money, deposit, allocation.

Sec. 64. All sums of money received and collected by the secretary of state under the provisions of this chapter, except the license fees herein provided, shall be deposited in the state treasury to the credit of the motor vehicle highway fund, and after the payment of the necessary expenses incurred in the enforcement of this chapter shall be appropriated, allocated and apportioned therefrom to the state highway department, the several county road commissions and incorporated cities and villages of the state in the manner and for the specific highway purposes prescribed by law.

HISTORY: Add. 1953, p. 156, Act 147, Imd. Eff. May 29.

CHAPTER 4.

RESIDENT OR NONRESIDENT MOTOR VEHICLES AND RECIPROCITY

207.181 Reciprocal motor fuel tax chapter; application of chapter.

Sec. 81. The provisions of this chapter shall apply to gasoline as defined in chapter 1, diesel motor fuel as defined in chapter 2 and liquefied petroleum gas as defined in chapter 3, and the definitions in this chapter shall apply thereto.

HISTORY: Add. 1955, p. 312, Act 210, Imd. Eff. Jun. 17.

207.182 Reciprocal motor fuel tax; definitions.

Sec. 82. (1) "Department" means the department of revenue division of the department of treasury.

(2) "Motor vehicle" means all vehicles propelled by internal combustion engines or motors either manufactured or as may be converted by mechanical devices for use on the public roads and highways, except such vehicles as run on rails or tracks.

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(3) "Motor fuel" means and includes gasoline as defined in section 1, diesel motor fuel as defined in section 21, liquefied petroleum gas as defined in section 51, or any liquid prepared, manufactured, blended, advertised, sold for or used in the generation of power for the propulsion of motor vehicles on the public roads and highways.

(4) "Tax" shall mean and include the rate thereof as established within the respective chapters of this act as applicable to the nature of the "motor fuel" identified herein or any change in rate of tax increase or decrease, or amendment as may be made prior to or after the effective date of this act, unless such change specifically excludes the provisions of this chapter.

(5) "Person" means and includes a natural person, partnership, firm, association, joint stock company, syndicate and corporation, and any receiver, trustee, conservator, or any other official having jurisdiction or control of property by virtue of the provisions of any law, or by appointment of a court or other units of government.

HISTORY: Add. 1955, p. 312, Act 210, Imd. Eff. Jun. 17;—Am. 1969, p. 131, Act 70, Imd. Eff. Jul. 21.

207.183 Motor fuel tax; payment, report.

Sec. 83. Any person, who purchases or obtains motor fuel outside of this state and operates any motor vehicle into this state upon the public roads and highways of this state and transports motor fuel in the fuel supply tank or tanks attached or unattached to said motor vehicle for the purpose of operating said vehicle, shall pay the Michigan motor fuel tax on the gallons consumed by such motor vehicle while operated on Michigan public roads and highways, except that this section shall not apply to any motor vehicle coming into this state with a motor fuel tank capacity not to exceed 25 gallons. Payment of the tax shall be made by purchase of motor fuel within Michigan of such gallons as is equivalent to the gallons consumed while operating such motor vehicle on the public roads and highways of Michigan, or by direct remittance to the secretary of state. If deemed necessary to determine the amount of tax due or to prevent tax evasion, the secretary of state may require any such person to report on forms prescribed by it, and to pay taxes in the manner as is provided within the chapter provided therefor. Any person required to make returns and pay the tax herein imposed shall be subject to all provisions of the chapter provided therefor and all penalties for violations established therein.

HISTORY: Add. 1955, p. 312, Act 210, Imd. Eff. Jun. 17.

207.184 Motor fuel tax; refund, report.

Sec. 84. Any person regularly or habitually operating motor vehicles upon the public roads and highways of any other state, and using in said motor vehicles motor fuel purchased or obtained in this state, may be allowed a credit or refund equal to the tax on said motor fuel actually paid to the state in which it is used, but not to exceed the tax imposed on said motor fuel by this state, except that this section shall not apply to any motor vehicle going into such other state from this state with not to exceed 25 gallons of motor fuel in its tanks or with a motor fuel tank capacity not to exceed 25 gallons. No such credits or refund shall be allowed for taxes paid to any state which imposes a tax upon motor fuel purchased or obtained in this state and used on the highways of such other state, and which does not allow a similar credit or refund for the tax paid to this state on motor fuel purchased or acquired in such other state and used on highways of this state. Every person claiming a credit or refund shall, within 60 days after the tax to such other state is paid, file a report in such form as is prescribed by the secretary of state, together with such proof of the payment of the tax and of the fact that it was paid on motor fuel purchased or obtained within this state as the secretary of state may require.

HISTORY: Add. 1955, p. 313, Act 210, Imd. Eff. Jun. 17.

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207.185 Refund; payment.

Sec. 85. Any credit or refund, herein provided, when approved by the secretary of state, shall be a proper expense in carrying out the provisions of this act, payable from the revenue received from the preceding chapters hereof or as may hereafter be provided.

HISTORY: Add. 1955, p. 313, Act 210, Imd. Eff. Jun. 17.

207.186 Deposit of collections; appropriation, apportionment.

Sec. 86. All sums of money received or collected by the secretary of state under the provisions of this chapter shall be deposited in the state treasury to the credit of the motor vehicle highway fund, or as may hereafter be provided, and after payment of necessary expenses incurred in the enforcement of this chapter, shall be appropriated, allocated and apportioned in the manner and for the specific purposes prescribed by law.

HISTORY: Add. 1955, p. 313, Act 210, Imd. Eff. Jun. 17.

CHAPTER 5

MACKINAC BRIDGE AUTHORITY BONDS

207.191 Mackinac bridge authority bonds; appropriation; time.

Sec. 91. During January, 1969, and during each January thereafter, from the tax levied by this act, there is appropriated the sum of $3,500,000.00, which sum shall be used to pay the principal, interest and incidental costs for the outstanding bonds, heretofore issued by the Mackinac bridge authority or, in the event said bonds are refunded in accordance with Act No. 13 of the Public Acts of 1966, as amended, to pay the principal, interest and incidental costs for said refunding bonds. Upon retirement of all outstanding bonds and any refunding bonds hereafter issued, this appropriation shall cease.

HISTORY: Add. 1967, 1st Ex. Ses., p. 750, Act 5, Eff. Jan. 1, 1968.

207.192 Mackinac bridge tolls; reduction.

Sec. 92. It is the intent of the legislature that the authority responsible for setting tolls for the Mackinac bridge will use the appropriation provided in section 91 to reduce the tolls to as near as possible to $1.50 per passenger car and pickup and a proportional reduction for all other classes of vehicles.

HISTORY: Add. 1967, 1st Ex. Ses., p. 750, Act 5, Eff. Jan. 1, 1968.

207.193 Appropriation; use; continuation of tolls; reimbursement; operation as a free bridge.

Sec. 93. The appropriations made in section 91 shall be considered as advances in aid of reducing the bonded indebtedness of the Mackinac bridge. At such time as all principal and interest for all outstanding bonds, heretofore issued by the Mackinac bridge authority and, in the event said bonds are refunded in accordance with Act No. 13 of the Public Acts of 1966, as amended, all principal and interest on said refunding bonds has been paid, the authority responsible for setting tolls for the Mackinac bridge shall continue to charge such tolls as are deemed necessary by said authority to reimburse the motor vehicle highway fund for all advances made pursuant to the provisions of this act. At such time as reimbursement has been made for the sums advanced under this act and those sums advanced pursuant to section 7 of Act No. 214 of the Public Acts of 1952, as amended, the Mackinac bridge shall thereafter be maintained and operated as a free bridge.

HISTORY: Add. 1967, 1st Ex. Ses., p. 750, Act 5, Eff. Jan. 1, 1968.

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207.194 Legislative intent; interstate route.

Sec. 94. Upon the designation by the federal government of an east-west interstate route in the Upper Peninsula, the legislature intends to extend the necessary funds to match federal funds available for such purposes.

HISTORY: Add. 1967, 1st Ex. Ses., p. 750, Act 5, Eff. Jan. 1, 1968.

207.201-207.214 Repealed. 1951, p. 73, Act 54, Eff. Jun. 1.

Sections imposed tax on diesel fuel used on public roads, and provided for collection and payment of tax.

207.251-207.254 Repealed. 1967, Ex. Ses., p. 751, Act 6, Eff. Jan. 1, 1968.

Sections related to highway finance act; definitions; highway purposes; motor vehicle highway fund; deposit of additional taxes; distribution.

207.255-207.260 Repealed. 1957, p. 349, Act 263, Eff. Jul. 1.

Sections limited use of highway construction fund, and provided for borrowing and issuance of bonds.

207.261, 207.262 Repealed. 1956, Ex. Ses., p. 7, Act 1, Imd. Eff. Jun. 19.

Sections permitted local units to pledge for certain highway contracts money from highway construction fund and authorized successive borrowings.

207.263-207.265 Repealed. 1957, p. 349, Act 263, Eff. Jul. 1.

Sections provided that indebtedness under highway finance act of 1955 was not a pledge of state credit, and that bonds issued under the act were to be negotiable and exempt from state taxation.

Act 68, 1963, p. 81; Eff. Sep. 6.

AN ACT providing for the specific taxation of underground beneficiated iron ore, underground agglomerated iron ore and related property; to provide for the collection and distribution of the specific tax; and to prescribe the powers and duties of the state geologist and certain township and city officials with respect thereto.

The People of the State of Michigan enact:

207.271 Specific taxation of underground beneficiated iron ore; definitions.

Sec. 1. As used in this act:

(a) "Underground ore" means iron ore in its natural state which to be mined must be removed through a shaft, incline or adit.

(b) "Beneficiated ore" means underground ore which has been treated, but not agglomerated, in accordance with good engineering and metallurgical practice by any process, other than by simple crushing or simple sizing, which is intended to improve the quality of the underground ore; including but not limited to, drying with the use of fuel, washing, jigging, using heavy media separation, flotation, cyclones or spirals or any combination.

(c) "Agglomerated ore" means underground ore which has been pelletized, sintered, nodulized, briquetted, extruded or otherwise aggregated in accordance with good engineering and metallurgical practice.

(d) "Ore property" means the mineral bearing lands of a mine from which underground ore is mined, stockpiles of underground ore, buildings, plants, facilities, equipment, tools and supplies, but exclusive of any lands held primarily for timber purposes, used in connection with the mining and transportation of the underground ore.

(e) "Beneficiating facility" means the lands, plants, stockpiles of underground or beneficiated ores, buildings, facilities, equipment, tools and supplies used in connection with the beneficiation and transportation of the ores.

(f) "Agglomerating facility" means the lands, plants, stockpiles of underground, ben-

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eficiated or agglomerated ores, buildings, facilities, equipment, tools and supplies used in connection with the agglomeration and transportation of the ores.

(g) "Local", when applied to beneficiation or agglomeration, or to a beneficiating facility or agglomerating facility, means within a radius of 100 miles of the point of extraction of the underground ore involved and within this state.

(h) "Shipments" means deliveries in gross tons of underground ore from an ore property to a beneficiating facility, to an agglomerating facility, or to market, unless otherwise expressly stated.

(i) "Mine value of base grade ore f.o.b. an ore property" means the published Lake Erie price per gross ton of Old Range non-Bessemer ore of base grade (51.5% natural iron), as of the date of the assessment, less the total of all transportation and handling costs, including any tax thereon, from the ore property to Lake Erie ports.

HISTORY: New 1963, p. 81, Act 68, Eff. Sep. 6.

CITED IN OTHER SECTIONS: Sections 207.271 to 207.279 are cited in § 425.171.

207.272 Specific taxation of underground beneficiated iron ore; computation formula; following completion of first agglomerating facility.

Sec. 2. (1) Beginning with the first full calendar year following the completion, after the effective date of this act, of the first local agglomerating facility, except that for the purpose of determining the first facility, and no other, a facility which also comes within the provisions of Act No. 77 of the Public Acts of 1951, as amended, being sections 211.621 to 211.625 of the Compiled Laws of 1948, shall not be considered as the first facility:

(a) Whenever 25% or more of the annual shipments from an ore property is agglomerated in a local agglomerating facility, the ore property and the agglomerating facility, together with any beneficiating facility used in connection therewith, shall in that year and thereafter be subject to a specific tax in an amount equal to the average annual total shipments from such ore property during the preceding 5-year period, multiplied by 2% of the mine value of base grade ore f.o.b. the ore property; or

(b) Whenever 75% or more of the annual shipments from an ore property to which subdivision (a) of this section does not apply is agglomerated in accordance with seasonal inventory practices in an agglomerating facility which is not located within a radius of 100 miles of the point of extraction, the ore property shall in that year and thereafter be subject to a specific tax in an amount equal to the average annual total shipments from such ore property during the preceding 5-year period, multiplied by 3% of the mine value of base grade ore f.o.b. the ore property; or

(c) Whenever 75% or more of the annual shipments from an ore property to which neither subdivision (a) nor subdivision (b) of this section applies is beneficiated in a local beneficiating facility, so that the ore so beneficiated would pass through a 7/8-inch screen, the ore property and the beneficiating facility shall in that year and thereafter be subject to a specific tax in an amount equal to the average annual total shipments from the ore property during the preceding 5-year period, multiplied by 3% of the mine value of base grade ore f.o.b. the ore property; or

(d) Whenever any portion less than 25% of the annual shipments from an ore property to which subdivision (b) or (c) of this section would otherwise apply is agglomerated in a local agglomerating facility, then the ore property and the agglomerating facility, together with any beneficiating facility used in connection therewith, shall in that year be subject to a specific tax in an amount equal to

(i) the average annual total shipments from such ore property during the preceding 5-year period, multiplied by the proportion which the shipments from such ore property agglomerated in a local agglomerating facility in the tax year bear to the total

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shipments from such ore property in the same year, multiplied by 2% of the mine value of base grade ore f.o.b. said ore property, and

(ii) the average annual total shipments from such ore property during the preceding 5-year period, multiplied by the proportion which the shipments from such ore property not agglomerated in a local agglomerating facility in the tax year bear to the total shipments from such ore property in the same year, multiplied by 3% of the mine value of base grade ore f.o.b. said ore property.

(2) For purposes of this section, years in which there were no shipments shall be excluded in computing average annual shipments but only until the ore property has a 5-year record of shipments.

HISTORY: New 1963, p. 82, Act 68, Eff. Sep. 6.

207.273 Specific taxation of underground beneficiated iron ore; computation of tax prior to completion of agglomerating or beneficiating facility.

Sec. 3. (1) Prior to the first full calendar year following the completion of an ore property, the underground ore from which will be agglomerated or beneficiated, or both, in such amounts as to bring the property within the provisions of subdivisions (a), (b), (c) or (d) of subsection 1 of section 2 of this act, the ore property, together with the agglomerating or beneficiating facilities, as may be constructed in connection therewith, shall be subject to a specific tax equal to the rated annual capacity of the ore property multiplied by 1% of the mine value of base grade ore f.o.b. the ore property, multiplied by the per cent completion of the ore property and the agglomerating or beneficiating facilities.

(2) An agglomerating facility or a beneficiating facility constructed or being constructed for the purpose of treating underground ore from an ore property which is being assessed on the ad valorem tax roll shall not be subject to ad valorem tax assessment prior to the first full calendar year following the completion of the facility and prior to the time the ore property comes within the provisions of section 2 of this act.

HISTORY: New 1963, p. 83, Act 68, Eff. Sep. 6.

207.274 Minimum tax.

Sec. 4. During the first year in which any property is subject to a specific tax under this act, the amount of the tax shall be not less than 75% of the ad valorem taxes levied and assessed against the property in the last year in which ad valorem taxes were levied and assessed against it; and during the second year in which the property is subject to the specific tax, the amount of tax shall be not less than 50% of the ad valorem taxes.

HISTORY: New 1963, p. 83, Act 68, Eff. Sep. 6.

207.275 State geologist; determination of tax, apportionment among taxing districts.

Sec. 5. The state geologist or his duly authorized deputy shall determine the specific tax imposed against an ore property, beneficiating facility or agglomerating facility, and as early as practicable prior to February 15 shall certify the same to the supervisor or assessing officer of the township or city in which the ore property, beneficiating facility or agglomerating facility is situated. If the mining or beneficiating or agglomerating of underground ore from an ore property is carried on in more than one taxing district, then the state geologist or his duly authorized deputy shall apportion equitably the amount of the specific taxes to each taxing district, giving due consideration to the relative extent of the operations performed in each taxing district.

HISTORY: New 1963, p. 83, Act 68, Eff. Sep. 6.

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207.276 Curtailment and resumption of agglomeration or beneficiation.

Sec. 6. Whenever any ore property subject to a specific tax under subdivisions (a), (b), (c) or (d) of subsection (1) of section 2 of this act for a period of 2 consecutive years fails to beneficiate or agglomerate a sufficient percentage of its annual shipments to comply with the provisions of any one of the subdivisions of subsection 1 of section 2 of this act, and in the opinion of the state geologist or his duly authorized deputy it appears that the agglomeration or beneficiation will not be resumed, the state geologist or his duly authorized deputy shall so certify and the ore property, together with any agglomerating or beneficiating facilities subject to a specific tax under section 2 of this act solely because used in connection with the ore property and which are not otherwise subject to the specific tax, in the tax year for which the certification is made and thereafter shall be valued and assessed in the same manner as other ore properties, agglomerating and beneficiating facilities not coming within the provisions of this act are valued and assessed. If agglomeration or beneficiation of shipments from the ore property is thereafter resumed in an amount sufficient to meet the percentages of total shipments set forth in any of the subdivisions of subsection (1) of section 2 of this act, then the ore property and the agglomerating or beneficiating facilities shall be subject to the applicable specific tax provided for in section 2 of this act the first calendar year in which the required percentage of gross tons of agglomeration or beneficiation is attained.

HISTORY: New 1963, p. 83, Act 68, Eff. Sep. 6.

207.277 Separate roll; spread of tax; nonpayment; distribution of collections.

Sec. 7. The township supervisor or assessing officer of the city shall remove from the list of land descriptions assessed and taxed under the general property tax law the land descriptions of the property taxed under the provisions of this act, and shall enter the land descriptions on a separate roll. The supervisor or assessor shall spread the specific tax as certified to him by the state geologist or his duly authorized deputy against the lands and the township or city treasurer shall collect the specific tax at the same time, in the same manner and subject to the same collection charges as general property taxes. Lands listed and taxed under the provisions of this act shall be subject to return and sale for nonpayment of taxes in the same manner, at the same time and under the same penalties as lands returned and sold for nonpayment of taxes levied under the general property tax laws. No valuation shall be determined for descriptions under this act, and such lands shall not be considered by the county board of supervisors or by the state board of equalization in connection with county or state equalization for taxation purposes. All sums collected under the provisions of this act shall be distributed by the township treasurer to school districts and to governmental units in the same proportion as the general property taxes, including a millage voted in excess of the 15 mill tax limitation, are distributed. The amounts so distributed may be used by the school districts and governmental units for operating expenses, for capital improvements, for the accumulation of reserves in a building and sites fund, or for the payment of interest or principal on bonds.

HISTORY: New 1963, p. 84, Act 68, Eff. Sep. 6.

207.278 Appeal.

Sec. 8. The supervisor or other local assessing officer or the owner or operator of the property taxed under the provisions of this act may take an appeal from the assessment of the specific taxes, as determined and certified by the state geologist or his duly authorized deputy, to the state tax commission which shall review the same in the same manner, under the same procedure and with the same effect as provided in sec-

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tion 152 of Act No. 206 of the Public Acts of 1893, as amended, being section 211.152 of the Compiled Laws of 1948.

HISTORY: New 1963, p. 84, Act 68, Eff. Sep. 6.

207.279 Specific taxes in lieu of ad valorem taxes.

Sec. 9. The specific taxes provided for in this act shall be in lieu of all ad valorem taxes upon the property to which the specific taxes apply, including, without limitation, the ore property, the beneficiating facilities, the agglomerating facilities, the ore in its natural state as mined, the beneficiated ore, the agglomerated ore, and the lands occupied by or used in connection with the mining, beneficiating, agglomerating and transporting of the underground ore.

HISTORY: New 1963, p. 84, Act 68, Eff. Sep. 6.

Act 33, 1945, p. 29; Imd. Eff. Mar. 13.

AN ACT to provide for the imposition and collection of a specific tax upon the ownership and possession of grain, as defined herein; to provide for the disposition of the revenue derived therefrom; to provide certain exemptions; to prescribe penalties; and to repeal all acts and parts of acts inconsistent with the provisions of this act.

The People of the State of Michigan enact:

207.301 Specific tax on grain; definition of grain.

Sec. 1. The term "grain" as used in this act includes wheat, oats, corn, rye, barley, buckwheat, flax, soybeans, dry edible beans and field peas, in their natural state or germinated, or when hulled, cleaned, dried, graded or polished, when owned or held by dealers, processors or warehousemen, but excludes such grain when owned or held for seed purposes.

HISTORY: CL 1948, 207.301;—Am. 1958, p. 243, Act 200, Eff. Sep. 13.

207.302 Specific tax upon ownership or possession.

Sec. 2. For the calendar year 1945, and for each year thereafter, there shall be imposed and collected a specific tax upon the ownership and possession of all grain situated in this state, except as otherwise provided in this act, at the rate of 2 mills for each 100 pounds or major fraction thereof.

HISTORY: CL 1948, 207.302.

207.303 Specific tax upon ownership or possession; determination; taxable status.

Sec. 3. Such specific tax shall be determined each year by the assessing officer of the township or city in which any such grain shall be situated, and shall be an obligation of the owner, if known, and also of the person in possession, if not the owner, jointly and severally. The taxable status of persons and grain shall be determined as of the first day of April except in cities where a different date is fixed by charter for the assessment of personal property for general taxation, and in such cities the taxable status shall be determined as of the date so fixed by charter, and such date shall be the tax day.

HISTORY: CL 1948, 207.303.

207.304 Owner's statement to assessor; penalty for refusal to file.

Sec. 4. Any person owning, or having possession of any grain subject to tax under this act on the tax day, as hereinbefore fixed, in any year, shall deliver to the assessing officer of the township or city in which such grain is situated, within 15 days after such tax day, a true and correct written statement under oath, of the kind and quantity of such grain owned or possessed by him. If any such statement be not furnished, or if

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the assessing officer shall believe such statement to be incorrect, the assessing officer is hereby authorized to examine the owner or person in possession of any grain, or any other person whom he may have good reason to believe to have knowledge of any such grain, under oath, as to the amount, ownership and possession thereof, and to examine the books and records of any such person pertaining thereto. Any person wilfully refusing, on demand of the assessing officer, to make and deliver such statement, or wilfully making a false statement, shall be deemed guilty of a misdemeanor, and on conviction shall be liable to imprisonment in the county jail for not more than 6 months or to a fine of not more than $1,000.00, or to both such fine and imprisonment, in the discretion of the court.

HISTORY: CL 1948, 207.304.

207.305 Investigation by assessing officer; entry of determination.

Sec. 5. The assessing officer shall not be bound to accept such statements as correct, but shall make such other investigation as he may deem necessary. From such statements and other investigation he shall ascertain and determine the kind and quantity of grain situated in his township or city, the names of the owners and persons in possession thereof, and the amount of the specific tax at the rate provided by this act. Such determination shall be entered in a tax roll of the township or city in the same manner as general taxes on personal property, and shall be subject to review in the same manner as assessments for general taxes on the assessment roll of the township or city.

HISTORY: CL 1948, 207.305.

207.306 Collection and return of tax; distribution; lien on grain.

Sec. 6. Such specific tax, when determined as aforesaid, shall be collected and returned in the same manner as general personal property taxes on the tax roll of the township or city, and the proceeds of collection of such specific tax shall be distributed to the same taxing units and in the same proportion as the general personal property taxes on the tax roll of the township or city. Such specific tax shall, on the first day of December for township taxes, and on the date provided by the charter of the city for city taxes, become a debt of the owner and of the person in possession, jointly and severally, and shall also, on the first day of December for township taxes and on the date provided by city charter for city taxes, become a first lien on all grain then or thereafter owned or possessed by any person liable for the payment of such tax. Such lien shall be prior, superior and paramount, and shall have precedence over all claims, encumbrances and liens upon such grain, whether arising before or after the date of the assessment of such tax, and no transfer or processing of grain assessed for taxes after the date such lien attaches thereto shall operate to divest or destroy such lien.

HISTORY: CL 1948, 207.306.

GENERAL PROPERTY TAX ACT: See Compilers' § 211.1 et seq.

207.307 Grain exempt from personal property tax.

Sec. 7. All grain, as defined herein and affected by the provisions of this act, within this state shall be exempt from the general personal property taxes under the laws of this state.

HISTORY: CL 1948, 207.307.

Sec. 8. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 416, Act 267, Imd. Eff. May 25.

Sec. 9. (This was a repeal section.)

HISTORY: Rep. 1945, p. 410, Act 267, Imd. Eff. May 25.

207.407-207.409 Repealed. 1964, p. 392, Act 256, Eff. Aug. 28.

Sections provided for proceedings for tax collection of specific taxes.

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Act 64, 1848, p. 67; Imd. Eff. Mar. 14.

AN ACT relative to specific state taxes on plank road mining and other corporations not enumerated in the Revised Statutes of 1846.

Be it enacted by the senate and house of representatives of the state of Michigan:

207.421 Lien for specific state tax.

Sec. 1. That in all cases when any incorporated company hereafter to be incorporated is made subject to the payment of a specific state tax, this state shall have a lien on all of the property of said company to secure the payment of said tax which lien shall take precedence of all other liens or incumbrances whatever.

HISTORY: CL 1857, 983;—CL 1871, 1168;—How. 1223;—CL 1897, 3997;—CL 1915, 4210;—CL 1929, 3662;—CL 1948, 207.421.

207.422 Tax enforcement.

Sec. 2. The payment of any such tax may and shall be enforced according to the provisions of sections 7, 8 and 9 of chapter 21 of title 5 of the Revised Statutes of 1846.

HISTORY: CL 1857, 984;—CL 1871, 1169;—How. 1224;—CL 1897, 3998;—CL 1915, 4211;—CL 1929, 3663;—CL 1948, 207.422.

NOTE: The 3 sections, above referred to, are Compilers' repealed §§ 207.407, 207.408 and 407.409.

Act 226, 1889, p. 333; Imd. Eff. Jul. 1.

AN ACT to provide for the collection of specific taxes from corporations, copartnerships, parties or persons, subject under any laws of this state to the payment of such taxes; to fix the time when such taxes become a lien upon the property of such corporations, copartnerships, parties or persons, and to define the property to which the lien shall attach; and to repeal Act No. 57 of the session laws of 1872, approved March twenty-ninth, 1872, and Acts No. 10 and 11 of the session laws of 1873, approved February fourteenth, 1873, being sections numbered 1249 to 1256, both inclusive, of Howell's annotated statutes of 1882.

The People of the State of Michigan enact:

207.441 Unpaid specific tax, interest; penalty after demand; collection suit, proceedings; decree; sale; accounting.

Sec. 1. That all specific taxes imposed by any law of this state upon any corporation, copartnership, party or person, that shall remain unpaid after the last day of the month in which by law such specific taxes are made payable, shall be subject to interest computed at the rate of 7 per cent per annum from the day such specific taxes may have become due to the day of payment thereof: Provided, That if in any case any specific tax, with the accrued interest thereon, shall not be paid within 10 days after demand thereof is made by the auditor general, then any corporation, copartnership, party or person so failing to pay as demanded, shall be subject to a penalty of 2 per cent for each month or fraction thereof, to be computed upon the amount due from such corporation, copartnership, party or person at the date of such demand for payment. And for the amount so due, including the penalty herein imposed, the auditor general shall bring an action in the name of the people of the state of Michigan, before the judge of the circuit court of any county in this state having jurisdiction thereof, in open court, if it shall be in session, otherwise at his chambers, for the recovery of the same; and said judge, after not less than 30 days' notice to every such corporation, copartnership, party or person of the commencement of such action, either by actual service of a copy of the petition of said auditor general, or by publication, as the said judge may order, and after proper hearing of all and singular the premises in such said petition by said auditor general set forth, may enter a decree for the amount of such specific taxes, interest and penalty as herein provided, and execution shall forthwith

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issue to the sheriff of any county in which the principal office of the corporation or copartnership is located, or the party or person may reside, commanding him to forthwith levy the same, together with 10 per cent as his fees, by distress and sale, as provided by section 10, chapter 191, Howell's annotated statutes of 1882, of any of the property, real or personal, belonging to such corporation, copartnership, party or person, wherever the same may be found in this state, and to pay over the same, reserving his fees, to the state treasurer, within 10 days after the same is collected.

HISTORY: How. 1256a;—CL 1897, 4028;—CL 1915, 4260;—CL 1929, 3664;—CL 1948, 207.441.

NOTE: The section of Howell's, above referred to, is Compilers' repealed § 623.66. See § 600.6038.

207.442 Sale proceeds insufficient; payment refusal, charter rights forfeited.

Sec. 2. If the property so distrained cannot be sold for want of bidders, or if the property of the corporation is insufficient to pay the tax, the sheriff shall forthwith return a statement of the same to the auditor general, and if such corporation shall still neglect or refuse to pay such tax within 30 days after such return by the sheriff, it shall be deemed a forfeiture of all its corporate or chartered rights and privileges.

HISTORY: How. 1256b;—CL 1897, 4029;—CL 1915, 4261;—CL 1929, 3665;—CL 1948, 207.442.

207.443 Failure to report; tax estimate, auditor general; notice.

Sec. 3. Whenever any corporation, copartnership, party or person, doing business in this state, shall neglect or refuse to make report as required by law, upon which the amount of specific tax imposed by any law of this state, and due and payable by any such corporation, copartnership, party or person, is computed, the auditor general shall estimate the amount of specific tax due from and payable by such corporation, copartnership, party or person, from the best information he may be able to obtain, and charge such amount upon the books of his office, and after such estimate shall be so made by him, he shall forthwith send by mail or otherwise, a written notice signed by him to any of the officers or directors of such corporation, or to any any* member of a copartnership, or to the party or person, of the amount of the specific tax so estimated by him as due and payable by any such corporation, copartnership, party or person.

HISTORY: How. 1256c;—CL 1897, 4030;—CL 1915, 4262;—CL 1929 3666;—CL 1948, 207.443.

*NOTE: The word "any" is repeated in the original act.

207.444 Failure to report after notice; tax collection; failure forfeitures.

Sec. 4. If, in not less than 40 days after the mailing or sending such notice, as provided in section 3 of this act, such corporation, copartnership, party or person, shall still refuse or neglect to pay the specific tax so estimated, and no appeal shall be taken as hereinafter provided, it shall be the duty of the auditor general to proceed to collect said specific taxes in the same manner as is provided in case of failure to pay such taxes after the report required by law has been made, as provided by section 1 of this act, and with a like forfeiture of all corporate or chartered rights and privileges in case the property distrained cannot be sold for want of bidders, or is insufficient to pay the tax, and the corporation does not within 30 days of the sheriff's return of such facts, pay such specific tax.

HISTORY: How. 1256d;—CL 1897, 4031;—CL 1915, 4263;—CL 1929, 3667;—CL 1948, 207.444.

207.445 Appeal, contents; bond; trial proceedings; collection of execution.

Sec. 5. In case any such corporation shall be dissatisfied with the estimate so made by the auditor general, as [hereinbefore] hereinafter provided, it may appeal therefrom to the circuit court for the county of Ingham, and said appeal shall be transmitted to the county clerk of the county of Ingham, and a copy to the auditor general within 30 days after the receiving of such estimate, accompanied with a statement in detail, signed and sworn to by some officer of such corporation in its behalf, or by

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some member of such copartnership, or by the party or person making such appeal, of the objections to such estimate and the reason why the same should not stand as a charge against said corporation, copartnership, party or person. Such appeal shall also be accompanied by a bond in double the amount of such estimate, with sufficient surety or sureties to be justified before a circuit judge, as to their pecuniary responsibility, and to be approved by him, conditioned that such corporation, copartnership, party or person will prosecute its appeal to effect, and to pay all costs and charges which the court shall award, and also to pay any sum of money which shall appear by the judgment of the said court to be due from such corporation, copartnership, party or person as a specific tax. Upon filing with the clerk of the circuit court of the county of Ingham said appeal, statement and bond, with the approval of the circuit judge evidenced thereon, such court shall proceed to the trial and determination of the same, according to the rules of law, allowing a trial by jury of all questions of fact, in cases where such trial may be proper, and questions of law may be carried to the supreme court. Upon the trial of said appeal the statement and estimate of the auditor general shall be prima facie evidence of the amount of the specific tax due and payable by said corporation, copartnership, party or person, and notice of trial of said appeal shall be served by said corporation upon the attorney general; and in case 2 regular terms of said court shall at any time pass after filing such appeal, bond and statement, and such corporation, copartnership, party or person shall not have noticed the same for trial, said appeal, upon motion of the attorney general, shall be dismissed, or if said appeal shall be tried and judgment rendered thereon against said corporation, copartnership, party or person, execution shall be issued thereon directed to the sheriff of the county in which the principal office of such corporation or copartnership is located, or in which said party or person may reside, and such sheriff shall proceed to collect the amount of said execution, adding 10 per cent for his own fees therein, in like manner as provided by section 10 of chapter 191 of Howell's annotated statutes of 1882, and pay the same over to the state treasurer, receiving his own fees, within 10 days after such specific taxes shall have been collected.

HISTORY: How. 1256e;—CL 1897, 4032;—CL 1915, 4264;—CL 1929, 3668;—CL 1948, 207.445.
NOTE: The section 10 above referred to, is Compilers' repealed § 623.66. See § 600.6038.

207.446 Lien, time.

Sec. 6. The lien of the state provided for herein, shall attach to the property of any corporation, copartnership, party or person, from and after the date in each and every year that any report upon which specific taxes are computed is required by law to be made.

HISTORY: How. 1256f;—CL 1897, 4033;—CL 1915, 4265;—CL 1929, 3669;—CL 1948, 207.446.

207.447 Property subject to tax distraint and sale.

Sec. 7. All property belonging to any corporation, copartnership, party or person, whether the same shall be personal or real, shall be deemed liable to distraint and sale under the provisions of this act, and in the case of railroad corporations shall include tracks, right of way, buildings and their appurtenances, fixtures and machinery of every description and character [whatsoever] whatever, to such railroad corporation belonging.

HISTORY: How. 1256g;—CL 1897, 4034;—CL 1915, 4266;—CL 1929, 3670;—CL 1948, 207.447.

Sec. 8. (This was a repeal section.)

HISTORY: How. 1256h;—CL 1915, 4267;—CL 1929, 3671;—Rep. 1945, p. 403, Act 267, Imd. Eff. May 25.
FORMER ACTS: Act 57, 1872, Ex. Ses.;—Act 10, 1873;—Act 11, 1873;—How. 1249-1256, 1293, 1294.

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Act 134, 1966, p. 158; Eff. Jan. 1, 1968.

AN ACT to impose a tax upon written instruments which transfer any interest in real property; to provide for the administration of this act; and to provide penalties for violations of this act.

The People of the State of Michigan enact:

207.501 Real estate transfer tax; definitions.

Sec. 1. As used in this act:

(a) "Treasurer" means the county treasurer.

(b) "Person" means every natural person, association or corporation. Whenever used in any penalty clause the term "person", as applied to associations, means the partners or members thereof, and as applied to corporations, the officers thereof.

(c) "Value" means the current or fair market worth in terms of legal monetary exchange at the time of the transfer.

HISTORY: New 1966, p. 158, Act 134, Eff. Jan. 1, 1968;—Am. 1968, p. 595, Act 327, Imd. Eff. Jul. 3.

207.502 Instruments executed within state subject to tax.

Sec. 2. (1) There is imposed, in addition to all other taxes, a tax upon the following written instruments executed within this state when said instrument is recorded.

(a) Contracts for the sale or exchange of real estate or any interest therein or any combination of the foregoing or any assignment or transfer thereof.

(b) Deeds or instruments of conveyance of real property or any interest therein, for a consideration.

(2) The tax shall be upon the person who is the seller or grantor.

HISTORY: New 1966, p. 158, Act 134, Eff. Jan. 1, 1968;—Am. 1968, p. 595, Act 327, Imd. Eff. Jul. 3.

207.503 Instruments executed outside state subject to tax.

Sec. 3. There is imposed, in addition to all other taxes, a tax upon all written instruments of the kinds described in section 2 executed without this state if the contract or transfer evidenced thereby concerns property wholly located within this state. Any such instrument shall be subject to all of the provisions of this act.

HISTORY: New 1966, p. 158, Act 134, Eff. Jan. 1, 1968;—Am. 1968, p. 595, Act 327, Imd. Eff. Jul. 13.

207.504 Tax rate; value of real property, affidavit; sale or transfer of mixed property.

Sec. 4. The tax shall be at the rate of 55 cents for each $500.00 or fraction thereof of the total value. A written instrument subject to the tax imposed by this act shall state on its face the total value of the real property or there shall be attached thereto an affidavit declaring the total value of the real property. The form of the affidavit shall be prescribed by the state tax commission. In the case of the sale or transfer of a combination of real and personal property the tax shall be imposed only upon the transfer of the real property, if the values of the real and personal property are stated separately on the face of the instrument or if an affidavit is attached thereto setting forth the respective values of the real and personal property.

HISTORY: New 1966, p. 158, Act 134, Eff. Jan. 1, 1968;—Am. 1968, p. 595, Act 327, Imd. Eff. Jul. 13.

207.505 Exemptions.

Sec. 5. The following instruments and transfers shall be exempt from this act:

(a) Instruments where the value of the consideration is less than $100.00.

(b) Instruments evidencing contracts or transfers which are not to be performed wholly within this state insofar as such instruments include land lying outside of this state.

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(c) Written instruments which this state is prohibited from taxing under the constitution or statutes of the United States.

(d) Instruments or writings given as security or any assignment or discharge thereof.

(e) Instruments evidencing leases, including oil and gas leases, or transfers of such leasehold interests.

(f) Instruments evidencing any interests which are assessable as personal property.

(g) Instruments evidencing the transfer of rights and interests for underground gas storage purposes.

(h) Instruments (i) in which the grantor is the United States, the state, any political subdivision or municipality thereof, or officer thereof acting in his official capacity; (ii) given in foreclosure or in lieu of foreclosure of a loan made, guaranteed or insured by the United States, the state, any political subdivision or municipality thereof or officer thereof acting in his official capacity; (iii) given to the United States, the state, or 1 of their officers as grantee, pursuant to the terms or guarantee or insurance of a loan guaranteed or insured by the grantee.

(i) Conveyances from a husband or wife or husband and wife creating or disjoining a tenancy by the entireties in the grantors or the grantor and his or her spouse.

(j) Judgments or orders of courts of record making or ordering transfers, except where a specific monetary consideration is specified or ordered by the court therefor.

(k) Instruments used to straighten boundary lines where no monetary consideration is given.

(l) Instruments to confirm titles already vested in grantees, such as quitclaim deeds to correct flaws in titles.

(m) Land contracts whereby the legal title does not pass to the grantee until the total consideration specified in the contract has been paid.

(n) Instruments evidencing the transfer of mineral rights and interests.

(o) Instruments creating a joint tenancy between 2 or more persons where at least 1 of the persons already owned the property.

HISTORY: New 1966, p. 158, Act 134, Eff. Jan. 1, 1968;—Am. 1967, p. 492, Act 258, Imd. Eff. Jul. 19;—Am. 1968, p. 595, Act 327, Imd. Eff. Jul. 3;—Am. 1969, p. 124, Act 67, Imd. Eff. Jul. 21.

207.506 Bankruptcy or insolvency proceedings; transfer to receivers.

Sec. 6. No tax shall be imposed by this act upon any written instrument which conveys property or any interest therein to any receiver, administrator or trustee, whether special or general, in any bankruptcy or insolvency proceedings.

HISTORY: New 1966, p. 158, Act 134, Eff. Jan. 1, 1968.

207.507 Documentary stamps; purchase, methods of affixation, cancellation.

Sec. 7. The tax imposed by this act shall be evidenced by the affixing of a documentary stamp or stamps to every instrument subject to the tax imposed by this act by the person making, executing, issuing or delivering such document. Documentary stamps shall be purchased only in the county in which the property is located. The stamps shall be affixed in such manner that their removal will require the continued application of steam or water, and the person using or affixing the stamps shall write or stamp thereon his initials and the date upon which the stamps are affixed or used so that the stamps may not again be used. The treasurer may prescribe such other method of cancellation as he deems expedient. The treasurer shall, if required by the state treasurer, utilize a tax meter machine which shall be provided by the county.

HISTORY: New 1966, p. 158, Act 134, Eff. Jan. 1968;—Am. 1967, p. 492, Act 258, Imd. Eff. Jul. 19;—Am. 1968, p. 596, Act 327, Imd. Eff. Jul. 3.

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207.508 Preparation of stamps; duty of treasurer, use of tax meter machine.

Sec. 8. The state treasurer shall prescribe and prepare for use by the county treasurer, adhesive stamps of such denominations and quantities as shall be necessary for the payment of the tax imposed by this act. The state treasurer shall prescribe conditions under which a county treasurer may utilize a tax meter machine. The adhesive stamps, if used, shall be requisitioned by the county treasurer as required. The county treasurer shall reimburse the state treasurer for the production cost of the stamps so requisitioned. The treasurer shall make provisions for the use of tax meter machines or for the sale of the stamps in such places as he deems necessary.

HISTORY: New 1966, p. 159, Act 134, Eff. Jan. 1, 1968;—Am. 1967, p. 492, Act 258, Imd. Eff. Jul. 19.

207.509 Revenue, disposition; credit to general fund.

Sec. 9. All revenue received under this act shall be deposited in the treasury of the county where the tax is collected to the credit of the general fund.

HISTORY: New 1966, p. 159, Act 134, Eff. Jan. 1, 1968.

207.510 Tax to be paid only once; exemptions; new consideration.

Sec. 10. It is the intent of this act that the tax imposed by this act be paid only once. No tax shall be imposed on any instrument which transfers ownership of property or an interest therein if such instrument is given and the transfer made pursuant to a written executory contract upon which the tax has been previously paid. Any instrument which is evidence of indebtedness or of a contract right shall be subject to the tax imposed by this act only to the extent of the new consideration given therefor. An instrument which is given to supplement, reform or correct a prior instrument shall be subject to the tax imposed by this act only to the extent of the new consideration given therefor.

Any instrument which would be subject to the tax imposed by this act except for the provisions of this section shall state on its face, that the instrument is exempt by reason of the prior payment or partial payment of the tax on another instrument executed on part of the same transaction and the date of payment.

HISTORY: New 1966, p. 159, Act 134, Eff. Jan. 1, 1968;—Am. 1968, p. 596, Act 327, Imd. Eff. Jul. 3.

207.511 Recording, requirements; detachment of affidavit; use.

Sec. 11. (a) No written instrument subject to this act shall be recorded in the office of any register of deeds of any county of this state unless documentary stamps as required by this act have been purchased at the time of presentation by the party responsible for their purchase according to subsection (2) of section 2. The stamps shall be affixed to the face of the instrument prior to recording unless the person specifically requests that the instrument be recorded prior to the affixing of the stamps. In the latter case, the stamps may be affixed to the reverse side of the instrument, however, in those cases where it is necessary to record said reverse side, the stamps shall be affixed after recording by the register of deeds. If the instrument of transfer is not subject to the tax, the instrument shall state on its face the reason for the exemption. Any instrument accepted for recording which is not in accordance with this act shall not affect the validity of such recording as to notice.

(b) An affidavit attached to a written instrument under the provisions of this act shall not be recorded and shall be detached from the written instrument prior to the recording of the instrument. Such affidavit shall be used for county fund auditing purposes only and shall not be disclosed to any other person.

HISTORY: New 1966, p. 159, Act 134, Eff. Jan. 1, 1968;—Am. 1967, p. 492, Act 258, Imd. Eff. Jul. 19;—Am. 1968, p. 596, Act 327, Imd. Eff. Jul. 3.

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207.512 Unlawful acts; penalty for violations.

Sec. 12. (1) It shall be unlawful for any person to:

(a) Fraudulently cut, tear or remove from a document any documentary stamp.

(b) Fraudulently affix to any document upon which tax is imposed by this act any documentary stamp which has been cut, torn or removed from any other written instrument upon which tax is imposed by this act, or any documentary stamp of insufficient value or any forged or counterfeited stamp or any impression of any forged or counterfeited stamp, die, plate or other article.

(c) Wilfully remove or alter the cancellation marks of any documentary stamp or restore any such documentary stamp with intent to use or cause the same to be used after it has already been used, or knowingly buy, sell, offer for sale or give away any such altered or restored stamp to any person for use, or knowingly use the same.

(d) Knowingly or wilfully prepare, keep, sell, offer for sale or have in his possession any forged or counterfeited documentary stamps.

(e) Knowingly or wilfully issue a false or fraudulent affidavit.

Violation of act, penalty.

(2) Any person violating any of the provisions of this section is guilty of a misdemeanor and shall be fined not more than $500.00 and costs of prosecution, or imprisoned for not more than 1 year, or both.

HISTORY: New 1966, p. 160, Act 134, Eff. Jan. 1, 1968;—Am. 1967, p. 493, Act 258, Imd. Eff. Jul. 19.

207.513 Effective date.

Sec. 13. This act shall take effect immediately upon the repeal of the tax imposed by and paid to the United States on real estate transfer under the provisions of section 4361 of subchapter C of chapter 34 of the United States internal revenue code of 1954 as amended.

HISTORY: New 1966, p. 160, Act 134, Eff. Jan. 1, 1968.

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CHAPTER 209. TAXATION—ASSESSMENT AND EQUALIZATION, STATE

STATE BOARD OF EQUALIZATION

Act 44 of 1911

209.1 State board of equalization; creation; qualifications of appointees, term, vacancies.
209.2 State board of equalization; meeting.
209.3 State board of equalization; organization; record of proceedings; oath; quorum.
209.4 State board of equalization; tabular statement of valuation; hearing; equalization of assessments, certified transcript, filing, inspection.
209.5 Board of supervisors, April meeting; equalization of assessments, completion date; aggregates of rolls; statement to state board of equalization; excepted property.
209.6 State tax commission; statement to state board of equalization.
209.7 State board of equalization; county representation.
209.8 State board of equalization; compensation and expenses of appointed members and assistants; copies of proceedings.
209.9 Repealed.

STATE TAX COMMISSION

Act 360 of 1927

209.101 State tax commission created.
209.102 State tax commission; membership, terms, vacancies, compensation; assistants; removal; oath.
Appeal, written opinion; finding of true cash value; dissent, stenographic record, filing.
209.103 State tax department abolished; transfer of powers, duties and records.
209.104 State tax commission, duties, meetings; public officers, duties, failure, penalty.
209.105 Signature and seal on papers; inspection of records.
209.107 Declaration of necessity.

OATH OF EXAMINERS AND APPRAISERS

Act 133 of 1915

209.121 Oath of examiners or appraisers; filing.

STATE TAX DEPARTMENT

Act 155 of 1925

209.152 Board of state tax commissioners abolished; transfer of powers, duties and records.
209.153 Tax department; general supervision, duty to collect information; duty of assessing officers; penalty.
209.154 Signature and seal on papers.

Act 44, 1911, p. 53; Imd. Eff. Apr. 5.

AN ACT to create a state board of equalization; to prescribe its powers and duties; to provide that said board shall be furnished with certain information by the several boards of supervisors and by the state tax commission; to provide for meeting the expense authorized by this act, and to repeal all acts or parts of acts contravening the provisions of this act. Am. 1957, p. 35, Act 30, Imd. Eff. Apr. 26.

The People of the State of Michigan enact:

209.1 State board of equalization; creation; qualifications of appointees, term, vacancies.

Sec. 1. There is hereby created a state board of equalization to consist of the state tax commission and 4 members appointed by the governor, by and with the advice and consent of the senate. Five members constitute a quorum for all official business: Provided, however, That not more than 2 members of the said quorum shall be members of the state tax commission. One of the appointed members shall be a person having knowledge of rural property values and experience in the administration of property tax assessments in this state. One of the members shall be a person having experience in the valuation of urban property valuations and in the administration of property tax assessments in this state. One of the members shall have experience in the valuation of industrial and commercial property and in the administration of property tax assessments in this state. The other member shall be a person having knowledge of and experience in local government finance in this state. Within 60 days after the effective date of this 1962 amendatory act, the governor shall appoint the 4 members, 1 for a term of 4 years, 1 for a term of 3 years, 1 for a term of 2 years, and 1 for a term of 1

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year. Their successors shall be appointed for terms of 4 years each. With the exception of the state tax commission, no appointed member of this board shall hold any other state office that has any power to appropriate or levy tax funds nor shall he have served as a member of the state tax commission for any period within 3 years prior to his appointment. Vacancies in the membership shall be filled in like manner for the unexpired term. The board shall exercise such powers and perform such duties as are herein prescribed.

HISTORY: CL 1915, 160;—Am. 1919, p. 582, Act 330, Imd. Eff. May 13;—CL 1929, 3696;—CL 1948, 209.1;—Am. 1957, p. 35, Act 30, Imd. Eff. Apr. 26;—Am. 1962, p. 428, Act 194, Eff. Mar. 28, 1963.

CITED IN OTHER SECTIONS: The above section is cited in § 16.186.

209.2 State board of equalization; meeting.

Sec. 2. The state board of equalization shall meet in the city of Lansing on the second Monday in May each year for the purpose of equalizing the assessments on all taxable property in this state, except such property as shall be assessed under laws enacted pursuant to sections 4 and 5 of article 10 of the state constitution.

HISTORY: CL 1915, 161;—Am. 1919, p. 582, Act 330, Imd. Eff. May 13;—CL 1929, 3697;—CL 1948, 209.2;—Am. 1949, p. 434, Act 267, Eff. Sep. 23;—Am. 1955, p. 18, Act 18, Imd. Eff. Mar. 29;—Am. 1957, p. 35, Act 30, Imd. Eff. Apr. 26.

209.3 State board of equalization; organization; record of proceedings; oath; quorum.

Sec. 3. The board shall organize by choosing 1 of its number to act as chairman. The secretary of the state tax commission shall act as secretary, who shall keep a record of all the proceedings of said board, which record, when certified by the chairman and secretary, shall, within 5 days after adjournment of said board, be filed in the office of the auditor general. The several members constituting said board, as herein provided, shall each take and subscribe the constitutional oath of office, which oaths shall be filed and preserved with the proceedings of said board. Any 3 members of said board shall constitute a quorum for the transaction of business.

HISTORY: CL 1915, 162;—CL 1929, 3698;—CL 1948, 209.3;—Am. 1957, p. 35, Act 30, Imd. Eff. Apr. 26.

209.4 State board of equalization; tabular statement of valuation; hearing; equalization of assessments, certified transcript, filing, inspection.

Sec. 4. After the board shall have been organized, it shall proceed to examine the tabular statements and data to be furnished by the boards of supervisors and state tax commission. Said board shall then cause to be prepared and printed a tabular statement showing, by counties, the total assessed valuation, the valuation as equalized by the board of supervisors for the current year, the valuation as equalized at the last preceding session of the state board of equalization and the valuation recommended by the state tax commission, and shall direct the secretary to forward a copy of such statement to the clerk of each county in the state forthwith. The board may continue in session until the fourth Monday in May for the purpose of considering the reports from the assessing officers, boards of supervisors and the state tax commission. It will meet in the city of Lansing on the fourth Monday in May to hear the representatives of the several counties as hereinafter provided. Said board shall determine whether the relative valuation between the several counties is equal and uniform, taking into consideration the location, soil, mineral wealth, improvements, productions and manufactories; and also whether the value of personal property in the several counties has been uniformly estimated and determined according to the best information which can be derived from the state or from any other source. If, after examination of the data and evidence furnished, the assessment of any county or counties shall be determined to be at more or less than the true cash value of such county or counties, it shall be the duty of said board to equalize the same by adding to or deducting from the aggregate assessed valuation of the taxable real and personal property in such county or counties such an amount as will produce a sum, which in the estimation of said board represents the

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true cash value thereof. The amount added to or deducted from the aggregate assessed valuation in each county shall be entered upon the records. The valuation of the several counties as equalized shall be certified by the chairman and secretary of the board and filed in the office of the auditor general and the state tax commission, and shall be the basis for apportionment of all state taxes until another equalization shall be made. The secretary of the state tax commission after the determination of the state board of equalization has been filed in his office, forthwith shall send a certified transcript thereof to the treasurer of each county, who shall cause the same to be placed on file in his office available for public inspection.

HISTORY: CL 1915, 163;—Am. 1919, p. 582, Act 330, Imd. Eff. May 13;—CL 1929, 3699;—CL 1948, 209.4;—Am. 1949, p. 435, Act 287, Eff. Sep. 23;—Am. 1953, p. 23, Act 24, Eff. Oct. 2;—Am. 1955, p. 18, Act 18, Imd. Eff. Mar. 29;—Am. 1957, p. 35, Act 30, Imd. Eff. Apr. 26;—Am. 1960, p. 111, Act 106, Imd. Eff. Apr. 26.

209.5 Board of supervisors, April meeting; equalization of assessments, completion date; aggregates of rolls; statement to state board of equalization; excepted property.

Sec. 5. At the regular meeting of the boards of supervisors of the several counties held on the Tuesday following the second Monday in April each year said boards of supervisors shall when convened proceed to equalize the assessment rolls in the manner provided by law, which equalization shall be completed prior to the first Monday in May. Prior to such meeting each of said supervisors shall add up the columns of his assessment roll, enumerating the number of acres of land and the value of the real and personal property assessed, so as to show the aggregate of each. The clerk of each board of supervisors shall prepare a tabular statement from the aggregates of the several rolls of the number of acres of land and the value of the real and personal property in each township and city as assessed, and also the aggregate valuation of the real and personal property appearing on each roll as equalized. Said clerk shall make a certified copy of said tabular statement, signed by the chairman and clerk of said board of supervisors, and shall transmit the same to the secretary of the state tax commission on or before the first Monday in May following, who shall lay the same before the state board of equalization immediately following its organization. The statement and copy thereof shall not embrace any property assessed under laws enacted pursuant to section 5 of article 9 of the state constitution, or on which specific taxes are imposed, or for which alternative means of taxation in lieu of general ad valorem taxation are provided by law.

HISTORY: CL 1915, 164;—Am. 1921, p. 12, Act 8, Imd. Eff. Mar. 18;—CL 1929, 3700;—CL 1948, 209.5;—Am. 1949, p. 435, Act 287, Eff. Sep. 23;—Am. 1957, p. 36, Act 30, Imd. Eff. Apr. 26;—Am. 1984, p. 131, Act 138, Eff. Aug. 28.

209.6 State tax commission; statement to state board of equalization.

Sec. 6. It shall be the duty of the state tax commission to submit to the state board of equalization a statement showing the actual cash value of taxable real and personal property in each county in the state as ascertained and determined by its most recent examination of property values. The commission shall furnish such other information relative to property conditions and values as the state board of equalization may require, and shall assist in every possible way to bring about fair, equal and uniform valuations between the several counties in the state.

HISTORY: CL 1915, 165;—CL 1929, 3701;—CL 1948, 209.6;—Am. 1957, p. 36, Act 30, Imd. Eff. Apr. 26.

209.7 State board of equalization; county representation.

Sec. 7. Any county may be represented before said board of equalization by such person or persons as shall be appointed for that purpose by the board of supervisors. The date and time of appearance of any such representative shall be fixed by the state board of equalization upon written request of each county desiring to be heard by its duly appointed representative.

HISTORY: CL 1915, 166;—CL 1929, 3702;—CL 1948, 209.7;—Am. 1957, p. 36, Act 30, Imd. Eff. Apr. 26.

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209.8 State board of equalization; compensation and expenses of appointed members and assistants; copies of proceedings.

Sec. 8. Each appointed member of the board shall be entitled to $25.00 per day for each day of actual attendance at meetings of the board, and to his actual and necessary traveling and other expenses incurred in the performance of his official duties. The board may appoint such employees and assistants as shall be necessary for the proper exercise of the powers hereby granted. The compensation and expenses of the appointed members and assistants and employees shall be paid from appropriations made therefor by the legislature. The board shall determine the number of bound copies of the proceedings of the board as it deems necessary for the use of the state, the costs of which shall be paid from appropriations made therefor by the legislature.

HISTORY: CL 1915, 167;—CL 1929, 3703;—CL 1948, 209.8;—Am. 1957, p. 36, Act 30, Imd. Eff. Apr. 26.

209.9 Repealed. 1957, p. 37, Act 30, Imd. Eff. Apr. 26.

Section made an appropriation from the general fund for publication of assessment board proceedings and required a tax sufficient to reimburse the general fund.

Sec. 10. (This was a repeal section.)

HISTORY: CL 1915, 169;—CL 1929, 3705;—Rep. 1945, p. 405, Act 267, Imd. Eff. May 25.

Act 360, 1927, p. 859; Eff. Sep. 5.

AN ACT to create a state tax commission, to prescribe its powers and duties, to provide for the transfer to said state tax commission of the powers now vested by law in the state tax department; to abolish said state tax department, and to repeal all acts and parts of acts contravening any of the provisions of this act.

The People of the State of Michigan enact:

209.101 State tax commission created.

Sec. 1. There is hereby created a state tax commission which shall have and exercise such powers and perform such duties as are herein granted and enforced.

HISTORY: CL 1929, 3710;—CL 1948, 209.101.

EX OFFICIO MEMBERSHIP: The state tax commissioners are ex officio members of the state board of assessors, Act 282 of 1905, Compilers' § 207.1 et seq.

CITED IN OTHER SECTIONS: Sections 209.101 to 209.107 are cited in § 16.184.

209.102 State tax commission; membership, terms, vacancies, compensation; assistants; removal; oath.

Sec. 2. The state tax commission shall consist of 3 commissioners, not more than 2 of whom shall be members of the same political party to be appointed by the governor with the advice and consent of the senate. Such commissioners shall have had at least 5 years' experience in the assessment or appraisal of real and personal property. Within 20 days after the effective date of this amendatory act, the governor with the advice and consent of the senate shall appoint a commissioner for a term ending September 13, 1963, to replace the commissioner of the department of revenue, who shall thereafter cease to be a member of the state tax commission. At the expiration of the terms of office of the members of the commission, commissioners shall be appointed for terms of 6 years each. Appointments to fill vacancies shall be made for the remainder of the unexpired terms with the advice and consent of the senate. The governor shall designate 1 of said commissioners as chairman of the commission. Said state tax commission shall have the right to appoint a secretary. The chairman shall receive an annual salary together with his actual and necessary expenses incurred in the discharge of his official duties and he shall maintain his office at the office of the commission in Lansing and devote his full time to the carrying out of his official duties. Each of the other 2 commissioners shall receive an annual salary together with actual and

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necessary expenses incurred in the discharge of official duties. Expenses of the chairman and commissioners shall not exceed the limits established by standard travel regulations of the department of administration in effect at the time of the expenditures. Said commission may engage the services of such assistants and employees as may be necessary to carry out the provisions of this act, or of any other law of the state affecting the powers and duties of said state tax commission. Such assistants and employees shall receive their actual traveling expenses in the discharge of their duties. All salaries and expenses authorized by this act shall be paid out of the state treasury in the same manner as the salaries and expenses of other state officers are paid. The governor may remove any member of said commission for habitual misconduct, misfeasance in office, habitual or wilful neglect of duty, or when he shall be satisfied that such officer is incompetent properly to execute the duties of his office. Each member of said commission shall within 15 days after he shall receive notice of his appointment, qualify by taking and subscribing the constitutional oath of office.

Appeal, written opinion; finding of true cash value; dissent, stenographic record, filing.

In appeals to the state tax commission, the decisions of the commission shall be upon a form prescribed by the commission which shall state the facts constituting the commission's finding of true cash value, the proportion thereof at which assessments in the local assessing district are made, and which of the 3 commonly accepted valuation approaches were used in the determination of true cash value. The order shall be signed by the commissioners concurring therein. A commissioner may, in writing, dissent from any order so entered. If a party desires a stenographic record of an appeal hearing, said party must bear the expense of the stenographer and the transcript of the record. All decisions shall be filed in the office of the state tax commission and shall be mailed or delivered to a party or his legal representative.

HISTORY: CL 1929, 3711;—Am. 1945, p. 334, Act 238, Eff. Sep. 6;—CL 1948, 209.102;—Am. 1953, p. 76, Act 80, Imd. Eff. May 15;—Am. 1960, p. 213, Act 147, Imd. Eff. May 9;—Am. 1965, p. 306, Act 192, Imd. Eff. Jul. 15;—Am. 1967, p. 660, Act 304, Eff. Nov. 2.

209.103 State tax department abolished; transfer of powers, duties and records.

Sec. 3. The powers and duties now vested by law in the state tax department are hereby transferred to and vested in the state tax commission, and all records, files, books and papers of every nature pertaining to the functions of said state tax department shall be turned over to the state tax commission and shall be preserved as a part of the records and files of said commission. Upon the taking effect of this act, the state tax department shall be abolished and the powers and duties heretofore exercised and performed by said state tax department under authority of law shall hereafter be exercised and performed by the state tax commission. Whenever in any law of the state, reference is made to the state tax department whose powers and duties are thus transferred, such reference shall be deemed to be made to the state tax commission.

HISTORY: CL 1929, 3712;—CL 1948, 209.103.

STATE TAX DEPARTMENT: See Act 155 of 1925, being Compilers' § 209.152 et seq.

209.104 State tax commission, duties, meetings; public officers, duties, failure, penalty.

Sec. 4. The state tax commission shall have general supervision of the administration of the tax laws of the state, and shall render such assistance and give such advice and counsel to the assessing officers of the state as they may deem necessary and essential to the proper administration of the laws governing assessments and the levying of taxes in this state. Said state tax commission shall gather each year, complete information relative to the assessment of property properly classified, the levy of taxes thereon and of the appraised value of the several classes of property exempt from taxation under the laws of this state, and such other information as said state tax commission shall

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deem to be of public interest. This information shall be embodied in the regular report of the state tax commission. It shall be the duty of all assessing officers of the state and all other public officers, to promptly comply with requests made by said state tax commission for information provided for in this section, and to render all possible assistance in carrying out the provisions hereof. Any assessing officer or other public officer who shall refuse to comply with the requirements of this act or who shall persistently neglect to do so, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than 50 nor more than 300 dollars.

HISTORY: CL 1929, 3713;—CL 1948, 209.104.

209.105 Signature and seal on papers; inspection of records.

Sec. 5. All orders, certificates and subpoenas made or issued by the state tax commission shall be signed by the chairman, and the seal of the commission shall be affixed thereto.

All records of and appraisals made by the state tax commission shall be open to inspection at all reasonable times by any assessing officer in the state of Michigan.

HISTORY: CL 1929, 3714;—Am. 1937, p. 245, Act 157, Eff. Oct. 29;—CL 1948, 209.105.

Sec. 6. (This was a repeal section.)

HISTORY: CL 1929, 3715;—Rep. 1945, p. 406, Act 267, Imd. Eff. May 25.

209.107 Declaration of necessity.

Sec. 7. This act is declared to be necessary for the protection of the public health, peace and safety.

HISTORY: CL 1929, 3716;—CL 1948, 209.107.

Act 133, 1915, p. 219; Eff. Aug. 24.

AN ACT to require examiners and appraisers of property employed by the board of state tax commissioners, to take and file the constitutional oath of office.

The People of the State of Michigan enact:

209.121 Oath of examiners or appraisers; filing.

Sec. 1. Every person now or hereafter employed by the board of state tax commissioners, whose duties in whole or in part consist in the examination or appraisal of property subject to taxation in this state, shall, before entering upon such duties, take the constitutional oath of office, the same to be filed in the office of said board.

HISTORY: CL 1915, 4159;—CL 1929, 3717;—CL 1948, 209.121.

BOARD OF STATE TAX COMMISSIONERS: Abolished; powers and duties transferred to the state tax department, which in turn has been abolished and superseded by the state tax commission, see Compilers' §§ 209.152 and 209.103.

Act 155, 1925, p. 219; Imd. Eff. May 1.

AN ACT to create a state tax department; to prescribe its powers and duties and the administration thereof; to provide for the transfer to said department of the powers and duties now vested by law in the board of state tax commissioners; to abolish said board, the powers and duties of which are hereby transferred, and to repeal all acts and parts of acts contravening any of the provisions of this act.

The People of the State of Michigan enact:

Sec. 1.

NOTE: This section provided for the creation of a state tax department, commissioners and assistants. The state tax department has been abolished, its powers, duties and records being transferred to a state tax commission, see Compilers' § 209.103.

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209.152 Board of state tax commissioners abolished; transfer of powers, duties and records.

Sec. 2. The powers and duties now vested by law in the board of state tax commissioners are hereby transferred to and vested in the state tax department, and all records, files, books and papers of every nature pertaining to the functions of said board shall be turned over to said state tax department and shall be preserved as a part of the records and files of said department. Upon the taking effect of this act, the board of state tax commissioners shall be abolished, and the powers and duties heretofore exercised and performed by said board, under authority of law, shall hereafter be exercised and performed by the state tax department. Whenever, in any law of the state, reference is made to the board of state tax commissioners, whose powers and duties are thus transferred, such reference shall be deemed to be made to the state tax department.

HISTORY: CL 1929, 3706;—CL 1948, 209.152.

209.153 Tax department; general supervision, duty to collect information; duty of assessing officers; penalty.

Sec. 3. The state tax department shall have general supervision of the administration of the tax laws of the state and shall render such assistance, and give such advice and counsel, to the assessing officers of the state as they may deem necessary and essential to an efficient administration of the laws governing assessments and the levying of taxes in this state. Said state tax department shall gather each year complete information relative to the assessment of property, properly classified, the levy of taxes thereon, and of the appraised value of the several classes of property exempt from taxation under the laws of the state, and such other information as said state tax department may deem to be of public interest. This information, arranged in proper form, shall be embodied in the regular report of the state tax department. It shall be the duty of all assessing officers of the state and all other public officers to promptly comply with requests made by said department for information provided for in this section and to render all possible assistance in the carrying out of the provisions hereof. Any assessing officer or other public officer who shall refuse to comply with the requirements of this section, or who shall persistently neglect to do so, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than 50 dollars nor more than 300 dollars.

HISTORY: CL 1929, 3707;—CL 1948, 209.153.

209.154 Signature and seal on papers.

Sec. 4. All orders, certificates, and subpoenas made or issued by the state tax department shall be signed by the chairman and the seal of the department shall be affixed.

HISTORY: CL 1929, 3708;—CL 1948, 209.154.

Sec. 5. (This was a repeal section.)

HISTORY: CL 1929, 3709;—Rep. 1945, p. 406, Act 267, Imd. Eff. May 25.

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CHAPTER 211. TAXATION—REAL AND PERSONAL PROPERTY

ASSESSMENT, LEVY AND COLLECTION OF TAXES

Act 206 of 1893

211.1 Property subject to taxation.

211.1a Short title; general property tax act.

REAL PROPERTY

211.2 Real property; definition.
Tax day, preparation of assessment roll, examination of properties.
Real property acquired for public purpose; proration of taxes; levy date.
Private real estate transactions, proration of taxes; levy date.

211.2a Certain trailer coaches; deemed real property.

211.3 Real property; parties assessable; persons treated as owner; property of deceased persons.

211.4 Real property; licensed homesteads; part-paid state lands; assessment, contents.

211.5 Real property; assessment of corporate realty.

211.6 Real property; tenants in common; assessment of undivided interests.

211.6a Mineral rights assessed separate from surface rights.

211.6b Mineral rights consisting of undeveloped metallic resources; assessment separately from surface rights; exclusions; prima facie value.

REAL ESTATE EXEMPTIONS

211.7 Property exempt from taxation.
Federal property.
State property; exceptions; notice.
Public lands, buildings, parks; notice.
Libraries, charitable institutions, memorial homes, boy or girl scouts, YMCA, YWCA, hospitals, exceptions.
Houses of public worship, parsonages.
Cemeteries; corporate stock not exempt.
Poor persons.
Corporations paying specific taxes; special assessments.
Agricultural societies; fairs.
Parks, armories; land leased by nonprofit corporation to state.
Landing area; definition.

211.7a Real estate used and owned as homestead by blind person; tax exemption; eligibility; false affidavit.
Eligibility.
Claim for exemption; affidavit, filing, inspection.
False affidavit, penalty.
Homestead, owner, defined.

211.7b Homestead exemption; specially adapted housing of disabled soldier or sailor; affidavit and certificate, filing, cancellation of tax.

211.7c Homesteads of persons over 65 years of age; tax exemption, eligibility.
Claim for exemption; affidavit, filing, contents.
Public inspection; false affidavit, penalty.
Homestead, owner, defined.
Statement of exempt property; cooperative housing; reimbursement.
Single exemption allowed.
Budget estimate.
Gross income, defined.

211.7d Housing for elderly persons owned and operated by nonprofit corporation or state; tax exemption.

211.7e Value of deciduous and evergreen trees, shrubs, plants, bushes and vines growing on agricultural lands, tax exempt.

211.7f Veterans' and servicemen's homestead exemption act.
Definitions.
Definitions and service dates applicable.
Schedule of exemptions.
Limitations of exemptions.
Veteran or widow, affidavit, proof of claim.
Serviceman, affidavit.
Affidavits, filing, inspection.
Reimbursement by state, procedure.
Refund of taxes on exempt property.
Affidavit for refund.
Refunds, statement to state treasurer.
False affidavit.
Exemptions claimed after return of delinquent tax roll.
Forms approved by state treasurer.
Budget director's estimate; appropriation.

PERSONAL PROPERTY

211.8 Personal property; definition.

PERSONAL PROPERTY EXEMPTED

211.9 Personal property; exemptions.
Benevolent, charitable, educational and scientific institutions.
Libraries.
Patriotic, religious, boy or girl scouts, 4-H clubs, associations.
Federal pensions.
Indians not citizens.
Householder; exception.
Fraternities, sororities, student cooperatives.
Mechanic's tools.
Fire fighting equipment.
Agricultural operations; farm implement dealers.
Business property.
Stored goods in interstate commerce; records; inspection; penalty.
Warehouse, dock, port facility, definition.
Bank or trust company; exception.
Farm products in public storage.
Sugar, sugar beet pulp and molasses.

211.9a Motor vehicles in stock; exemption from property tax.

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211.9b Special tools; definition, exemption from taxation.

ASSESSMENT

211.10 Annual assessment, village taxes, state equalized valuation; requests by nonresidents for information relative to assessment of property; reply.
211.10a Repealed.
211.10b Repealed.
211.10c State assessor's board; creation; members; duties.
211.10d Assessors; qualifications, certification.
211.11 Corporate property; situs; exemptions.
211.12 Copartnership property; taxable situs; liability of each partner.
211.13 Personal property; taxable situs, persons assessable; basis.
Computation of average monthly inventory; examination of properties.
211.14 Personal property; taxable situs.
Goods and chattels situate in township other than owner's residence.
Animals.
Property subject to guardian.
Estates of deceased persons.
Property in control of trustee or agent; taxation of possessor.
Tangible personal property and buildings on lands of others.
Tangible personal property of nonresidents; forest products; lien of possessor, release.
211.15 Forest products; place of destination; products in transit.
211.16 Forest products; duty of supervisor.
211.17 Taxable situs of personal property; transfer after tax day.

ASSESSMENT, HOW MADE

211.18 Assessing officer; sworn statement of possessor of assessable personal property.
Oath of person having no personal property not exempt.
Sworn statement as to assessable real property.
211.19 Sworn statement as to assessable property; form, contents.
211.20 Imperfect statements; use.
211.21 Willful neglect to make statement; penalty; complaint.
211.22 Incorrect or absent statement; testimony assessment.
Revision of assessment.
211.22a Personal property examiners; certification; powers; expenses; examination of property.
211.23 Statement; filing, preservation, permissible uses, unlawful use, liability for damages.
211.23a County-wide appraisal of property for assessment; expenses.

ASSESSMENT ROLL

211.24 Property tax assessment roll; time, contents, method.
Metallic mining properties and rights, exemption, assessment, alteration, appeal.
211.24a Tax rolls; preparation by county, expense.
211.24b Assessment based on state equalized valuation; application.
211.24c Increases in assessments; notice, recipients, contents, time, failure to receive, necessity.
211.25 Real property; description; mineral rights.
211.25a Real estate index number system.
211.26 Tax roll; description of personal property.
211.27 Cash value of property; definition, computation, percentage; limited tax bonds.

BOARD OF REVIEW

211.28 Township board of review; appointment, vacancy, quorum, term.
211.29 Township board of review; meeting, time; review of assessment roll.
Notice of change of assessment or addition.
211.30 Township board of review; meetings, townships of 10,000 or more; examination of objector; indorsement of roll, form.
211.30a Township board of review; completion of review, date.
211.30b Revision of personal property assessments in 1965.
211.31 Township board of review; completed roll valid; conclusive presumption.
211.32 Township board of review; quorum; conscription of absent members; second meeting alternative.
211.33 Secretary of board of review; record, filing, form.

EQUALIZATION BY COUNTIES

211.34 Assessment rolls; examination, equalization, certification.

TAXES, HOW AND BY WHOM CERTIFIED

211.35 State tax statement; duties of auditor general, local supervisors; state and county tax apportionment.
211.36 Duties of township clerk, supervisor, county clerk, board of supervisors.
211.37 Board of supervisors; duties; tax apportionment; verification of levies, tax spread expressed in millage.
211.37a Appeal to state tax board; assessment of costs; method of reimbursement.
211.38 Duplicate apportionment certificates; failure to certify, official notice.

TAXES—HOW TO BE ASSESSED

211.39 Assessment of taxes; basis; method; tax receipts.
211.40 Lien for taxes; priority; statement and receipts for taxes to show taxing unit's fiscal year.
211.41 Assessor, duties; local clerk, duties; county clerk, statement to auditor general, contents.
211.41a Statement of land conveyance furnished to township supervisors.

TAX ROLL

211.42 Tax roll preparation; warrant; township treasurer, accounting; collection period; distraint sale; lost roll; tax roll defined.

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211.43 Notice to township treasurer of apportionment of taxes; bond, exception; township tax roll; maximum amount of taxes on hand.
211.43a Delay in receipt of tax roll; fees for unpaid taxes; delinquent tax return.
211.43b Public moneys; depository; liability.

COLLECTING OF TAXES

211.44 Tax collections; tax statement, mailing, time; form; fees; waiver; prevention of tax loss.
211.44a Repealed.
211.45 Collection; time limit.
211.46 Taxes unpaid January 10; personal demand; use of mails; charter provision exception; receipts.
211.47 Unpaid taxes; distraint; sale, notice; surplus; return, unrecovered taxes; power to sue; possessor's recourse; release of levy; audit.
211.47a Treasurer's bill of sale of property sold for unpaid taxes; contents.
211.48 Collector's fee; statement of personalty removed; evidence; collection; executive levies.
211.49 Surplus from sale; contested claim; remedy; treasurer's liability; rule in action.
211.50 Township treasurer; appointment to fill vacancy, bond, term, notice of appointment.
211.51 Township treasurer; failure to file bond; sheriff; powers, bond; compensation.
211.52 Incomplete collection; disbursement of collection funds.
211.53 Payment of taxes; partial, under protest, suit; receipt; undivided share, method.
Same; by lienholder or tenant.
Same; mineral rights.
Same; separate assessment of land acquired for highway purposes.
211.53a Recovery of excess payments not made under protest.
211.53b Clerical errors and mutual mistakes as to assessment; corrections, payments and rebates.
211.54 Collected and unpaid taxes; accounting to county treasurer; time.

RETURN OF DELINQUENT TAXES

211.55 Delinquent taxes; statement of township treasurer; statement filed with school district; rejection of taxes; cancellation of taxes, persons in service, payment.
211.56 Township or city treasurer; discharge of bond; tax roll, filing; evidence; delinquent personal taxes, accounting, liability, collection by county treasurer.
211.56a Personal property taxes unpaid for 5 years; striking from rolls; decree; duties of county treasurer.
211.57 Delinquent tax statement; county treasurer, duties; county clerk's certificate; return of delinquent taxes to state treasurer; notice to delinquent taxpayers.
211.57a Auditor general to prescribe practice for county treasurers; failure of treasurer to comply; auditor general may complete work, expense borne by county; auditor general to furnish to county treasurers changes in tax laws; duty of treasurer.
211.58 Payments to county treasurer; receipt, numbering, certificate.
211.59 Payments to county treasurer; collection fee; expense fee; disposition.

SALE, REDEMPTION AND CONVEYANCE OF DELINQUENT TAX LANDS

211.60 Tax sale; lands to be sold; fee for expenses; collection fee; lien of state; period for which charged.

NOTICE AND LISTS OF LANDS TO BE SOLD

211.61 State treasurer's petition for sale; schedules to be annexed, contents; collection and expense fees; record book.
211.61a Notice to taxpayer; treasurer to mail, form; expenses.
211.62 County clerk and circuit judge; duties; court order, form.
211.63 Designated newspapers; auditor general, duties; notice of tax sale advertising.
211.64 Publication by distribution; county treasurer, duties.
211.65 Lands delinquent for taxes; advertisement cost, limit; additional notices.
211.66 Publication of petition and order for hearing; jurisdiction, objections, hearing, evidence; order setting aside taxes; decree.
211.67 Decree for sale; form; vesting of title in state; disposition of disputed taxes; appeal, condition; rejection and reassessment.
211.67a Delinquent tax lands; deed to state; recording.
Cancellation of taxes; removal from tax roll.
Conveyance to state housing development authority.
211.67b Lands sold for taxes; easements, right of way, permit, dedication.
211.68 Unoffered lands; state bid; taxation.
211.69 Delinquent tax lands of incompetent persons; equitable relief; state's lien.

SALE BY COUNTY TREASURER

211.70 Sale; payment of bid; cancellation and forfeiture for failure to make; reoffer, state bid; report and confirmation of sale; setting aside; report to auditor general.
211.71 Purchaser's certificate; form.
211.72 Tax deed; title conveyed; quieting of title; writ of assistance; loss of certificate.
211.73 Tax deed; setting aside or cancellation; 5 year limitation; improvements; refund; taxes.
211.73a Tax deed; notice, time; forfeiture and certificate of cancellation, recording; rights prior to amendment; litigation of issues, procedure; chancery jurisdiction.
211.73b Certificates and deeds issued prior to September 28, 1907; barred.
211.73c Redemption; notice to owner of expiration of period; form.

REDEMPTION AND ANNULMENT

211.74 Redemption; certificate; duties of county officers; authority of auditor general.

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211.75 Annulment of certificate of redemption or tax deed; copy, record, notice to auditor general.
211.76 Illegal tax; grounds for holding; other taxes sustained.
211.77 Competent evidence.

TAX LANDS HELD BY THE STATE

211.83 Loss of certificate of sale or deed; proof; issuance of deed, contents, fee.
211.84 Purchase of state bids after tax sale; unpaid taxes; certificate; deed.
211.85 Enforcement of remaining unpaid taxes.
211.86 Ejectment action, authorized against state; evidence; tax refund.

ACCOUNTS AND SETTLEMENT THEREOF

211.87 Adjustment of accounts; interest on delinquent payments; charge back lists.
211.87a Detailed statement of delinquent to school district; contents; city or township treasurer, duty.
211.87b Delinquent tax revolving fund; creation; disposition of funds; interest charges, collection fees.
211.88 Tax report of auditor general; contents, time; entries of county treasurer.
211.89 Unpaid taxes, fees, charges; disposition.
211.90 Compensation and expenses; payment.
211.91 Losses by default; allocation.

MISCELLANEOUS PROVISIONS

211.92 List of part-paid and homestead lands; contents, time.
211.95 Auditor general withholding sale because of error; taxes charged back; change in boundaries.
211.96 Rejected taxes; list; reassessment.
211.97 Rejected taxes on detached lands, statement to auditor general; tax credit.
211.98 Conveyance; grounds for withholding; 5 year limitation; cancelling of sale; rejection and reassessment of taxes.
211.98a Certificate of payment of taxes, certificate of error or cancellation of sale; payment by delinquent treasurer.
211.98b Withholding of conveyance of lands bid in to state; certificate of error; inapplicable to lands disposed of under state land board act.
211.99 Unprejudicial irregularities; records prima facie evidence; presumption; signing of records; deed unimpeachable.
211.100 Prosecuting attorney; duties.
211.101 Deed to deceased person; title conveyed.
211.102 Delinquent tax return to land office commissioner; time, record; failure to pay, forfeiture.
211.103 Delinquent tax return to land office commissioner; statement of taxes paid, time; credit.
211.104 Improvements by dispossessed persons; lien.
211.105 Organization of new county; division of township; effect on assessments; credit.
211.106 Payment to county treasurer before sale; part payment, effect.
211.107 Application of act; board of review in cities, duties, proceedings, oath of office.
211.107a Authority of city to increase rate of taxation; referendum, maximum; reduction, limitation.
211.108 Unpaid tax return; ordinance; description rejected by county treasurer; judicial sale, authorization.
211.109 Deputies; authorized acts, responsibility.
211.110 Compensation of county and township officers; powers of cities.
211.111 Deputy township treasurer; appointment, responsibility, compensation.
211.112 Collected taxes unaccounted; power of supervisor.
211.113 Waste; removal of property from lands bid to state prohibited; warrant for seizure and sale of property; agreement; injunctive relief.
211.114 Injunctions.
211.115 Waste injunction by certificate holder; procedure.
211.116 Assessment or review willfully erroneous; penalty.
211.117 Failure to record payment; penalty.
211.118 Perjury.
211.119 Willful neglect; penalty.
211.120 Repealed.
211.121 Publication of tax laws, distribution; service claims audit.
211.122 Forms and record books; auditor general to prescribe.
211.124 Auditor general; duties; completed acts recognized; county treasurer's deeds; new deed; future proceedings.
211.125 Vested rights.
211.126 Repeal; saving clause.

INSPECTION AND DISPOSITION OF STATE TAX LANDS

211.127b Abandoned land; state title absolute; state conveyances to city or village; sale, proceeds.
211.130 Taxes cancelled; allocation of burden; correction of assessment roll.
211.130a, 211.130b Repealed.
211.131 Lands withheld from tax sale; minimum price on sale lands; authority of director of conservation and municipalities; distribution of receipts.
211.131a Delinquent tax lands; conveyance to owner; distribution of moneys received.
Deed, revival of title, liens, encumbrances, priorities.
Mining property; conveyance, reservation.
Mining property; redemption.
Conveyance to lessee; interest.
211.131b Certain state lands not subject to entry as homestead lands.
211.131c Municipalities may withhold lands from sale; redemption by owner; certificate; when not redeemed.
211.131d Tax reverted lands; contracts for management.
211.133, 211.134 Repealed.

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SUPPLEMENTARY

211.135 Recording of conveyances; tax certificate; excepted conveyances; register of deeds, violation, penalty.
211.137 Writs of assistance.
211.138 Treatment of delinquent lands prior to 1891; tender of legal charges, effect.
211.139 Examination of proceedings; collection of taxes.
211.140 Writ of assistance; service of notice; redemption, time and amount; service on corporations; sheriff's return.
211.141 Redemption; conditions, amount of payment; effect on tax title; notice; release; reimbursement; title; grantee's lien; writ of assistance.
211.142 Notice by tax purchaser to owners; redemption period.
211.142a Record, expired notice and service; evidence of ownership; fees.
211.143 Failure to redeem, effective bar.
211.144 Proceedings to set aside sale; auditor general to be made party; service of petition upon municipalities.
211.146 Board of tax commissioners; secretary and chief clerk, salaries, duties.
211.147 Oath of office; salaries and expenses of board members.
211.148 State tax commission; meetings, access to records and rolls; subpoena, fees; scope of examination; penalties.
211.149 State tax commission; regular meetings, time; special meetings.
211.150 State tax commission; duties.
Supervision; assessment rolls.
Assessing officers, supervision; enforcement of penalties.
Complaints; correction of irregularities.
Reports, statistical data, approval of forms.
Statement to state board of equalization; cooperation.
211.151 State tax commission; report to governor, contents, time, printed copies.
211.152 State tax commission; inspection of assessment rolls, time; review procedure; complaints.
Hearing; notice; publication; report.
Correction of roll; contested case; finality.
211.154 Taxable property incorrectly reported; notice, hearing, correction, certification of tax due; demand payment notice; penalty; change of ownership.
211.155 Waste and removal of property from tax delinquent lands.
211.156 Waste and removal of property from tax delinquent lands; warrant to seize and sell property; execution.
211.157 Waste and removal of property from tax delinquent lands; county treasurer entitled to injunction.

TAXATION OF LESSEES OR USERS OF TAX-EXEMPT PROPERTY

Act 189 of 1953

211.181 Taxation of lessees or users of tax-exempt property; exceptions; concessions.
211.182 Assessment and collection; action of assumpsit.

Act 117 of 1970

211.191 Taxation of exempt property when not being used for purpose for which exemption granted.

PROPERTY TAX LIMITATION ACT

Act 62 of 1933

211.201 Short title; property tax limitation act.
211.202 Property tax limitation act; definitions.
211.203 Limit on tax rate; debt service.
Charter or general law limitation.
Election to raise limits, ballots; declaration of result, filing with county treasurer; notice statement.
211.204 State tax rate; operating purposes.
Notices; debt service.
211.205 County tax allocation board, members; selection.
211.205a Initiatory petition for separate tax limitation; signatures, filing.
211.205b Initiatory petition for separate tax limitation; form, circulators.
211.205c Petition by tax allocation board for separate tax limitation.
211.205d Submission of question at general or special election.
211.205e County tax allocation board; separate tax limitations.
211.205f County clerk; transmittal to local clerks for submission of question.
211.205g Separate tax limitations; submission of question, form.
211.205h Separate tax limitations; adoption of plan.
211.205i Separate tax limitations; effectiveness.
211.205j Separate tax limitations; adoption, abolition of county tax allocation board, reestablishment.
211.205k Separate tax limitations; alteration or extension; county advisory tax limitation committee; election.
211.205l Separate tax limitations; prior voted millage increases; additional millage increases.
211.205m Separate millage rates for separate districts.
211.206 County tax allocation board; term, officers, assistance.
211.207 County tax allocation board; compensation and expenses.
211.208 County tax allocation board; meetings, examination of local records.
211.209 Budgets and statements of local units; preparation, form.
211.210 Budgets and statements of local units; filing with county tax allocation board.
211.211 County tax allocation board; powers and duties in establishing tax rates.
211.211a Intercounty or intermediate school district; maximum tax rate.
211.212 Tax levies, statement in rates, limits; debt service.
211.214 District located in more than 1 county; establishment of rate.

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211.214a District located in more than 1 county; establishment of rates in all counties; proposed budget.
211.215 County tax allocation board; maximum tax rate, final hearing, redetermination.
211.216 Orders of board; maximum tax rate, final order.
211.217 Orders of board; appeal to state tax commission; judicial review.
211.217a State tax commission's orders; intercounty or intermediate school district; adjustment of tax rates.

MUNICIPAL SCHOOL DISTRICTS, ADDITIONAL TAXES
Act 162 of 1933

211.251 Definitions.
211.252 Tax rates in certain municipal school districts.
211.253 Findings of commission; conclusiveness.
211.254 Additional tax rate; levy by board of education.
211.255 Rules and regulations by auditor general.
211.256 Supplementary order of commission; retroactive effect.

BUDGETS, REOPENING AND REVISION
Act 140 of 1933

211.271 Revision of municipal budgets; definitions.
211.272 Revision of municipal budgets for deduction of debt service.
211.273 Revision of municipal budgets for deduction of debt service; after approval of refunding by public debt commission.
211.274 Revision of municipal budgets for deduction of debt service; after suspension of moratorium on municipal debt.
211.275 Effect on existing statutes and charters.

INSTALLMENT PAYMENT OF TAXES
Act 126 of 1933

211.301 Declaration of emergency as to delinquent taxes.
211.302 Return to county treasurer of delinquent taxes and special assessments for 1932 and prior years; returned delinquent tax roll, contents, cost.
211.303 Installment payment of taxes; 1932 and prior years; application for 1933, 1934 and 1935 taxes; return and sale, redemption; abstract of taxes, form; allocation and distribution of payments.
211.303a Additional interest charge upon each installment.
211.303b Interest charges on delinquent special assessments; remission.
211.304 Lien of bonds to attach to returned taxes.
211.305 Taxes not delinquent for certain purposes; certificate of county treasurer or auditor general on land contracts or conveyance with warranty of title.
211.306 Notice of sale for delinquent taxes; publication in newspaper.
211.307 Sale for delinquent taxes prohibited; exception.
211.308 Waste or removal of timber from delinquent tax lands; penalty.
211.310 General property tax law; provisions in effect.
211.311 Construction as emergency legislation.

STATE LANDS; STATE LAND OFFICE BOARD
Act 155 of 1937

211.351-211.354 Repealed.
211.355 Repealed.
211.355a State lands; definitions; validation of previous conveyances and contracts; conveyance to more than 1 as owner.
211.356 Repealed.
211.357-211.358d Repealed.
211.358e Limitation of action to set aside sale or conveyance.
211.358f Vacating of plats; exchange of parcels; conveyances.
211.358g Condemnation of state lands; procedure; payment of award.
211.358h Withholding from sale lands in which persons in military service owned any estate or interest; affidavit, filing.
211.359 Repealed.
211.360 Receipts; remittance to tax assessing units; basis; operating expenses; certificate of cancelled taxes.
211.361 Repealed.
211.362 Owner; definition.
211.364 Termination of act; land under control of department of conservation; certain rights saved.

WITHHOLDING LANDS FROM SALE
Act 92 of 1943

211.371 Certain lands, withholding from sale; notice to auditor general.
211.372 Certain lands, withholding from sale; conveyance to grantees; delinquent taxes and special assessments, payment and certification; liens.
211.373 Certain lands, withholding from sale; taxes and special assessments subsequently assessed rejected by auditor general and reassessed.
211.374 Certain lands, withholding from sale; payment of valid taxes and special assessments when interest acquired by state; approval.
211.375 Appropriation.

CIVIL REMEDY, ERRONEOUSLY ASSESSED TAXES
Act 218 of 1931

211.381 Payment of taxes and/or special assessments erroneously assessed; assumpsit against owner.

DRAIN AND HIGHWAY ASSESSMENTS, EXTENSION
Act 292 of 1931

211.391 Drain taxes; extension of time of payment.
211.392 Repealed.
211.393 Delinquent drain taxes or highway assessments; installments, remission of accrued interest and penalties, interest.
211.394 Extended taxes or assessments deemed lien on property.
211.395 Effect of act on existing rights and liabilities.

MUNICIPAL AND HOLC BONDS, ACCEPTANCE FOR TAXES
Act 133 of 1933

211.401 Definitions.

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211.402 Municipal bonds and obligations, Home Owners Loan bonds and coupons; acceptance in payment of taxes.
211.403 Assessment district bonds and obligations, Home Owners Loan bonds and coupons; acceptance in payment of special assessments.
211.403a Resolution authorizing acceptance; terms.
211.404 Resolution authorizing acceptance; filing of certified copies.
211.405 State bids and tax lands included in act.
211.406 Tax collecting officers; duties; cancellation of bonds and obligations; Home Owners Loan bonds and coupons, acceptance.

COUNTY PURCHASES, DELINQUENT TAX LANDS
Act 260 of 1931

211.421 Lands sold for delinquent taxes and drain assessments; purchase by governmental units.

TAX HOMESTEAD LANDS
Act 84 of 1903

211.431 Deeds to state; title absolute; executed deeds.

DEEDS MADE UPON SALE OF RESERVED LAND
Act 211 of 1905

211.441 Certain deeds; prima facie evidence.

REFUND OF PURCHASE PRICE AND CANCELLATION OF SALE
Act 130 of 1907

211.451 Purchase price refund; conditions.
211.452 Purchase price refund; circumstances authorizing.
211.453 Unrecorded deed; cancellation; release of recorded deed, recording.
211.454 Cancellation deed to state; certificate of error, recording; tax liens and state bids restored.
211.455 Refund; allocation of burden.

STATE LANDS, SALE FOR PUBLIC USES
Act 223 of 1909

211.461 State lands; sale or transfer for public purpose; transfer of jurisdiction to other state agencies; reverter clause.

RECORD OF DEEDS FOR TAX HOMESTEAD LANDS
Act 137 of 1913

211.471 Tax homestead lands; state land office record, certified copies as evidence.
211.472 Tax homestead lands; record of copy of deed.
211.473 Records in state land office; certified copy; fee; recording conditions; perjury.

DELINQUENT TAXES ON PART-PAID LANDS
Act 44 of 1883

211.481 Unpaid tax list; lands patented after assessment; preparation.
211.482 Supervisors to Re-assess.
211.483 Collection and return.

STATE GAME LANDS, TAXATION
Act 91 of 1925

211.491 Conservation department lands north and south of township 16 north and in Huron county; list furnished state tax commission; annual report of revenues received.
211.492 Conservation department lands south of town 16 and in Huron county; tax evaluation, time; report to assessing districts; spread of tax.
211.493 Conservation department lands south of town 16 and in Huron county; tax statement of assessing district, payment.
211.494, 211.495 Repealed.

PUBLIC IMPROVEMENT ASSESSMENTS
Act 234 of 1929

211.501 Public improvement assessment, personal obligation; recovery.
211.502 Public improvement assessment, personal obligation; installments.

WASTE INJUNCTIONS
Act 223 of 1889

211.511 Waste injunction; township treasurer, duties; order of authorized tribunal.

FEDERAL TAX LIENS
Act 104 of 1923

211.521, 211.522 Repealed.

IRREGULAR OR ILLEGAL TAXES
Act 6 of 1873

211.531 Collection process, irregularities; voluntary tax payment; officers not liable.
211.532 Collection process, irregularities; voluntary payment; officer to account.

TAXES ON STATE TAX LANDS
Act 263 of 1897

211.541 Land held as state tax land with other land; tax application; proportionate payment; deed.

WOMAN'S AUXILIARY ASSOCIATION OF UNIVERSITY OF MICHIGAN
Act 143 of 1891

211.551 Woman's auxiliary association, U. of M.; tax exemption.

CUT-OVER AND WILD LANDS
Act 208 of 1913

211.561 Cut-over lands defined; homestead limit; 5-year tax exemption period.
211.562 Exemption application; treatment on tax roll.

MUNICIPAL BONDS, EXEMPTION
Act 88 of 1909

211.571 Bonds exempted from taxation.

STATE TAX HOMESTEAD AND SWAMP LANDS
Act 116 of 1917

211.581 Tax on state homestead, swamp and department of conservation lands; exceptions, payment, apportionment.
211.582 Tax on state homestead, swamp and department of conservation lands; duty of department of conservation, records, source of payment.

TAX SALE ADVERTISING CLAIMS
Act 59 of 1933

211.591 Claims for advertising sale of delinquent tax lands.

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DESTRUCTION OF OBSOLETE TAX RECORDS
Act 81 of 1949
211.601 Repealed.

LOW GRADE IRON ORE TAX
Act 77 of 1951
211.621 Low grade iron ore; definitions.
211.622 Taxation; preproduction assessment formula.
211.623 Taxation; assessment formula after commencement of production.
211.624 Low grade iron ore mining property; minimum specific tax.
Removal of property from general property tax assessment; delinquent taxes; distribution of revenues.
Specific tax in lieu of ad valorem tax on ore, mining property, concentrate and other products.
211.625 Purpose of act.

SALE OF TAX LANDS
Act 107 of 1951
211.641 Sale and conveyance of certain tax lands; deposit of funds.

SALE OF PROPERTY ACQUIRED FOR PUBLIC USE
Act 188 of 1952
211.651 Authorizing sale of certain property located in slum area acquired and held by municipalities; certain limitations, removal.

UNIFORM FEDERAL TAX LIEN REGISTRATION ACT
Act 107 of 1956
211.661-211.664 Repealed.
211.665 Repealed.
211.666-211.669 Repealed.

UNIFORM FEDERAL TAX LIEN REGISTRATION ACT (1967)
Act 162 of 1967
211.671 Short title; uniform federal tax lien registration act.
211.672 Lien notices and certificates; filing.
211.673 Certification by secretary of the treasury.
211.674 Duties of filing officers; fees.
211.675 Maintenance of files for notices, liens, or certificates recorded prior to January 1, 1968.
211.676 Recording, filing, and indexing fees.
211.677 Construction of act.
211.678 Repeal.
211.679 Effective date.

STATE TAX LIEN REGISTRATION ACT
Act 203 of 1968
211.681 Short title; state tax lien registration act.
211.682 Certificates and notices of liens upon real or personal property; filing.
211.683 Certification by collecting agency.
211.684 Duties of filing officers; fees.
211.685 Fees; monthly billing; exception.
211.686 Failure to file or record state tax lien.
211.687 Effective date.

JEOPARDY ASSESSMENT OF PERSONAL PROPERTY TAXES
Act 55 of 1956
211.691 Personal property taxes; jeopardy assessment.
211.692 Personal property taxes; jeopardy assessment affidavit, contents.
211.693 Affidavit; filing, notice to taxpayer.
211.694 Acceleration of due date of tax; lien, collection of tax.
211.695 Jeopardy assessment tax rate; collection of tax; discharge of affidavit.
211.696 Personal property tax; repayment of excess; collection of unpaid regular tax.
211.697 Treasurer; diligence, liability for uncollected taxes.

RECONVEYANCE OF PROPERTY SOLD FOR TAXES
Act 129 of 1961
211.711 Charitable or religious organizations; reconveyance of property sold for taxes, effect.

MANUALS FOR ASSESSING OFFICIALS
Act 122 of 1962
211.721 Assessment of real and personal property; state tax commission manuals.

SPECIAL ASSESSMENT NOTICE OF HEARINGS
Act 162 of 1962
211.741 Special assessments; notice of hearing, service; local tax assessment records.
211.742 Tax assessment records; filing of names; changes of names and addresses.
211.743 Notice of hearings; mailing.
211.744 Notice of hearings; invalidation of assessment; reassessment.
211.745 Notice of hearings; validation of previously held hearings.

REIMBURSEMENT FOR TAXES LOST FOR LANDS ACQUIRED BY UNITED STATES
Act 168 of 1966
211.751 Sleeping Bear dunes national lakeshore; payments to counties from revenues derived by sale of state lands to United States; distribution of funds to local units.
211.752 Review of impact of acquisitions upon tax revenues; report to legislature, recommendations.
211.753 Maximum payments under act.
211.754 Local units not eligible for payments; conditions.

Act 206, 1893, p. 354; Eff. Jun. 12.

AN ACT to provide for the assessment of property and the levy and collection of taxes thereon, and for the collection of taxes heretofore and hereafter levied; making such taxes a lien on the lands taxed, establishing and continuing such lien, providing

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for the sale and conveyance of lands delinquent for taxes and for the inspection and disposition of lands bid off to the state and not redeeemed or purchased; to define and limit the jurisdiction of the courts in proceedings in connection therewith; to limit the time within which actions may be brought; to prescribe certain limitations with respect to rates of taxation; to provide penalties for the violation of this act; and to repeal all acts and parts of acts in anywise contravening any of the provisions of this act. Am. 1939, p. 62, Act 37, Imd. Eff. Apr. 13;—Am. 1941, p. 358, Act 234, Imd. Eff. Jun. 16;—Am. 1949, p. 681, Act 317, Eff. Sep. 23.

The People of the State of Michigan enact:

211.1 Property subject to taxation.

Sec. 1. That all property, real and personal, within the jurisdiction of this state, not expressly exempted, shall be subject to taxation.

HISTORY: CL 1897, 3824;—CL 1915, 3995;—CL 1929, 3389;—CL 1948, 211.1.

PRIOR TAX LAWS: General law of 1820, 1 Terr. Laws, p. 661. General law of 1827, Rev. Laws, 1827, p. 370, General law of 1833, Rev. Laws of 1833, p. 88; supplementary and amendatory acts: Laws of 1834, p. 7; Laws of 1835-6, p. 52; Laws of 1837, pp. 7, 167, 317; Laws of 1838, p. 137. General law, R.S. 1838, p. 75; supplementary and amendatory acts: Acts 87, 95, of 1839; 6, 59 and J.R. 23 of 1840; 46 of 1842. General law, Act 58 of 1842; supplementary and additional acts: 65 of 1842; 31, 48 of 1843. General law, Act 49 of 1843; supplementary and amendatory acts: Acts 5, 23, 96, of 1844; 64, 67, of 1845; 14, 72, 88 of 1846. General law, R.S. 1846, p. 102; supplementary and additional acts: Acts 84 of 1847; 2, 73, 122; 194, 206 of 1848; 94, 117, 254, of 1849; 46, 168, 216, 317 of 1850. General law, Act 86 of 1853, CL 1857, 782-943; supplementary and amendatory acts: Acts 95, 129 of 1855; 68 of 1857; 2, 3, 32 of 1858; 36, 38, 180 of 1859; 7, 77, 83, 196, 198 of 1861; 50, 72, 136, 139, 181 of 1863; 45, 224, 273, 281, 298, 322 of 1865; 68, 77, 157, of 1867; 49, 168 of 1869. General law, Act 169 of 1869, CL 1871, 967-1133, How. p. 1001-1170; supplementary and amendatory acts: Acts 42, 83, 106, 115, 143, 148, 162, 163 of 1871; 45, 57, 59 of 1872; 6, 11. 37, 47, 65, 78, 90, 102, 105, 125, 169, 173, 176, 180, 181 of 1873; 6 of 1874; 17, 72, 82, 85, 88, 106, 224, 226, 228 of 1875; 8, 161, 168, 195, 197, 198 of 1877; 10, 38, 77, 128, 268, of 1879; 43, 153 156, 219, 229, 283, of 1881; 7, 11, of 1882. General law, Act 9 of 1882, How. vol. 1, p. 1265; supplementary and amendatory acts: Acts 20, 212, 217, 227 of 1885. General law, Act 153 of 1885; How. 1169L-1169x3; supplementary and amendatory acts: Acts 106, 125, 236, 254, 262, 283, 294, 300, 301, 302, of 1887; 107, 124 of 1889. General law, Act 195 of 1889, How. 1170a-1170L2; supplementary and amendatory acts: Acts 43, 133, 139, 141, 143 of 1891. General law, Act 200 of 1891; supplementary and amendatory acts: Acts 16, 26, 205 of 1893.

Act 139 of 1891, p. 172, repealed all prior acts imposing specific taxation upon mining companies and then enacted: "Hereafter all the property, real and personal, of all corporations, associations, joint stock companies and persons, natural or artificial, however organized or named, who are engaged in the business of mining, smelting or refining ores in this state, shall be taxed for state and other purposes, under the general provisions of law relating to the assessment and taxation of property, and the taxes shall be assessed and collected under such general provisions of law."

CITED IN OTHER SECTIONS: Sections 211.1 to 211.157 are cited in §§ 16.179, 125.1041, 207.51a, 211.711, 213.301, 257.801, 323.354, 336.4, 340.298a, 340.615, and 340.642a.

211.1a Short title; general property tax act.

Sec. 1a. This act shall be known and may be cited as "The general property tax act".

HISTORY: Add. 1943, p. 376, Act 231, Imd. Eff. April 20;—CL 1948, 211.1a.

REAL PROPERTY.

211.2 Real property; definition.

Sec. 2. For the purpose of taxation, real property shall include all lands within the state, and all buildings and fixtures thereon, and appurtenances thereto, except such as are expressly exempted by law, and shall include all real property owned by the state or heretofore purchased or condemned for public highway purposes by any board, officer, commission or department thereof and sold on land contract, notwithstanding the fact that the deed has not been executed transferring title.

Tax day, preparation of assessment roll, examination of properties.

The taxable status of persons and real and personal property shall be determined as of each December 31, which shall be deemed the tax day, any provisions in the charter of any city or village to the contrary notwithstanding. No assessing officer shall be restricted to any particular period in the preparation of the assessment roll but may survey, examine or review properties at any time prior to or after the tax day.

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Real property acquired for public purpose; proration of taxes; levy date.

Notwithstanding any provision to the contrary in any law, when real property is acquired for public purposes by purchase or condemnation, all general property taxes, but not penalties, levied during the 12 months immediately preceding, but not including, the day title passes to the public agency shall be prorated in accordance with this paragraph. The seller or condemnee is responsible for the portion of taxes from the levy date or dates to, but not including, the day title passes and the public agency is responsible for the remainder of such taxes. If the date that title will pass cannot be ascertained definitely and an agreement in advance to prorate taxes is desirable, an estimated date for the passage of title may be agreed to. In the absence of such agreement, the public agency shall compute the proration of taxes as of the date title passes. The question of proration of such taxes shall not be considered in any condemnation proceeding. As used in this paragraph "levy date" means the day on which taxes become due and payable. In addition to the portion of taxes for which the public agency is responsible under the provisions of this paragraph, the public agency is also responsible for all general property taxes levied on or after the date title passes and before the property is removed from the tax rolls.

Private real estate transactions, proration of taxes; levy date.

In any real estate transaction between private parties in the absence of any agreement to the contrary, the seller shall be responsible for that portion of said annual taxes levied during the 12 months immediately preceding, but not including, the day title passes, from the levy date or dates to, but not including, the day title passes and the buyer is responsible for the remainder of such annual taxes. As used in this paragraph "levy date" means the day on which any general property tax becomes due and payable.

HISTORY: CL 1897, 3825;—CL 1915, 3996;—CL 1929, 3390;—Am. 1939, p. 444, Act 235, Eff. Sep. 29;—Am. 1941, p. 358, Act 234, Imd. Eff. Jun. 16;—CL 1948, 211.2;—Am. 1949, p. 427, Act 285, Eff. Sep. 23;—Am. 1958, p. 272, Act 209, Eff. Sep. 13;—Am. 1966, p. 465, Act 258, Imd. Eff. Jul. 12;—Am. 1968, p. 475, Act 277, Imd. Eff. Jul. 1.

211.2a Certain trailer coaches; deemed real property.

Sec. 2a. For all purposes of the preceding section, trailer coaches not under the provisions of Act No. 143 of the Public Acts of 1939, as amended, being sections 125.751 to 125.768, inclusive, of the Compiled Laws of 1948, and while located on land otherwise assessable as real property under this act, when such trailer coaches are used as habitations, and whether or not permanently affixed to the soil, shall be deemed to be real property and shall be assessed as part of the real property upon which they are located.

HISTORY: Add. 1953, p. 52, Act 57, Eff. Oct. 2.

211.3 Real property; parties assessable; persons treated as owner; property of deceased persons.

Sec. 3. Real property shall be assessed in the township or place where situated, to the owner if known, and also to the occupant, if any; if the owner be not known and there be an occupant, then to such occupant, and either or both shall be liable for the taxes on said property, and if there be no owner or occupant known, then as unknown. A trustee, guardian, executor, administrator, assignee or agent, having control or possession of real property, may be treated as the owner. The real property which belonged to a person deceased, not being in control of an executor or administrator, may be assessed to his heirs or devisees jointly, without naming them, until they shall have given notice of their respective names to the supervisor, and of the division of the estate.

HISTORY: CL 1897, 3826;—CL 1915, 3997;—CL 1929, 3391;—CL 1948, 211.3.

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211.4 Real property; licensed homesteads; part-paid state lands; assessment, contents.

Sec. 4. All licensed homesteads lands, the fee of which is in the state, when the licensee is entitled to make final proof to obtain a patent for the same, shall be assessed and treated as real property. The interest in land of any person holding part-paid certificates for the purchase of any state lands shall be assessed separate from other property. The assessment shall describe the land and shall state therein that the title is in the state. The taxes, if not paid to the township treasurer, shall be returned and collected as hereinafter provided.

HISTORY: CL 1897, 3827;—CL 1915, 3998;—CL 1929, 3392;—CL 1948, 211.4.

211.5 Real property; assessment of corporate realty.

Sec. 5. The real property of a corporation shall be assessed to the name of the corporation as to an individual, if known, in the township or place where situated, or it may be assessed to the occupant or to any authorized agent if so requested of the supervisor.

HISTORY: CL 1897, 3828;—CL 1915, 3999;—CL 1929, 3393;—CL 1948, 211.5.

211.6 Real property; tenants in common; assessment of undivided interests.

Sec. 6. Undivided interests in lands owned by tenants in common, not being copartners, may be assessed to the owners thereof, if so requested, and in the discretion of the supervisor.

HISTORY: CL 1897, 3829;—CL 1915, 4000;—CL 1929, 3394;—CL 1948, 211.6.

211.6a Mineral rights assessed separate from surface rights.

Sec. 6a. Mineral rights consisting of metallic resources which have a known mineral value or are developed or are in production may be assessed separate from the surface rights in the property in which the same are situated if such mineral rights and surface rights are owned by separate owners. In case of separate assessment of such rights the terms "property," "real property," "land" and "parcel" or the plural of each of said terms as used in this act, shall refer to and include such mineral rights or surface rights as the case may be: Provided, however, That the fact that such rights are not separately assessed in the case of the separate ownership of the same or that they are separately assessed in the case of common ownership of the same shall not invalidate such assessment or any proceedings had in regard thereto under this act nor shall the same constitute grounds for rejecting such assessment or the taxes levied pursuant thereto.

HISTORY: Add. 1945, p. 221, Act 159, Imd. Eff. May 16;—CL 1948, 211.6a.

211.6b Mineral rights consisting of undeveloped metallic resources; assessment separately from surface rights; exclusions; prima facie value.

Sec. 6b. Mineral rights consisting of metallic resources which are not developed or which are not in production or which have not been explored shall be assessed separately from the surface rights in the property in which the same are situated if such mineral rights and surface rights are owned by separate owners: Provided, however, That such mineral rights which are owned by or leased to any person, corporation (or wholly owned subsidiary thereof) or copartnership engaged in the business of and actually extracting, producing or processing such minerals in the state of Michigan shall be excluded from the provisions of this section: Provided, further, That such mineral rights which are owned by any person, corporation or copartnership shall also be excluded from the provisions of this section whenever such person, corporation or copartnership is the recipient or purchaser of metallic mineral ores which have been extracted, produced or processed by or through contractual arrangements or undertakings with a person, corporation or copartnership who is engaged in the busi-

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ness of and who is actually extracting, producing or processing such minerals in the state of Michigan.

The ownership of metallic mineral rights separate from the surface rights in land shall be prima facie evidence of the presence and existence of metallic mineral resources in such land and that such metallic mineral rights have a prima facie true cash value of $5.00 per acre. The term "property", "land" and "parcel" as used in this act shall refer to and include mineral rights or surface rights separately assessed under this section: Provided, however, That the fact that such rights are separately assessed in the case of common ownership of the same shall not invalidate such assessment or any proceedings had in regard thereto under this act nor shall the same constitute grounds for rejecting the assessment or the taxes levied pursuant thereto. The first assessment under the provisions of this section shall be made the second calendar year immediately following the year in which this section becomes effective. On or before December 31, 1967 owners of surface rights and of mineral rights whose respective rights are subject to separate assessment as herein provided shall file with the assessing officer of the township, village or city in which the land containing such separate surface or mineral rights is situated an affidavit containing an accurate description of each parcel of land in which such separate surface or mineral rights is contained, with the number of acres contained therein, and a statement of their surface or mineral rights therein.

HISTORY: Add. 1966, p. 465, Act 288, Imd. Eff. Jul. 12;—Am. 1967, p. 169, Act 143, Imd. Eff. Jun. 27.

REAL ESTATE EXEMPTIONS.

211.7 Property exempt from taxation.

Sec. 7. The following property shall be exempt from taxation:

Federal property.

First, All public property belonging to the United States. Such exemption shall not apply where taxation of such property has been specifically authorized by federal legislative action or federal administrative rule, regulation or lease.

State property; exceptions; notice.

Second, All public property belonging to the state, except licensed homestead lands, part-paid lands held under certificates, and lands purchased at tax sales, and still held by the state. This exemption shall not apply to any lands hereinafter acquired unless a deed or other memorandum of conveyance is recorded in the county where such lands are located prior to December 31 of the year of acquisition, or the local assessing officer is notified by registered mail of such acquisition prior to December 31 of the year of acquisition.

Public lands, buildings, parks; notice.

Third, Lands owned by any county, township, city, village or school district and buildings thereon, used for public purposes: Provided, That parks shall be open to the public generally. This exemption shall not apply to any lands hereinafter acquired unless a deed or other memorandum of conveyance is recorded in the county where such lands are located prior to December 31 of the year of acquisition, or the local assessing officer is notified by registered mail of such acquisition prior to December 31 of the year of acquisition.

Libraries, charitable institutions, memorial homes, boy or girl scouts, YMCA, YWCA, hospitals, exceptions.

Fourth, Such real estate as shall be owned and occupied by library, benevolent, charitable, educational or scientific institutions and memorial homes of world war veterans incorporated under the laws of this state with the buildings and other property thereon while occupied by them solely for the purposes for which they were incorporated. Also charitable homes of fraternal or secret societies. Also real estate not to ex-

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ceed 400 acres of land in this state owned by any boy or girl scout organization, or by young men's Christian associations or young women's Christian associations, if at least 50% of the membership of the associations or organizations are residents of this state, but upon petition of any association or organization the board of supervisors may waive the residence requirement while occupied by them solely for the purpose for which they were incorporated or established. Also the real estate and building of any clinic erected, financed, occupied and operated by a nonprofit corporation or by the trustees of health and welfare funds, if the funds of such corporation or such trustees are derived solely from payments and contributions under the terms of collective bargaining agreements between employers and representatives of employees for whose use the clinic is maintained. Also real estate with the buildings and other property thereon, owned and occupied by any nonprofit trust and used for hospital or public health purposes, but excluding excess acreage not actively utilized for hospital or public health purposes, and real estate and dwellings located thereon used for dwelling purposes for resident physicians and their families.

Houses of public worship, parsonages.

Fifth, All houses of public worship, with the land on which they stand, the furniture therein and all rights in the pews, and also any parsonage owned by any religious society of this state and occupied as such.

Cemeteries; corporate stock not exempt.

Sixth, All lands used exclusively as burial grounds, and the rights of burial therein, and the tombs and monuments therein, while reserved and in use for the purpose. The stock of any corporation owning such burial grounds shall not be exempt.

Poor persons.

Seventh, The real and personal property of persons who, in the opinion of the supervisor and board of review, by reason of poverty, are unable to contribute toward the public charges.

Corporations paying specific taxes; special assessments.

Eighth, The real property of corporations exempt under the laws of this state, by reason of paying specific taxes in lieu of all other taxes for the support of the state. Tracks, right of way, depot grounds and buildings, machine shops, rolling stock, and all other property necessarily used in operating any railroad in this state belonging to any railroad company, shall henceforth remain exempt from taxation for any purpose, except that the same shall be subject to special assessments for local improvements in cities and villages, and all lands owned or claimed by any such railroad company not adjoining the tracks of such company, shall be subject to all taxes.

Agricultural societies; fairs.

Ninth, Property owned exclusively by the state agricultural society or any county or district agricultural society, and used by any such society exclusively for fair purposes.

Parks, armories; land leased by nonprofit corporation to state.

Tenth, All land dedicated to the public, which is hereby defined to be and include all residents of the state, and actually used as a park open to the public generally and any monument ground or any armory belonging to any military organization, and not used for gain or any other purposes; and all property owned by a nonprofit corporation organized to take title to property previously owned by the state when the property owned by such corporation is leased to the state.

Landing area; definition.

Thirteenth, A landing area for which a fee has been paid pursuant to section 86 of Act No. 327 of the Public Acts of 1945, as amended, being section 259.86 of the Compiled Laws of 1948. For the purpose of this section "landing area" means an area of an airport or landing field available to the public without charge for noncommercial

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use at all times for use in landing, taking off or taxiing of aircraft, excluding the area and facilities for shelter, servicing or repair of aircraft or for receiving or discharging passengers or cargo.

HISTORY: CL 1897, 3830;—Am. 1901, p. 67, Act 44, Eff. Sept. 5;—Am. 1909, p. 758, Act 309, Eff. Sept. 1;—Am. 1911, p. 296, Act 174, Eff. Aug. 1;—CL 1915, 4001;—Am. 1919, p. 584, Act 331, Eff. Aug. 14;—Am. 1925, p. 68, Act 55, Eff. Aug. 27;—Am. 1927, p. 160, Act 118, Imd. Eff. May 7;—CL 1929, 3395;—Am. 1931, p. 55, Act 42, Imd. Eff. April 23;—Am. 1933, p. 390, Act 243, Eff. Oct. 17;—Am. 1939, p. 439, Act 232, Eff. Sept. 29;—Am. 1941, p. 159, Act 125, Imd. Eff. May 26;—Am. 1942, 2nd Ex. Ses., p. 47, Act 8, Imd. Eff. Feb. 25, 1942;—Am. 1943, p. 167, Act 131, Imd. Eff. April 13;—Am. 1945, p. 76, Act 76, Imd. Eff. April 10;—Am. 1946, 1st Ex. Ses., p. 57, Act 24, Imd. Eff. Feb. 26, —CL 1948, 211.7;—Am. 1949, p. 20, Act 24, Imd. Eff. Mar. 29;—Am. 1949, p. 49, Act 55, Eff. Sep. 23;—Am. 1951, p. 213, Act 169, Eff. Sep. 28;—Am. 1952, p. 56, Act 54, Eff. Sep. 18;—Am. 1955, p. 68, Act 46, Imd. Eff. Apr. 29;—Am. 1958, p. 219, Act 190, Eff. Sep. 13;—Am. 1960, p. 232, Act 155, Eff. Aug. 17;—Am. 1961, p. 742, Act 238, Eff. Sep. 8;—Am. 1963, p. 204, Act 148, Eff. Sep. 6;—Am. 1966, p. 570, Act 320, Imd. Eff. Jul. 19;—Am. 1968, p. 649, Act 342, Eff. Dec. 31.

CITED IN OTHER SECTIONS: The above section is cited in § 211.55.

211.7a Real estate used and owned as homestead by blind person; tax exemption; eligibility; false affidavit.

Sec. 7a. (a) All real estate to the value of $2,500.00 state equalized valuation used and owned as a homestead by any blind person shall be exempt from taxation. This section shall not operate to relieve from taxation any person who is the owner of taxable real property of greater value than $10,000.00 state equalized valuation.

Eligibility.

(b) For the purposes of this section, a person shall be considered blind if he has a permanent impairment of both eyes of the following status: central visual acuity of 20/200 or less in the better eye, with corrective glasses, or central visual acuity of more than 20/200 if there is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance no greater than 20 degrees in the better eye.

Claim for exemption; affidavit, filing, inspection.

(c) Any person desiring to accept the exemption set forth in this section shall each year file with the supervisor or other assessing officer an affidavit showing that he or she possesses all the qualifications for the same, enumerating them. Such affidavit shall be filed during the period beginning with the tax day for each year and ending at the time of the final adjournment of the local board of review. Such affidavit when filed shall be open to inspection.

False affidavit, penalty.

(d) Any person making a false affidavit for the purpose of exemption from taxation shall be guilty of the crime of perjury, and shall be punished accordingly.

Homestead, owner, defined.

(e) As used in this section "homestead" means any dwelling or unit in a multiple-unit dwelling, owned and occupied as a home by the owner thereof, including all contiguous unoccupied real property owned by the person. Homestead includes a dwelling and outbuildings used in connection therewith, having a state equalized value not in excess of $10,000.00 situated on the lands of another. For the further purpose of this section the word "owner" includes any person eligible for the taxation exemption specified herein, who is purchasing a homestead, as defined herein, under a mortgage or land contract or who owns a dwelling situated on the leased lands of another or is a tenant-stockholder of a cooperative housing corporation.

No person shall claim or be allowed more than 1 homestead exemption in this state under the provisions of this section.

HISTORY: Add. 1953, p. 259, Act 194, Eff. Oct. 2;—Am. 1968, p. 486, Act 284, Imd. Eff. Jul. 1.

211.7b Homestead exemption; specially adapted housing of disabled soldier or sailor; affidavit and certificate, filing, cancellation of tax.

Sec. 7b. Notwithstanding the provisions of section 7, all real estate used and owned as a homestead, as defined in section 7, by a soldier or sailor who was discharged under honorable conditions with a service connected disability, and who shall have a cer-

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tificate from the United States veterans' administration, or its successors, certifying the soldier or sailor is receiving or has received pecuniary assistance due to disability for specially adapted housing, shall be exempt from taxation. To obtain said exemption an affidavit, accompanied by said certificate, showing the facts herein required and a description of the property shall be filed with the supervisor or other assessing officer. Such affidavit and accompanying certificate shall be filed during the period beginning with the tax day for each year and ending at the time of the final adjournment of the local board of review. Such affidavit and accompanying certificate when filed shall be open to inspection. The county treasurer is hereby authorized, pursuant to the provisions of section 55 of this act, to cancel the taxes for any year in which such soldier or sailor shall have acquired title to the real estate exempt hereunder. Upon the granting of the exemption as allowed in this section, each local taxing unit shall bear the loss of their portion of the taxes upon which the exemption has been claimed and allowed.

HISTORY: Add. 1954, p. 428, Act 179, Imd. Eff. May 5.

211.7c Homesteads of persons over 65 years of age; tax exemption, eligibility.

Sec. 7c. The homesteads of persons of the age of 65 years or over who have been residents of this state for at least 5 years out of the last 10 years immediately preceding; and whose gross income, as hereinafter defined, combined with the income if any for the immediately preceding calendar year of a spouse and cooccupant and concurrent owners of the homestead shall be not more than $6,000.00, shall be exempt from taxation to the amount of $2,500.00 of state equalized valuation. For the purposes of this act the word "resident" means a person who resides in the state for at least 6 months in each 12-month period. For the purposes of this act the word "persons" means concurrent owners, where 1 of such owners is 65 years of age or over.

Claim for exemption; affidavit, filing, contents.

Persons eligible to claim the exemption must file with the local assessing officer a claim for exemption, which shall be in affidavit form as provided by the state department of administration. The claim for exemption shall be filed during the period beginning with the tax day of each year and ending at the time of final adjournment of the local board of review.

Public inspection; false affidavit, penalty.

The claim for exemption shall thereafter be open to public inspection. Any person knowingly and wilfully making a false affidavit for the purpose of exemption from taxation under this act shall be guilty of a misdemeanor punishable by imprisonment in the county jail not more than 1 year or by a fine of not more than $500.00, or both.

Homestead, owner, defined.

As used in this section "homestead" means any dwelling or unit in a multiple-unit dwelling, owned and occupied as a home by the owner thereof, including all contiguous unoccupied real property owned by the person. Homestead includes a dwelling and outbuildings used in connection therewith situated on the lands of another. For the further purpose of this section the word "owner" includes any person eligible for the taxation exemption specified herein, who is purchasing a homestead, as defined herein, under a mortgage or land contract or who owns a dwelling situated on the leased lands of another or is a tenant-stockholder of a cooperative housing corporation.

Statement of exempt property; cooperative housing; reimbursement.

Whenever any tax roll is placed in the hands of a city, village or township treasurer for collection, and there are taxes assessed thereon against any property concerning which exemption is claimed under this section, the treasurer shall prepare a statement as recommended to form by the state department of administration showing all descriptions for which exemptions have been claimed under this section, the names and

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addresses of the persons entitled to the exemptions, the total amount of taxes so exempted, together with the amount of taxes assessed against the descriptions. In the case of cooperative housing corporations, he shall apportion the state equalized value on which taxes are computed under the general ad valorem property tax of the whole cooperative to the unit for which reimbursement is claimed in the same proportion as the value of the unit for which reimbursement is claimed bears to the value of the whole cooperative. The city, village or township treasurer shall forward such statement to the state department of administration, upon verification of which it shall be the duty of the state treasurer to draw his warrant upon the state treasury for the total amount of tax revenues lost by any local taxing unit as a result of the homestead taxation exemption allowed by this act as shown by such statement. The state treasurer after examination of such statement shall thereupon forward such warrants to the city, village or township treasurer.

Single exemption allowed.

The exemption and the payment set forth in this section shall not be in addition to any exemption granted under the provisions of section 7f and the exemptions set forth therein and the exemption and payment provided by this section shall be mutually exclusive. No homestead shall be allowed more than 1 exemption under the provisions of this act. In all circumstances the exemption allowing the greater relief may be claimed and granted.

Budget estimate.

The budget director shall estimate, as near as may be, the amount of money necessary to meet the expense of administering the provisions of this section under this act during each year, and such expense shall be met by a specific appropriation, included in the budget.

Gross income, defined.

Gross income, as herein used, shall mean the total income subject to federal income tax, combined with all income specifically excludable from such tax, pursuant to provisions of the internal revenue code of the United States in effect on December 31, 1969.

HISTORY: Add. 1965, p. 42, Act 27, Eff. Mar. 31, 1966;—R. 1965, p. 832, Act 406, Imd. Eff. Nov. 3;—Add. 1965, p. 831, Act 406, Imd. Eff. Nov. 3;—Am. 1966, p. 18, Act 6, Imd. Eff. Mar. 18, 1966;—Am. 1970, p. 14, Act 4, Imd. Eff. Feb. 19.

211.7d Housing for elderly persons owned and operated by nonprofit corporation or state; tax exemption.

Sec. 7d. (1) Housing owned and operated by a nonprofit corporation or association or by the state, any political subdivision thereof or instrumentality, for occupancy or use by elderly persons shall be exempt from all general property taxation by the state, city, village or county, or by any public body or agency.

(2) As used in this act, "elderly person" means a person 62 years of age or over and the spouse of such person.

(3) "Housing" means new or rehabilitated structures consisting of 8 or more residential units for occupancy and use by elderly persons, including essential contiguous land and related facilities as well as all personal property of the corporation or association used in connection with the facilities.

(4) "Nonprofit corporation or association" means any corporation or association incorporated under the laws of this state not otherwise exempt from general ad valorem real and personal property taxes operating a housing facility or project qualified, built or financed under section 202 of the national housing act of 1959, as amended.

(5) Whenever any tax roll is placed in the hands of a city, county, village or township treasurer for collection, and there are taxes assessed thereon against any property concerning which exemption is claimed under this section, the treasurer shall prepare

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a statement as recommended to form by the state department of administration showing all descriptions for which exemptions have been claimed under this section, the names and addresses of the corporation or association entitled to the exemptions, the total amount of taxes so exempted, together with the amount of taxes assessed against the descriptions. The city, county, village or township treasurer shall forward such statement to the state department of administration, upon verification of which the state treasurer shall draw his warrant upon the state treasury for the total amount of tax revenues lost by any local taxing unit as a result of the nonprofit housing exemption allowed by this act as shown by such statement. The state treasurer after examination of such statement shall thereupon forward such warrants to the city, county, village or township treasurer.

(6) The budget director shall estimate, as near as may be, the amount of money necessary to meet the expense of administering the provisions of this section under this act during each year, and such expense shall be met by a specific appropriation, included in the budget.

HISTORY: Add. 1966, p. 553, Act 312, Imd. Eff. Jul. 14.

211.7e Value of deciduous and evergreen trees, shrubs, plants, bushes and vines growing on agricultural lands, tax exempt.

Sec. 7e. The value of any deciduous and evergreen trees, shrubs, plants, bushes and vines, whether annual or perennial growing on agricultural land devoted to agricultural purposes shall be exempt from taxation. The assessment of agricultural real property shall be made without regard to any enhancement in value of the agricultural real property by reason of the deciduous and evergreen trees, shrubs, plants, bushes or vines. Nothing herein contained shall affect the taxation of growing timber.

HISTORY: Add. 1966, p. 382, Act 268, Eff. Mar. 10, 1967.

211.7f Veterans' and servicemen's homestead exemption act.

Sec. 7f. (1) This section shall be known and may be cited as the "veterans' and servicemen's homestead exemption act".

Definitions.

(2) As used in this section:

(a) "Veteran" means a person of either sex who meets all of the following qualifications:

(i) He served in the armed forces of the United States during a period of war or conflict hereinafter referred to.

(ii) He was discharged from service in such war or conflict under honorable conditions, or died while in such service not as a result of his own misconduct.

(iii) He was a resident of this state at the time of entering the armed forces and had been such a resident for at least 6 months prior thereto, or he had been a resident of this state at least 5 years prior to his application for exemption.

(b) "Serviceman" means a person of either sex who is currently serving in the armed forces of the United States, and who was a resident of this state at the time of entering the armed forces and had been such a resident for at least 6 months prior thereto, or had been a resident of this state at least 5 years prior to his application for exemption.

(c) "Widow" means a widow, who has not remarried, of a veteran or a serviceman.

(d) "Homestead" means a dwelling occupied wholly or partly as a home by the owner and contiguous unoccupied real property owned by the person qualified for exemption under this act, and includes a dwelling, and outbuildings used in connection therewith, situated on the lands of another.

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Definitions and service dates applicable.

(3) The definitions and service dates for the wars and conflicts mentioned in this section are those prescribed by or pursuant to Act No. 190 of the Public Acts of 1965, as amended, being sections 35.61 and 35.62 of the Compiled Laws of 1948.

Schedule of exemption.

(4) A homestead of a veteran or his widow or of a serviceman or his relative is exempt from taxation to the amount of state equalized value of the homestead and in accordance with the other provisions of the following schedule:

War	Person	Service in War	Disability %	Exemption
Indian Civil Spanish-American Mexican	Veteran or his widow	3 months, or 1 day with discharge for service-connected disability	No requirement	$3,500.00
World War I World War II Korean	Widow of non-disabled or non-pensioned veteran	"	"	$2,500.00
All wars or presidential executive order or presidential proclamation	Pensioned veteran or his widow	Any	"	$3,500.00
All wars or presidential executive order or presidential proclamation	Veteran with service-connected disability or his widow	Any	10-50	$3,500.00
"	"	"	60-70-80	$4,000.00
"	"	"	90-100	$4,500.00
All wars or presidential executive order or presidential proclamation	Widow of veteran dying in service	"	No requirement	$4,500.00
Current service	Serviceman or his widow	"	"	$3,500.00(a)

(a) Exemption is for taxes assessed during period of service; also for 1 calendar year beginning the next January 1 thereafter unless serviceman died as result of his own misconduct. Exemption is not denied because serviceman acquired his homestead subsequent to the tax day of such year.

Limitations of exemptions.

(5) (a) A homestead having a state equalized valuation exceeding the exemption is exempt only to the amount of the exemption. An exemption is not available to a person whose homestead and other owned taxable real property has a state equalized valuation exceeding $10,000.00.

(b) Any person making application for exemption under this section shall not be in receipt of an income in excess of $7,500.00 per calendar year unless such serviceman or widow of such ex-serviceman is in receipt of compensation paid by the veterans administration or the armed forces of the United States for service incurred disabilities.

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Veteran or widow, affidavit, proof of claim.

(6) To obtain an exemption for a veteran or his widow, such person shall file each year with the local assessing officer an affidavit listing and indicating that he or she possesses all the qualifications for the exemption. A veteran with a service-connected disability or his widow shall also present with the affidavit for examination veterans' administration statement from benefit payment records as proof for the exemption and any person receiving disability retirement from the armed forces shall present proof of current degree of disability.

Serviceman, affidavit.

(7) To obtain an exemption for a serviceman, an affidavit showing all the necessary facts shall be filed each year with the local assessing officer. The affidavit may be made by the serviceman, his spouse, widow or child or the guardian of such spouse, widow or child, his father, mother, sister, brother, niece or nephew, his next of kin or personal representative.

Affidavits, filing, inspection.

(8) Affidavits shall be filed during the period beginning with the tax day of each year and ending at the time of the final adjournment of the local board of review. However, the affidavit for an exemption for a serviceman shall be filed at any time while he is in such service or within 1 calendar year after his release from such service under honorable conditions or within 1 calendar year after official notification of death incurred in line of duty and not as the result of his own misconduct while in such service. "Calendar year" means the calendar year beginning the following January 1. Affidavits are open to public inspection.

Reimbursement by state, procedure.

(9) (a) When a tax roll is placed in the hands of a local treasurer for collection, listing any property for which exemption is claimed and initially allowed by an assessing officer, including exemptions allowed under subsection 8 prior to return of the delinquent tax roll to the county treasurer, the local treasurer shall prepare a statement showing all descriptions on the tax roll concerning which exemptions have been allowed, the names and addresses of persons entitled to the exemptions, the total amount of taxes exempted and the amount of taxes assessed against such descriptions.

(b) The local treasurers shall forward such statements to the state treasurer who shall verify them and if found proper shall draw his warrant upon the state treasury for the total amount of taxes exempted hereunder as shown by the statement and shall forward the warrants to the local and county treasurers. The state treasurer may forward the warrants to the local and county treasurers subject to later verification that affidavits of claimants shown on the statement complied with the provisions of the act. The county treasurer shall distribute to the local units the amounts received from the state on behalf of local units in the same manner as delinquent taxes are now distributed to local units. The filing of the statement by any treasurer does not preclude the subsequent filing by such treasurer of supplemental statements at any time when necessary.

Refund of taxes on exempt property.

(10) If taxes have been paid on an exempt assessment, the county treasurer shall refund all such payments. However, in a city which collects its own delinquent real estate taxes, the city treasurer shall refund all such payments. A refund shall be made only to the veteran or serviceman, his attorney in fact authorized to receive the same, or his personal representative.

Affidavit for refund.

(11) A refund shall be made only on filing an affidavit with the assessing officer, with a copy thereof to the county treasurer or the city treasurer. The affidavit shall

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show all the facts required for the exemption, together with details showing the exempted taxes paid. The affidavit may be made by any person who may make the affidavit for exemption as provided in subsections 6 or 7. It may be filed while the serviceman is in such service, or within 1 calendar year after his release from such service under honorable conditions, or within 1 calendar year after official notification of death incurred in line of duty and not as a result of his own misconduct while in such service. "Calendar year" means the calendar year beginning the following January 1.

Refunds, statement to state treasurer.

(12) When a county or city treasurer of a city collecting its own delinquent taxes makes a refund of any such taxes, he shall forward to the state treasurer a statement giving the descriptions, names and addresses, total of taxes exempted and amount assessed, and the refunds made, and the state treasurer shall proceed in the same manner to reimburse the county or city treasurer.

False affidavit.

(13) Any person who makes a false affidavit for the purpose of exemption from taxation or to obtain a refund under this act is guilty of perjury.

Exemptions claimed after return of delinquent tax roll.

(14) When an exemption is claimed and allowed to a serviceman after return of the delinquent tax roll to the county treasurer listing any property concerning which such exemption is allowed, the county treasurer on behalf of the county and all other local units shall prepare a statement showing all descriptions on the delinquent tax roll concerning which exemptions have been claimed and initially allowed to such serviceman, the names and addresses of persons entitled to the exemptions, the total amount of taxes exempted, and the amount of taxes assessed against such descriptions. In a city collecting its own delinquent taxes the city treasurer shall likewise prepare such statement for all city taxes upon which exemptions are allowed under this act. The subsequent procedure shall then be as provided by subdivision (b) of subsection (9).

Forms approved by state treasurer.

(15) The affidavits, statements of exemptions and other forms and records required for the administration of this act shall be in a form approved by the state treasurer.

Budget director's estimate; appropriation.

(16) All amounts allowed by the state treasurer under this act shall be paid from the general fund in the state treasury. The budget director shall estimate the expense necessary to carry out the provisions of this act during each fiscal year. Such expense shall be met by a specific appropriation included in the budget. A sufficient sum is appropriated each year from the general fund of the state to carry out the provisions of this act.

HISTORY: Add. 1968, p. 650, Act 342, Eff. Dec. 31.

PERSONAL PROPERTY.

211.8 Personal property; definition.

Sec. 8. For the purposes of taxation, personal property shall include:

1. All royalties;

2. All goods, chattels and effects within the state;

3. All ships, boats and vessels and their appurtenances belonging to inhabitants of this state, whether at home or abroad;

4. All goods, chattels and effects belonging to inhabitants of this state, situate without this state, except that property actually and permanently invested in business in another state shall not be included;

5. All interests owned by individuals in lands, the fee of which is in this state or the United States, except as herein otherwise provided;

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6. All buildings and improvements situate upon leased lands, except where the value of the real property is also assessed to the lessee or owner of such buildings and improvements;

7. Tombs or vaults built within any burial grounds, and kept for hire or rent, in whole or in part, and the stock of any corporation or association owning any such tombs, vaults or burial grounds;

8. All other personal property not herein enumerated, and not especially exempted by law;

9. All produce and seeds and grain on hand, stored in warehouse or mill, and in transit, owned within this state: Provided, That grain subject to a specific tax is expressly exempted herefrom;

10. The personal property of all gas and coke companies, natural gas companies, electric light companies, waterworks companies, hydraulic companies and pipe line companies transporting oil or gas as public or common carriers, to be assessed in the township, village or city where such personal property is located. The mains, pipes, supports and wires of such companies, including the supports and wire or other line used for communication purposes in the operation of such facilities, and the rights of way and the easements or other interests in land by virtue of which the said mains, pipes, supports and wires are erected and maintained, shall be assessed as personal property in the township, village or city where the same are laid, placed or located. All personal property of street railroad, plank road, cable or electric railroad or transportation companies, bridge companies, and all other companies not required to pay a specific tax to the state in lieu of all other taxes, shall except as hereinafter provided, be assessed in the township, village or city where such property is located, used or laid, and the track, road or bridge of any such company shall be held to be personal property. None of the property assessable as personal property under the provisions of this subdivision, shall in anywise be affected by any assessment or tax levied on the lands through or over which the same is laid, placed or located, nor shall any right of way, easement or other interest in land, assessable as personal property under this subdivision, be extinguished or otherwise affected in case the property subject thereto shall be sold in the exercise of the taxing power.

HISTORY: CL 1897, 3831;—CL 1915, 4002;—Am. 1917, p. 26, Act 8, Eff. Aug. 10;—Am. 1921, p. 553, Act 297, Eff. Aug. 18;—Am. 1925, p. 278, Act 193, Eff. Aug. 27;—Am. 1929, p. 906, Act 323, Imd. Eff. May 28;—CL 1929, 3396;—Am. 1931, p. 150, Act 94, Imd. Eff. May 11;—Am. 1949, p. 56, Act 61, Eff. Sep. 23;—Am. 1964, p. 478, Act 275, Eff. Aug. 28.

PERSONAL PROPERTY EXEMPTED.

211.9 Personal property; exemptions.

Sec. 9. The following personal property shall be exempt from taxation, to wit:

Benevolent, charitable, educational and scientific institutions.

First, The personal property of charitable, educational and scientific institutions, incorporated under the laws of this state: Provided, That such exemptions shall not apply to secret or fraternal societies, but the personal property of all charitable homes of such societies shall be exempt.

Libraries.

Second, Of all library associations, circulating libraries, libraries of reference, and reading rooms owned or supported by the public, and not used for gain.

Patriotic, religious, boy or girl scouts, 4-H clubs, associations.

Third, Of all posts of the Grand Army of the Republic, Sons of Veterans' Unions, and of the Women's Relief Corps connected therewith, of all Young Men's Christian Associations, and of Women's Christian Temperance Union Associations, Young People's Christian Unions, any boy or girl scout organization, 4-H clubs and other similar associations.

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Federal pensions.

Fourth, Pensions receivable from the United States.

Indians not citizens.

Fifth, The property of Indians who are not citizens.

Householder; exception.

Sixth, All personal property owned and used by a householder such as customary furniture, fixtures, provisions, fuel, and other similar equipment. Also the wearing apparel including personal jewelry, family pictures, school books, library books of reference, and allied items. Provided that this section is not intended to exempt the above mentioned personal property when used to produce income, is held for speculative investment, or constitutes an inventory of goods for sale in the regular course of trade.

Fraternities, sororities, student cooperatives.

Seventh, Household furnishings, provisions and fuel to the state equalized value of $5,000.00, to each social or professional fraternity, sorority and student cooperative house recognized by the educational institution at which it is located.

Mechanic's tools.

Eighth, The working tools of any mechanic not to exceed in state equalized value the sum $500.00. The word "mechanic" as used in this subdivision shall be construed to mean a person skilled in a trade pertaining to a craft or in the construction and/or repair of machinery and where his employment by others is dependent on his furnishing such tools.

Fire fighting equipment.

Ninth, Of all fire engines and other implements used in extinguishing fires, owned or used by any organized or independent fire company.

Agricultural operations; farm implement dealers.

Tenth, That property actually being used in agricultural operations and the farm implements held for sale or resale by retail servicing dealers for use in agricultural production.

"Agricultural operations" shall mean farming in all its branches, including cultivation of the soil, growing and harvesting of any agricultural, horticultural or floricultural commodity, dairying, raising of livestock, bees, fur-bearing animals or poultry, turf and tree farming, and any practices performed by a farmer or on a farm as an incident to or in conjunction with such farming operations.

Business property.

Eleventh, Personal property of the state equalized value of not to exceed $500.00 used by a householder in the operation of a business in his dwelling, or at one other location in the city, township or village where the householder resides.

Stored goods in interstate commerce; records; inspection; penalty.

Twelfth, All products, materials and/or goods processed or otherwise and in whatever form but expressly excepting alcoholic beverages, located in a public warehouse, dock or port facility on December 31 of each year, if such products, materials and/or goods have been designated as in transit to destinations out of state pursuant to the published tariffs of any railroad or common carrier by the filing of the freight bill covering such products, materials and/or goods with the agency designated by such tariffs, so as to entitle the shipper to transportation rate privileges: Provided, That to obtain exemption the owner shall be required to file a sworn statement with, and in the form required by the assessing officer, of the tax district in which the warehouse, dock or port facility is located, at a time between the tax day, December 31, and before closing of the assessment rolls by the assessing officer, describing the products, materials and/or goods and reporting their cost and value as of December 31 of each year:

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Provided, That the status of persons, and products, materials and/or goods for which exemption is requested shall be determined as of December 31, which shall be the tax day. The assessment on the basis of average monthly inventory shall not apply in valuing products, materials and/or goods for which exemption is requested: Provided, That any property located in any public warehouse, dock or port facility on December 31 of each year, which is exempt from taxation under this provision but which is not shipped outside the state of Michigan pursuant to the particular tariff under which such transportation rate privilege was established, shall be assessed upon the next succeeding or any subsequent assessment roll by the assessing officer and taxed at the same rate of taxation as other taxable properties for the year or years for which such property was exempted, to the owner at the time of such omission; or if the owner or person entitled to possession of such products, materials and/or goods shall be a resident of or authorized to do business in Michigan and shall file with the assessing officer, with whom statements of taxable property are required to be filed, a statement under oath that said products, materials and/or goods are not for sale or use in, and will be shipped to a point or points outside the state of Michigan: Provided, That if any person, firm or corporation shall claim exemption by the filing of any such sworn statement, such person, firm or corporation shall append to his statement of taxable property required to be filed in the next year, or if no statement of taxable property is filed for the next year, a sworn statement on a form required by the assessing officer shall be filed showing a complete list of the property for which such exemption was claimed with a statement of the manner of shipment and of the point or points to which said products, materials and/or goods were shipped from said public warehouse, dock or port facility and any such products, materials and/or goods not shipped to a point or points outside the state of Michigan shall be assessed upon the next succeeding assessment roll, or on any subsequent assessment roll by the assessing officer and taxed at the same rate of taxation as other taxable properties for the year or years for which such property was exempted, to the owner at the time of such omission: Provided, That all records, accounts and books of warehouses, docks or port facilities, individuals, copartnerships, corporations, owners, or those in possession of any tangible personal property shall all be open to and available for inspection, examination and/or auditing by assessing officers: Provided, That it shall be the duty of warehouses, docks or port facilities, individuals, copartnerships, corporations, owners, or those in possession of any tangible personal property, to report within 90 days after shipment of products, materials and/or goods in transit for which exemption, under this section, has been claimed or granted, the destination of shipments or parts of shipments and the cost value thereof, to the assessing officer: Provided, That in case of failure to comply with this requirement, said warehouse, dock or port facility, individual, copartnership, corporation or owner shall be subject to a fine of $100.00 for each omission: Provided, That any person, firm, individual, copartnership, corporation or owner failing to report products, materials and/or goods located in a warehouse, dock or port facility to the assessing officer shall be subject to a fine of $100.00 and a penalty of 50% of the final amount of taxes found to be assessable for the year on property not reported, such assessable taxes and penalty to be spread on any subsequent assessment roll in the same manner as general taxes on personal property.

Warehouse, dock, port facility, definition.

For the purpose of this section, a public warehouse, dock or port facility is defined as any warehouse, dock or port facility owned or operated by any person, firm or corporation engaged in the business of storing products, materials and/or goods for hire for profit who issues a schedule of rates for storage of such products, materials and/or goods and who issues warehouse receipts pursuant to the provisions of Act No. 303 of the Public Acts of 1909: Provided, That no portion of a public warehouse, dock or port

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facility leased to a tenant or no portion of any premises owned or leased or operated by a consignor or consignee or any affiliate or subsidiary of such consignor or consignee shall be deemed to be a public warehouse, dock or port facility.

Bank or trust company; exception.

Thirteenth, Personal property owned by any bank or trust company organized under the laws of the state of Michigan, except that buildings owned by any state or national bank or trust company and situated upon lands of which the bank or trust company is not the owner of the fee shall be deemed to be real property and shall not be exempt from taxation hereunder and except that any personal property owned by any state or national bank or trust company which is leased, loaned or otherwise made available to and used by a private individual, association or corporation in connection with a business conducted for profit shall not be exempt from taxation hereunder.

Farm products in public storage.

Fourteenth, Farm products processed or otherwise, the ultimate use of which is for human or animal consumption as food, but expressly excepting wine, beer and other alcoholic beverages, regularly placed in storage in a public warehouse, dock or port facility, as defined in the twelfth subdivision of this section, shall, while so in storage be considered in transit and only temporarily at rest, and not subject to personal property taxation: Provided, That the assessing officer shall be the determining authority as to what constitutes, is defined as, or classified as, farm products as used in this subdivision: Provided, That all records, accounts and books of warehouses, docks or port facilities, individuals, copartnerships, corporations, owners, or those in possession of any farm products shall be open to and available for inspection, examination and/or auditing by assessing officers.

Sugar, sugar beet pulp and molasses.

Fifteenth, Sugar in solid or liquid form, produced from sugar beets and dried beet pulp and beet molasses, when owned or held by processors.

HISTORY: Am. 1895, p. 108, Act 25, Imd. Eff. March 20;—CL 1897, 3832;—Am. 1909, p. 760, Act 309, Eff. Sep. 1;—CL 1915, 4003;—Am. 1921, p. 555, Act 297, Eff. Aug. 18;—CL 1929, 3397;—Am. 1931, p. 152, Act 94, Imd. Eff. May 11;—Am. 1934, 1st Ex. Ses., p. 79, Act 10, Imd. Eff. March 19;—Am. 1935, p. 136, Act 83, Eff. Sep. 21;—Am. 1939, p. 440, Act 232, Eff. Sep. 29. This section virtually supersedes Act 59 of 1869 (CL 1897, 3981) which section was expressly repealed by Act 240 of 1915, being CL 1929, 120;—Am. 1949, p. 352, Act 261, Imd. Eff. Jun. 7;—Am. 1952, p. 341, Act 213, Imd. Eff. Apr. 30;—Am. 1953, p. 190, Act 159, Eff. Oct. 2;—Am. 1956, p. 413, Act 206, Eff. Aug. 11;—Am. 1958, p. 272, Act 209, Eff. Sep. 13;—Am. 1964, p. 478, Act 275, Eff. Aug. 28;—Am. 1966, p. 229, Act 205, Imd. Eff. Jul. 11;—Am. 1967, p. 494, Act 259, Imd. Eff. Jul. 19;—Am. 1968, p. 669, Act 347, Eff. Nov. 15;—Am. 1969, p. 338, Act 169, Imd. Eff. Aug. 5.

211.9a Motor vehicles in stock; exemption from property tax.

Sec. 9a. Motor vehicles, title to which has been issued as provided in Act No. 46 of the Public Acts of 1921, as amended, the use, possession, sale or transfer of which is so restricted by the federal government, or any of its agencies or instrumentalities, as to prohibit or limit the handling, sale, transfer or distribution thereof in the normal course of business, shall be exempt from taxation during the period of such restriction.

HISTORY: Add. 1942, 2nd Ex. Ses., p. 46, Act 7, Imd. Eff. Feb. 25, 1942;—CL 1948, 211.9a.

NOTE: Act 46, 1921, above referred to, is Compilers' repealed § 256.101 et seq. See § 257.201 et seq.

211.9b Special tools; definition, exemption from taxation.

Sec. 9b. (1) All special tools, as herein defined, are exempt from taxation.

(2) The term "special tools" means those manufacturing requisites, such as dies, jigs, fixtures, molds, patterns, gauges and so forth, as defined by the state tax commission, which are held for use and not for sale in the ordinary course of business.

(3) The exemption of special tools shall not be deemed an exclusion of the value of same from taxation when such value may enter into the valuation of inventory produced for sale.

(4) Every city or village assessor or township supervisor who assessed special tools as defined in this section and spread taxes against them on the 1964 tax roll of his unit shall certify, not later than January 20, 1965, the valuation of said property subject to

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the approval of the state tax commission. The auditor general shall draw his warrant upon the state treasurer on July 1, 1966 in the amount of 100%, on July 1, 1967 in the amount of 75%, on July 1, 1968 in the amount of 50%, on July 1, 1969 in the amount of 25% of the taxes so certified. The auditor general shall immediately forward the warrant to the treasurer of the city, village or township on whose behalf the certificate was filed. The treasurer receiving the warrant shall disburse its proportionate share to each local unit for which taxes were spread on the 1964 tax roll.

All disbursements to local units under this section shall be paid from the general fund in the state treasury.

There is hereby appropriated from the general fund of the state a sufficient sum to meet the expenditures necessary to carry out the requirements of this section.

HISTORY: Add. 1964, p. 269, Act 197, Eff. Jan. 1, 1965.

ASSESSMENT.

211.10 Annual assessment, village taxes, state equalized valuation; requests by nonresidents for information relative to assessment of property; reply.

Sec. 10. An assessment of all the property in the state, liable to taxation, shall be made annually in the several townships, villages and cities thereof by the supervisors of the several townships, or in villages and cities where provision is made in the acts of incorporation or charter for an assessing officer, then by such assessing officer, as hereinafter provided.

Notwithstanding any provision to the contrary in the act of incorporation or charter of a village, an assessment for village taxes shall be identical to the assessment made by the township supervisor in which the village is located, and tax statements shall set forth clearly the state equalized value of the individual properties in the village upon which authorized millages are levied.

Whenever a nonresident of the taxing unit against whom an assessment is made shall request in writing information relative to the amount of the assessment against his property, the supervisor or assessing officer, within a reasonable length of time, shall make reply thereto.

HISTORY: CL 1897, 3833;—CL 1915, 4004;—CL 1929, 3398;—CL 1948, 211.10;—Am. 1964, p. 481, Act 275, Eff. Aug. 28;—Am. 1966, p. 466, Act 288, Imd. Eff. Jul. 12.

211.10a Repealed. 1954, p. 431, Act 182, Eff. Aug. 13.

Section made subject to taxation certain realty acquired by department of conservation, and provided for assessment and payment of taxes thereon.

211.10b Repealed. 1954, p. 298, Act 118, Eff. Aug. 13.

Section provided that state land in Crawford county would be subject to taxation, and provided for payment of taxes by state military board.

211.10c State assessor's board; creation; members; duties.

Sec. 10c. A state assessor's board, hereinafter called the board, to consist of 5 members is created. The members of the board shall be appointed by the governor and shall be composed of 1 member representing the state tax commission, 1 member representing the township supervisors, 1 member representing the assessors, 1 member representing the county equalization directors and 1 member representing the public colleges and universities of the state. The members shall serve at the pleasure of the governor. Members of the board shall receive no compensation but shall be entitled to actual expenses while in the performance of their duties. The board shall conduct training courses in assessment practices and review and approve courses in assessment practices offered by schools and colleges and universities as well as courses that are offered by any state or local unit of government in the techniques and practices of assessments. The board shall prepare and give examinations from time to time to deter-

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mine if assessing officers possess the necessary qualifications for performing the functions of his office.

HISTORY: Add. 1969, p. 385, Act 203, Eff. Mar. 20, 1970.

211.10d Assessors; qualifications, certification.

Sec. 10d. Notwithstanding any provision of any other law to the contrary, commencing December 31, 1971, the annual assessment of property shall be made by a supervisor, assessing officer or director of an equalization department or bureau who has been certified as qualified by the board by reason of his having successfully completed training in a school of assessment practices or the passage of a test approved by the board and conducted by the board or an approved agency by the board that will enable him to properly discharge the functions of his office. The school shall be established by an approved educational institution in conjunction with the board on or before December 31, 1970, and be supervised by the board and its agents and employees. The board may determine that a supervisor, assessing officer or a director of an equalization department or bureau who has not received the training, possesses the necessary qualifications for performing the functions of his office by the passage of an approved examination or may waive the examination if such person has at least 5 years experience. Upon presentation of evidence of the successful completion of the above qualifications the supervisor, assessing officer or director of an equalization department or bureau shall be certified as qualified by the board. If a local assessing district does not have, after December 30, 1971, an assessor qualified by certification of the board, the assessment shall be made by the county tax or equalization department or the state tax commission and the cost of preparing the rolls shall be charged to the local assessing district. The local assessing district shall assume the cost of training, if a certification is awarded, to the extent of course fees and recognized travel expenditures.

HISTORY: Add. 1969, p. 385, Act 203, Eff. Mar. 20, 1970.

211.11 Corporate property; situs; exemptions.

Sec. 11. All corporate real and tangible personal property, except where some other provision is made by law, shall be assessed to the corporation as to a natural person, in the name of the corporation. The place where its office is located in its articles of incorporation shall be deemed its residence if its business is actually transacted at such office; but if it shall establish its principal office in any other place than the place named in its articles of incorporation, then the place where it transacts its principal business shall be deemed its residence for all the purposes of this act. If there is no principal office in this state, then at the place in this state where such corporation or agent transacts business. The property of corporations paying specific taxes shall be exempt as to the property covered by such taxation, except when otherwise provided by law. All other real and tangible personal property of such corporation shall be taxed under this act.

HISTORY: Am. 1895, p. 520, Act 229, Imd. Eff. May 31;—CL 1897, 3834;—Am. 1903, p. 384, Act 235, Eff. Sept. 17;—CL 1915, 4005;—CL 1929, 3399;—CL 1948, 211.11;—Am. 1965, p. 142, Act 109, Imd. Eff. Jun. 30.

211.12 Copartnership property; taxable situs; liability of each partner.

Sec. 12. For the purpose of assessing property and collecting taxes, a copartnership shall be treated as an individual, and whenever the name of the owner or occupant of property is required to be entered upon the assessment roll, if such property is owned or occupied by a copartnership, the firm name shall be used. A copartnership shall be deemed to reside in the township, where its business is principally carried on. Each partner shall be liable for the whole tax.

HISTORY: CL 1897, 3835;—CL 1915, 4006;—CL 1929, 3400;—CL 1948, 211.12.

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211.13 Personal property; taxable situs, persons assessable; basis.

Sec. 13. All tangible personal property, except as provided in section 14, shall be assessed to the owner thereof, if known, in the township in which it is located on the tax day. If the owner is not known and there is a person, firm or corporation beneficially entitled to any tangible personal property or having charge or possession thereof, then to such person, firm or corporation: Provided, That one having a security interest without possession may not be assessed as an owner of tangible personal property: Provided, That when tangible personal property is assessed to a person, firm or corporation in charge or possession of such property, such person, firm or corporation shall, unless contrary to a contractual provision, have a right of action for the amount of such taxes against the owner or person beneficially entitled to such property.

Computation of average monthly inventory; examination of properties.

Inventories of goods, wares, materials, merchandise and supplies such as are commonly used in trade or commerce or manufacture shall, upon the filing by the owner thereof of a sworn statement with the assessing officer showing the total of such inventories for each of the preceding 12 months ending December 31, be assessed on the basis of the average monthly inventory for such 12-month period. The average monthly inventory shall be computed on the basis of the number of months during which said inventories of goods, wares, merchandise and supplies had a taxable situs in the assessing district. No assessing officer shall be restricted to any particular period in the preparation of the assessment roll but may survey, examine or review properties at any time prior to of after said tax day.

HISTORY: CL 1897, 3836;—CL 1915, 4007;—CL 1929, 3401;—Am. 1941, p. 358, Act 234, Imd. Eff. Jun. 16;—Am. 1949, p. 427, Act 285, Eff. Sep. 23;—Am. 1954, p. 303, Act 122, Imd. Eff. Apr. 19;—Am. 1956, p. 275, Act 209, Eff. Sep. 13;—Am. 1964, p. 481, Act 275, Eff. Aug. 28;—Am. 1966, p. 466, Act 288, Imd. Eff. Jul. 12;—Am. 1967, p. 164, Act 136, Eff. Nov. 2.

211.14 Personal property; taxable situs.

Sec. 14.

Goods and chattels situate in township other than owner's residence.

(1) All goods and chattels situate in some township other than where the owner resides shall be assessed in the township where situate, and not elsewhere.

Animals.

(2) All animals kept throughout the year in some township other than where the owner resides shall be assessed to such owner or the person in possession in the township where kept.

Property subject to guardian.

(3) The tangible personal property of minors under guardianship shall be assessed to the guardian in the township where he resides, and the personal property of any other person under guardianship shall be assessed to the guardian in the township where the ward resides.

Estates of deceased persons.

(4) The tangible personal property belonging to the estates of deceased persons, in the hands of the executors, administrators or trustees appointed under the last will and testament of such deceased person, or by any court of competent jurisdiction, shall be assessed to them in the township and in the school district where the deceased last dwelt, until they shall give notice to the supervisor or other assessing officer that the estate has been distributed to the legatees or beneficiaries or other persons entitled thereto. If such deceased was a nonresident of the state such property shall be assessed in the township where situated, to such executors, administrators or trustees or to the person in possession.

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Property in control of trustee or agent; taxation of possessor.

(5) Tangible personal property under the control of a trustee or agent, whether a corporation or a natural person, may be assessed to such trustee or agent in the township where he resides, except as otherwise provided. Personal property mortgaged or pledged shall be deemed the property of the person in possession thereof and may be assessed to him, and personal property not otherwise taxed under this act which is in the possession of any person, firm or corporation using same in connection with a business conducted for profit shall be deemed the property of such person for taxation and assessed to him accordingly.

Tangible personal property and buildings on lands of others.

(6) All tangible personal property of any person situated upon, also all buildings situated and being upon the lands of the United States or of this state, or upon the lands of any person, persons, firm, association or corporation, where the owner of such buildings or personal property is not the owner of the fee in such lands, and where such lessor or owner of such buildings or property has not bound himself to pay taxes on the real estate, shall be deemed personal property for the purposes of taxation and assessment, and shall be assessed as personal property to the owner or occupant thereof in the city, village or township in which such lands are situated and such buildings shall be subject to sale for taxes in the same manner as provided for the sale of personal property. It shall not be necessary to remove any such buildings for the purpose of sale.

Tangible personal property of nonresidents; forest products; lien of possessor, release.

(7) Tangible personal property of nonresidents of the state and all forest products, owned by residents or nonresidents, or estates of deceased persons, shall be assessed in the township or ward where the same may be, to the person, persons or corporation having control of the premises, store, mill, dockyard, piling ground, place of storage or warehouse where such property is situated in such township, on December 31, except that where such property is in transit to some place within the state, it shall be assessed in such place, except that where such property is in transit to some place without the state, it shall be assessed at the place in this state nearest to the last boom or sorting gap of the stream in or bordering on this state in which said property will naturally be last floated during the transit thereof, and in case the transit of any such property is to be other than through any watercourse in or bordering on this state, then such assessment shall be made at the point where such property will naturally leave the state in the ordinary course of its transit; and such property so in transit to any place without the state shall be assessed to the owner or the person, persons, or corporation in possession or control thereof, and in case such transit will pass said logs through the booms or sorting gaps or into the places of storage of any person, persons or corporation operating upon any such stream, then such property may be assessed to such person, persons or corporation; and the person, persons or corporation so assessed for any such property belonging to a nonresident of this state shall be entitled to recover from the owner of such property by a suit in attachment, garnishment or for money had and received, any amount which the person, persons or corporation so assessed are compelled to pay because of such assessment and shall have a lien upon said property as a security against loss or damage because of being so assessed for the property of another, and may retain possession of such property until such lien is satisfied but the person, persons or corporation so assessed shall not be compelled to pay taxes on account of such assessment, unless the supervisor or assessing officer shall at the time of assessment serve notice in writing on the person, persons or corporation having control of the premises, store, mill, dockyard, piling ground, place of storage or ware-

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house that such assessment will be made. Any owner or person interested in said property may secure the release of the same from such lien by giving to the person, persons or corporation so assessed a bond in an amount double the probable tax to be assessed thereon, but not less than the sum of $200.00, with 2 sufficient sureties, conditioned for the payment of such tax by said owner or person interested and the saving of the person, persons or corporation assessed from payment thereof and from costs, damages and expenses on account of his nonpayment, which bond as to amount and sufficiency of sureties shall be approved by the county clerk of the county in which the assessment is made.

HISTORY: CL 1897, 3837;—Am. 1899, p. 47, Act 32, Imd. Eff. Apr. 8;—Am. 1907, p. 162, Act 129, Eff. Sep. 28;—Am. 1911, p. 307, Act 182, Eff. Aug. 1;—CL 1915, 4006;—Am. 1923, p. 256, Act 163, Eff. Aug. 30;—Am. 1927, p. 778, Act 328, Eff. Sep. 5;—CL 1929, 3402;—Am. 1943, p. 376, Act 231, Imd. Eff. Apr. 20;—Am. 1949, p. 427, Act 285, Eff. Sep. 23;—Am. 1958, p. 275, Act 209, Eff. Sep. 13;—Am. 1959, p. 423, Act 266, Eff. Mar. 19, 1960;—Am. 1964, p. 481, Act 275, Eff. Aug. 28.

211.15 Forest products; place of destination; products in transit.

Sec. 15. All forest products in transit on December 31, and thereafter found in the waters or streams of this state or on the banks or shores of any lake, pond or stream of this state, when the same is not at the place where it is to be manufactured, shall be held to have a place of destination at the sorting grounds of the rafting and driving agents or booming company nearest the mouth of the stream, unless the contrary shall be made to appear by the owner or party having the same in charge: Provided, That all lumber, logs, timber, lath, pickets, shingles, posts, cordwood, tanbark, telegraph or telephone poles or railroad ties, that may be piled or left in any yard, railroad reserve, or in any shed, shall not be deemed in transit, but shall be assessed to the person or corporation having control of the yard, railroad reserve, shed or place of storage where the same be situated at the time provided by law for taking such assessment: Provided further, That forest products which have been piled or left on the banks or shores of any lake, pond or stream of this state for more than 6 months shall not be deemed in transit, but shall be assessed as provided in the preceding section.

HISTORY: CL 1897, 3838;—CL 1915, 4009;—Am. 1921, p. 419, Act 214, Eff. Aug. 18;—CL 1929, 3403;—Am. 1943, p. 378, Act 231, Imd. Eff. Apr. 20;—Am. 1949, p. 429, Act 285, Eff. Sep. 23;—Am. 1958, p. 277, Act 209, Eff. Sep. 13.

211.16 Forest products; duty of supervisor.

Sec. 16. It shall be the duty of the supervisor of the township in which any such saw logs, timber, railroad ties, telegraph poles or tanbark, cut prior to the time of taking the annual assessment, may be banked or piled, or that may be in transit, to ascertain the amount of such property which may be or may have been in his township or assessment district at any time during the month of January in each year, liable to assessment, by actual view of the same, as far as practicable, and to fix the value of such property, and to assess the same to the owner thereof as herein provided.

HISTORY: CL 1897, 3839;—CL 1915, 4010;—CL 1929, 3404;—Am. 1949, p. 429, Act 285, Eff. Sep. 23.

211.17 Taxable situs of personal property; transfer after tax day.

Sec. 17. No change of location or sale of any personal property, after the tax day shall affect the assessment made pursuant thereto. As between school districts and road districts the location of personal property for taxation shall be determined by the same rules as between assessment districts: Provided, That whenever the owner or occupant shall reside upon contiguous tracts or parcels of land which lie in 2 or more assessment districts, then the personal property of such owner or occupant shall be assessed in the assessment district where such owner or occupant resides at the time the assessment is made.

HISTORY: CL 1897, 3840;—CL 1915, 4011;—CL 1929, 3405;—Am. 1943, p. 378, Act 231, Imd. Eff. Apr. 20;—Am. 1949, p. 429, Act 285, Eff. Sep. 23;—Am. 1958, p. 277, Act 209, Eff. Sep. 13.

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ASSESSMENT, HOW MADE.

211.18 Assessing officer; sworn statement of possessor of assessable personal property.

Sec. 18. Each supervisor or other assessing officer, as soon as possible after entering upon the duties of his office, or as may be directed and required by the provisions of any acts of incorporation of any city or village making special provisions for such assessment, shall ascertain the taxable property of his assessing district, and the persons to whom it should be assessed and their residences. For this purpose he shall require every person of full age and sound mind who the supervisor or assessor believes has personal property in his possession to make and subscribe to a true and correct written statement, under oath, administered by such supervisor or assessing officer, or other officer qualified to administer oaths under the laws of this state, of all the personal property of such person, firm or corporation, whether owned by him or it or held for the use of another, and every such person, firm or corporation, shall make such statement under the following form of oath, duly administered by the supervisor or assessing officer:

State of Michigan }
County of ..... } ss.

....., being duly sworn, deposes and says that the above is a full and true statement of all the personal property owned by him situated in this assessing district and of all the personal property in the possession of the undersigned.

(Signed) .....

Dated this ..... day of ..... A.D. 19 ....

Subscribed and sworn to before me this ..... day of ..... A.D. 19...

.....

Supervisor (or assessor).

Oath of person having no personal property not exempt.

Any person having no personal property which is not exempt, if required to take an oath by the supervisor or assessor, may take the following oath:

State of Michigan }
County of ..... } ss.

....., being duly sworn, deposes and says that he had no personal property or effects liable to taxation.

Dated this ..... day of ..... A.D. 19....

(Signed) .....

Subscribed and sworn to before me this ..... day of ..... A.D. 19....

.....

Supervisor (or assessor).

Sworn statement as to assessable real property.

Whenever a supervisor, assessing officer or county tax or equalization department, provided for in section 34 of this act, or whenever the state tax commission deems it

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necessary in the proper administration of this act to require from any person a written statement under oath of real property assessable to such person, it shall notify the person, and every such person, natural or legal, shall make such statement.

HISTORY: CL 1897, 3841;—Am. 1899, p. 375, Act 239, Eff. Sep. 23;—CL 1915, 4012;—CL 1929, 3406;—Am. 1964, p. 483, Act 275, Eff. Aug. 28.

211.19 Sworn statement as to assessable property; form, contents.

Sec. 19. The written statement under oath, provided for in section 18 shall be in such form and of such content as may be prescribed by the state tax commission and shall be completed and delivered to the supervisor or assessor on or before February 20 of each year.

HISTORY: CL 1897, 3842;—CL 1915, 4013;—CL 1929, 3407;—Am. 1943, p. 378, Act 213, Imd. Eff. Apr. 20;—Am. 1949, p. 429, Act 285, Eff. Sep. 23;—Am. 1958, p. 277, Act 209, Eff. Sep. 13;—Am. 1964, p. 484, Act 275, Eff. Aug. 28.

211.20 Imperfect statements; use.

Sec. 20. The supervisor or assessor shall not accept any of the statements herein above required as final or sufficient when such statement is not properly subscribed and sworn to, but shall preserve the same as in other cases, and such statement may be used in making the assessment, and as evidence in any proceeding which may arise respecting the making of the assessment of the party furnishing such statement.

HISTORY: CL 1897, 3843;—CL 1915, 4014;—CL 1929, 3408;—CL 1948, 211.20.

211.21 Willful neglect to make statement; penalty; complaint.

Sec. 21. In every case when any person or member of any firm or officer of any corporation shall wilfully neglect or refuse to make out and deliver a true and correct sworn statement, under oath, administered by the supervisor or other assessing officer or members of the board of state tax commissioners herein provided for or other officers or shall answer falsely or refuse to answer questions concerning his property or property under his control, as required by this act, such person shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the county jail not less than 30 days nor more than 6 months, or by fine not less than 100 dollars nor more than 1,000 dollars, or by both such fine and imprisonment in the discretion of the court. And it shall be the duty of the supervisor, assessing officer, and each member of the board of state tax commissioners whenever he is satisfied that any person liable to make such assessing statement is justly liable to such penalty, to report the case to the prosecuting attorney of the county and make proper complaint for such prosecution.

HISTORY: CL 1897, 3844;—Am. 1899, p. 228, Act 154, Imd. Eff. June 23;—CL 1915, 4015;—CL 1929, 3409;—CL 1948, 211.21.

211.22 Incorrect or absent statement; testimony assessment.

Sec. 22. If the supervisor or assessing officer, a member of the state tax commission, or the director or deputy director of the county tax or equalization department as mandatorily established under section 34 of this act shall be satisfied that any statement so made is incorrect, or if, by reason of absence or other cause, said sworn statement cannot be obtained from the person, firm or corporation whose property is so assessed, said supervisor, assessing officer, any member of the state tax commission, or the director or deputy directory [sic] of the county tax or equalization department shall examine, on oath, to be administered by any of them, any other person or persons whom he may have good reason to believe, and does believe has knowledge of the amount or value of any property owned, held or controlled by such person so neglecting or refusing or omitting to be examined or to furnish such statement, and such supervisor or assessing officer is hereby authorized to set down and assess to such person, firm or corporation so entitled to be assessed, such amount of real and personal property as he may deem reasonable and just.

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Revision of assessment.

Whenever examination and investigation reveal that the written statement of personal property is incorrectly made, that any data submitted is false, or that certain personal property has been omitted from the statement, the supervisor or assessing officer may petition the state tax commission to revise the personal property assessment of the person submitting such erroneous statement, if the petition is filed on or before June 30 of each year. Any taxpayer who has incorrectly filed an over-stated property statement may revise such statement on or before June 30, and petition the tax commission to revise his assessment in accordance with law. The person to whom such personal property is assessable shall be granted the opportunity of a hearing.

HISTORY: CL 1897, 3845;—Am. 1899, p. 228, Act 154, Imd. Eff. Jun. 23;—CL 1915, 4016;—CL 1929, 3410;—CL 1948, 211.22;—Am. 1964, p. 484, Act 275, Eff. Aug. 28.

211.22a Personal property examiners; certification; powers; expenses; examination of property.

Sec. 22a. (1) The state tax commission, upon presentation by representatives of county tax or equalization departments, townships and cities, of satisfactory evidence of education, experience, or by passage of a test conducted by the commission, shall certify a successful applicant as a qualified personal property examiner. A certified personal property examiner may examine only the property or the cost records relating to such property of any corporation, firm, or individual liable to assessment within their county, township or city for property taxes under this act.

(2) Upon written request of a city, village or township assessing officer to examine the property or books of any corporation, firm, or individual, a certified personal property examiner of the county tax or equalization department shall conduct the examination. Where there is no certified personal property examiner in the county equalization department, the examination shall be made by a representative of the state tax commission at the expense of the city, village or township.

(3) Where any corporation, firm or individual is subject to personal property assessment in more than 3 counties of the state then the corporation, firm or individual may request an examination be made at their expense by a representative of the state tax commission at a rate of 1/10 of 1 mill of the gross value of the personal property of said corporation, firm or individual under examination.

HISTORY: Add. 1969, p. 83, Act 40, Eff. Dec. 31, 1971.

211.23 Statement; filing, preservation, permissible uses, unlawful use, liability for damages.

Sec. 23. All the statements herein required to be made and received by the supervisor or assessor shall be filed by him, and shall be presented to the board of review hereinafter provided for, or provided for in any act incorporating any village or city, for the use of said board, and after the assessment is reviewed and completed by such board of review, all of the statements shall be deposited in the office of the township or city clerk, and shall be preserved until after the next assessment is made and completed, after which they may be destroyed upon the order of the township board or city or village council, but no such statement shall be used for any other purpose except the making of an assessment for taxes as herein provided, or for enforcing the provisions of this act, and any officer or person who shall make or allow to be made wilfully or knowingly, any other or unlawful use of any such statement, shall be liable to the person making such statement for all damages resulting from such unauthorized or unlawful use of such statement. All the statements received by the supervisor or assessor shall be made available to the county tax or equalization department mandatorily established under section 34 of this act and use of such statements by such county

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tax or equalization department shall be deemed a use for the purpose of enforcing the provisions of this act.

HISTORY: CL 1897, 3846;—CL 1915, 4017;—CL 1929, 3411;—CL 1948, 211.23;—Am. 1964, p. 484, Act 275, Eff. Aug. 28.

211.23a County-wide appraisal of property for assessment; expenses.

Sec. 23a. The board of supervisors of any county may employ an independent appraisal firm to make a county-wide appraisal for the purpose of assisting local assessing officers in arriving at a true cash value for assessment purposes and of assisting the board of supervisors in reviewing and equalizing assessments. The expense of such appraisal, when approved by the board of supervisors, shall be paid from the general fund of the county. The purpose of such appraisal is to provide a uniform basis for the assessment of taxes throughout the county in order to apportion the burden of property taxes fairly and equitably among the owners of taxable property.

HISTORY: Add. 1956, p. 26, Act 19, Imd. Eff. Mar. 22.

ASSESSMENT ROLL.

211.24 Property tax assessment roll; time, contents, method.

Sec. 24. On or before the first Monday in March in each year, the supervisor or assessor shall make and complete an assessment roll, upon which he shall set down the name and address of every person liable to be taxed in his township or assessment district, with a full description of all the real property therein liable to be taxed. If the name of the owner or occupant of any such tract or parcel of real property is known, he shall enter the name and address of such owner or occupant as in this act provided, opposite to the description thereof; in all other cases the real property described upon such roll shall be assessed as "owner unknown". All contiguous subdivisions of any section that are owned by 1 person, firm or corporation, and all unimproved lots in any block that are contiguous and owned by 1 person, firm or corporation shall be assessed as 1 parcel, unless demand in writing is made by the owner or occupant to have each subdivision of the section or each lot assessed separately; but failure to assess such contiguous parcels as entireties as herein provided shall not invalidate the assessment as made. Each description shall show as near as may be the number of acres contained in it, as determined by the supervisor. It shall not be necessary for the assessment roll to specify the quantity of land comprised in any town, city or village lot. The supervisor shall estimate, according to his best information and judgment, the true cash value of every parcel of real property and set the same down opposite such parcel. He shall also estimate the true cash value of all the personal property of each person, and set the same down opposite the name of such person. In determining the property to be assessed and in estimating such value, he shall not be bound to follow the statements of any person, but shall exercise his best judgment. Property assessed to one other than the owner shall be assessed separately from his property and shall show in what capacity it is assessed to him, whether as agent, guardian or otherwise. Two or more persons not being copartners, owning personal property in common, may each be assessed severally for his portion thereof. Undivided interests in lands owned by tenants in common, or joint tenants not being copartners, may be assessed to the owners thereof.

Metallic mining properties and rights, exemption, assessment, alteration, appeal.

The state geologist, or his duly authorized deputy, shall determine, according to his best information and judgment the true cash value of the metallic mining properties and mineral rights consisting of metallic resources which are either producing, developed or have a known commercial mineral value, including such surface rights and personal property as may be used in the operation or development of the property assessed, also including any stock pile of ore or mineral stored on the surface. For the purpose of encouraging the exploration and development of metallic mineral re-

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sources, metallic mineral ore newly discovered or proven in the ground and not part of the property of an operating mine shall be exempt from the general property tax laws for a maximum period of 10 years or until such time as it becomes part of the property of an operating mine or it in itself becomes an operating mine. Metallic mineral ore hereafter discovered or proven in the ground and part of the property of an operating mine shall be exempt from taxes hereunder until it, in combination with previously discovered metallic mineral ore of the operating mine, comes into a 10 year recovery period of said mine as determined by the average normal annual rate of extraction of said mine. An operating mine shall be defined to be an operating mine as of the date of starting of a shaft or stripping of overburden, or rehabilitation or an abandoned or idle mine closed for not less than 2 years. No ore shall enjoy more than 10 years exemption from taxation. Nothing herein contained shall exempt from the general property tax laws ore reserves proven as of April 1, 1947. It is the intent of this act that mineral properties shall be valued and assessed in the future for ad valorem taxes in accordance with the formula used in the valuation of mineral properties prior to the effective date of this act. It is the intent of this act that no metallic mineral ore shall be exempt more than 10 years because of the application of this act and if at any time it becomes evident that such is the case the state tax commission shall determine the value of this untaxed ore and place this valuation on the proper tax roll. The state geologist shall report his determination of the true cash value of the mineral properties to the state tax commission on or before February 10 of each year. The state tax commission shall assess the mineral properties containing 20% or more of natural iron per ton of ore in conformity and uniformity with all other property within the assessing district except that any difference between the rate of assessment of such other property and the rate of assessment of such mineral properties for the year 1963 shall be eliminated in 3 equal adjustments in the years 1964, 1965 and 1966. The state tax commission shall assess all other metallic mineral properties at the value certified by the state geologist. The state tax commission, as early as is practicable prior to February 20 shall certify the same to the supervisor or assessing officer of the township or city in which the same is situated, who shall in the case of such mineral properties and mineral rights which are owned separate from the surface rights on such property assess the same to the owner thereof at the valuation so certified to him; except that adjustment to the value certified by the state tax commission may be made by the supervisor or assessing officer of the township or city to reflect any general adjustment or assessed valuation from the prior year not included in the state tax commission computation. The supervisor or assessing officer shall determine the true cash value of the surface rights and assess the same to the owner thereof. The assessment upon the metallic mining properties and mineral rights, as herein defined, may be altered from year to year regardless of whether any previous assessment thereof has been reviewed by the state tax commission. The supervisor or other local assessing officer or the owner of any interest in the property assessed may take an appeal from the assessment and valuation of such property as determined by the board of review to the state tax commission which shall review the same as provided in section 152 of this act.

HISTORY: CL 1897, 3847;—Am. 1899, p. 422, Act 262, Eff. Sep. 23;—Am. 1907, p. 471, Act 326, Eff. Sep. 28;—CL 1915, 4015;—CL 1929, 3412;—Am. 1941, p. 358, Act 234, Imd. Eff. Jun. 16;—Am. 1945, p. 222, Act 159, Imd. Eff. May 16;—Am. 1947, p. 104, Act 93, Eff. Oct. 11;—CL 1948, 211.24;—Am. 1949, p. 431, Act 285, Eff. Sep. 23;—Am. 1963, p. 79, Act 66, Eff. Sep. 6.

211.24a Tax rolls; preparation by county, expense.

Sec. 24a. Notwithstanding any other provisions of this act, a county, by resolution of the board of supervisors, may prepare tax rolls and extend the taxes thereon for the cities and townships in the county at the expense of the county or the local unit.

HISTORY: Add. 1963, p. 191, Act 139, Imd. Eff. May 10.

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211.24b Assessment based on state equalized valuation; application.

Sec. 24b. Effective December 31, 1966, the tax roll and the tax statement shall clearly set forth the latest state equalized valuation for each item of property. The supervisor or assessor shall spread the taxes on the tax roll on the state equalized valuation for each item of property. These requirements are inapplicable if the current year's state equalized valuation is not available when the tax roll or tax statements of a city are to be prepared pursuant to law or charter provision.

HISTORY: Add. 1964, p. 485, Act 275, Eff. Aug. 28;—Am. 1965, p. 834, Act 410, Imd. Eff. Nov. 3.

211.24c Increases in assessments; notice, recipients, contents, time, failure to receive, necessity.

Sec. 24c. The supervisor or assessor shall give to each owner or person or persons listed on the tax roll of the property a notice by first class mail of any increase in the assessment for the year. The notice shall specify each parcel of property, the assessed valuation for the year and the previous year, the net change in assessment and the time and place of the meeting of the board of review. The notice shall be addressed to the owner according to the records of the supervisor or assessor and mailed not less than 10 days before the meeting of the board of review. The failure of the property owner to receive notice shall not invalidate any assessment roll or any assessment on property. In the event the supervisor or assessor shall increase the assessment of 30% or more of the parcels within the assessing district then the notice called for in this section shall not be required to be issued to the owners of property living within the district.

HISTORY: Add. 1969, p. 210, Act 115, Imd. Eff. Jul. 29.

211.25 Real property; description; mineral rights.

Sec. 25. (a) The description of real property may be as follows, viz:

(1) If the land to be assessed be an entire section, it may be described by the number of the section, township and range;

(2) If the tract be the subdivision of a section authorized by the United States for the sale of public lands, it may be described by the designation of such subdivision, with the number of the section, township and range;

(3) If the tract be less than such subdivision, it may be described as a distinct part of such subdivision, or in such manner as will definitely describe the same;

(4) In case of land platted or laid out as a town, city or village, or as an addition to a town, city or village, the same shall be described by reference to such plat and by the number of the lots and blocks thereof;

(5) When 2 or more parcels of land adjoin and belong to the same owner or owners, they may be assessed by 1 valuation;

(6) It shall be sufficient to describe the real property assessed upon any roll and in all other proceedings under this act in the manner heretofore in use by initials, letters, abbreviations and figures.

(7) In the case of the separate assessment of mineral rights it shall be sufficient to describe the same as provided in this section followed by the term "mineral rights only", and it shall be sufficient description of the surface rights which shall include all other rights in said property except mineral rights, as defined in sections 6a and 6b, to describe such property as provided in this section followed by the term "surface rights only".

(b) The descriptions of real property shall be arranged in the following manner:

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Townships

(1) Acreage descriptions in numerical order of section beginning with section 1 of each township; each surveyed township being listed fully before any descriptions in a second surveyed township, if any, are entered.

Lands included in an unincorporated village may be arranged without separation as to sections within any township.

(2) Government lots in any section shall be listed numerically.

(3) Descriptions listed in private claims, if more than 1 private claim is located in the same township, the descriptions in each claim shall be listed numerically.

Islands

Listed either by number or name of island.

HISTORY: CL 1897, 3848;—Am. 1915, p. 217, Act 131, Eff. Aug. 24;—CL 1915, 4019;—CL 1929, 3413;—Am. 1937, p. 26, Act 22, Eff. Oct. 29;—Am. 1941, p. 359, Act 234, Imd. Eff. Jun. 16;—Am. 1945, p. 223, Act 159, Imd. Eff. May 16;—CL 1948, 211.25;—Am. 1966, p. 466, Act 288, Imd. Eff. Jul. 12.

211.25a Real estate index number system.

Sec. 25a. An assessing officer, with the approval of the governing body of the city or township, may establish a real estate index number system for listing real estate for purposes of assessment and collection of taxes, in addition to, or in lieu of, the method of listing by legal description provided in this act. The system shall describe real estate by county, township, section, block and parcel or lot. The numbering system shall be approved by the state tax commission. The assessing officer shall establish and maintain cross indexes of numbers assigned under the system with the complete legal description of the real estate to which such numbers relate. The assessing officer shall assign individual index numbers and the assessment rolls, tax rolls and tax statements shall carry the index numbers and not the legal descriptions, except that both the legal description and the index number shall be shown on the tax statements for the first year after this section is effective. Indexes established hereunder shall be open to public inspection.

HISTORY: Add. 1965, p. 133, Act 101, Imd. Eff. Jun. 28.

211.26 Tax roll; description of personal property.

Sec. 26. The description of personal property on said roll may be made by using the word "personal".

HISTORY: CL 1897, 3849;—CL 1915, 4020;—CL 1929, 3414;—Am. 1964, p. 485, Act 275, Eff. Aug. 28.

211.27 Cash value of property; definition, computation, percentage; limited tax bonds.

Sec. 27. The words "cash value", whenever used in this act, shall be held to mean the usual selling price at the place where the property to which the term is applied shall be at the time of assessment, being the price which could be obtained therefor at private sale, and not at forced or auction sale. Any sale or other disposition by the state or any agency or political subdivision thereof heretofore or hereafter made of lands acquired for delinquent taxes or any appraisal made in connection therewith shall not be considered as controlling evidence of true cash value for assessment purposes. In determining the value the assessor shall also consider the advantages and disadvantages of location, quality of soil, zoning, existing use, and present economic income of structures; quantity and value of standing timber, water power and privileges, mines, minerals, quarries or other valuable deposits known to be available therein and their value.

Notwithstanding any other provisions of law, except as hereinafter provided, property shall be assessed at 50% of its true cash value in accordance with article 9, section 3 of the constitution.

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Assessment of property, as required herein, shall be inapplicable to the assessment of any property subject to the levy of ad valorem taxes within voted tax limitation increases to pay principal and interest on limited tax bonds issued by any governmental unit, including any county, township, community college district or school district prior to January 1, 1964, if the assessment required to be made under this act would be less than the assessment as state equalized prevailing on such property at the time of the issuance of such bonds. Such inapplicability shall continue until levy of taxes to pay principal and interest on such bonds shall no longer be required. The assessment of such property required by this act shall be applicable for all other purposes.

HISTORY: CL 1897, 3850;—CL 1915, 4021;—CL 1929, 3415;—CL 1948, 211.27;—Am. 1951, p. 295, Act 210, Eff. Sep. 28;—Am. 1964, p. 485, Act 275, Eff. Aug. 28;—Am. 1965, p. 833, Act 409, Imd. Eff. Nov. 3;—Am. 1969, p. 513, Act 276, Imd. Eff. Aug. 11.

BOARD OF REVIEW.

211.28 Township board of review; appointment, vacancy, quorum, term.

Sec. 28. Three taxpaying electors of the township, who shall be owners of land in the township, appointed by the township board, shall constitute a board of review for the township. The terms of all members now serving on a board of review shall terminate at noon on January 1, 1969. Members appointed hereafter to the board of review shall serve for terms of 2 years beginning at noon on January 1 of each odd-numbered year. Each member of the board of review shall qualify by taking the constitutional oath of office within 10 days after appointment. The township board may fill any vacancy which shall occur in the membership of the board of review. No member of the township board shall be eligible to serve on the board or to fill any vacancy. A majority of the board of review shall constitute a quorum for the transaction of business, but a less number may adjourn from day to day and a majority vote of those present shall decide all questions.

HISTORY: CL 1897, 3851;—Am. 1901, p. 177, Act 129, Eff. Sep. 5;—CL 1915, 4022;—CL 1929, 3414;—Am. 1944, 1st Ex. Sess., p. 30, Act 18, Imd. Eff. Feb. 19;—Am. 1964, p. 485, Act 275, Eff. Aug. 28;—Am. 1968, p. 137, Act 84, Imd. Eff. Jun. 4.

CITED IN OTHER SECTIONS: Sections 211.28 to 211.33 are cited in § 69.9.

211.29 Township board of review; meeting, time; review of assessment roll.

Sec. 29. On the Tuesday next following the first Monday in March, the board of review of each township shall meet at the office of the supervisor, at which time the supervisor shall submit to said board the assessment roll for the current year, as prepared by him, and the board shall proceed to examine and review the same, and during that day, and the day following, if necessary, said board, of its own motion, or on sufficient cause being shown by any person, shall add to said roll the names of persons, the value of personal property, and the description and value of real property liable to assessment in said township, omitted from such assessment roll; they shall correct all errors in the names of persons, in the descriptions of property upon such roll, and in the assessment and valuation of property thereon, and they shall cause to be done whatever else may be necessary to make said roll comply with the provisions of this act. The roll shall be reviewed according to the facts existing on the tax day. The board shall not add to the roll any property not subject to taxation on the tax day nor shall it remove from the roll any property subject to taxation on said day regardless of any change in the taxable status of such property since such day. The board shall pass upon each valuation and each interest, and shall enter the valuation of each, as fixed by it, in a separate column. The roll as prepared by the supervisor shall stand as approved and adopted as the act of the board of review, except as changed by a vote as herein provided. If for any cause a quorum does not assemble during the days above mentioned, the roll as prepared by the supervisor shall stand as if approved by the board of review. Notice of the date, time and place of the meeting of the board of review shall be given at least 1 week prior to such meeting by publication in a generally circulated

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newspaper serving the area. Such notice shall appear in 3 successive issues of the newspaper where available; otherwise, by the posting of such notice in 5 conspicuous places in the township.

Notice of change of assessment or addition.

Whenever the board of review makes a change in the assessment of property or adds property to the assessment roll, the person chargeable with such assessment shall be promptly notified in such a manner as will assure him opportunity to attend the second meeting of the board of review provided in section 30 of this act.

HISTORY: CL 1897, 3852;—Am. 1907, p. 472, Act 328, Eff. Sep. 28;—CL 1915, 4023;—CL 1929, 3417;—Am. 1941, p. 360, Act 234, Imd. Eff. Jun. 16;—Am. 1949, p. 432, Act 285, Eff. Sep. 23;—Am. 1964, p. 485, Act 275, Eff. Aug. 28.

211.30 Township board of review; meetings, townships of 10,000 or more; examination of objector; indorsement of roll, form.

Sec. 30. Said board of review shall also meet at the office of the supervisor on the second Monday in March at 9 a.m., and continue in session during the day and the day following. Said board of review shall schedule a final meeting whenever the board makes a change in the assessment of property or adds property to the assessment roll. In townships having a population of 10,000 or more, the board shall hold at least 1 of its required sessions for review of assessment rolls beginning at 3 p.m. Such board shall continue its sessions at least 6 hours each day, and at the request of any person whose property is assessed thereon or of his agent, and on sufficient cause being shown, shall correct the assessment as to such property, in such manner as in their judgment will make the valuation thereof relatively just and equal. To that end said board may examine on oath the person making such application, or any other person, touching the matter. Any member of said board may administer such oath. A nonresident taxpayer shall be permitted to file his appearance, protest and papers in support thereof by letter and his personal appearance shall not be required. The board shall have full authority, upon its own motion, to change assessments or to add to the roll property omitted therefrom which is liable to assessment in the township, if the person who is assessed upon such altered valuation or for such omitted property shall be promptly notified and be granted an opportunity to file objections to the change in his assessment or to the addition of his property to the assessment roll. Such objection shall be promptly heard and determined. After said board shall complete the review of said roll, a majority of said board shall indorse thereon and sign a statement to the effect that the same is the assessment roll of said township for the year in which it has been prepared and approved by the board of review. Said statement may be in the following form:

"Assessment roll of the township of ..... for the year 19..... as approved by the board of review.

Dated .....

.....

.....

.....

Board of Review."

HISTORY: CL 1897, 3853;—Am. 1907, p. 473, Act 326, Eff. Sep. 28;—CL 1915, 4024;—CL 1929, 3418;—Am. 1949, p. 433, Act 285, Eff. Sep. 23;—Am. 1951, p. 51, Act 48, Eff. Sep. 28;—Am. 1964, p. 486, Act 275, Eff. Aug. 28.

211.30a Township board of review; completion of review, date.

Sec. 30a. In the year 1950 and thereafter the review of assessments by boards of review in all cities and townships shall be completed on or before the first Monday in April, any provisions of the charter of any city or township to the contrary notwith-

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standing: Provided, That the legislative body of any city or township, in order to comply with the provisions hereof, may, by ordinance, fix the period or periods for preparing the budget and for making, completing and reviewing the assessment roll, any provisions of the charter of such city or township or any law to the contrary notwithstanding.

HISTORY: Add. 1949, p. 433, Act 285, Eff. Sep. 23.

211.30b Revision of personal property assessments in 1965.

Sec. 30b. In 1965 only, regardless of the provisions of section 30a, personal property assessments in any city, township or village shall be subject to revision, upon authorization of the state tax commission, after the final meeting of the board of review and, where any assessment is so revised, the board of review shall reconvene and, after written notice to each affected taxpayer of said meeting and of the proposed change in his assessments, review the personal property assessment roll on or before April 15, 1965, and thereafter such roll shall be treated as though the review thereof had been completed at the usual time.

HISTORY: Add. 1965, p. 32, Act 20, Imd. Eff. Apr. 22.

211.31 Township board of review; completed roll valid; conclusive presumption.

Sec. 31. Upon the completion of said roll and its endorsement in manner aforesaid, the same shall be conclusively presumed by all courts and tribunals to be valid, and shall not be set aside except for causes hereinafter mentioned. The omission of such indorsement shall not affect the validity of such roll.

HISTORY: CL 1897, 3854;—CL 1915, 4025;—CL 1929, 3419;—CL 1948, 211.31.

211.32 Township board of review; quorum; conscription of absent members; second meeting alternative.

Sec. 32. If from any cause a quorum shall not be present at any meeting of the board of review, it shall be the duty of the supervisor, or, in his absence, any other member of the board present, to notify each absent member to attend at once, and it shall be the duty of the member so notified to attend without delay. If from any cause the second meeting of such board of review herein provided for is not held at the time fixed therefor, then and in that case it shall meet on the next Monday thereafter, and proceed in the same manner and with like powers as if such meeting had been held as hereinbefore provided.

HISTORY: CL 1897, 3855;—CL 1915, 4026;—CL 1929, 3420;—CL 1948, 211.32.

211.33 Secretary of board of review; record, filing, form.

Sec. 33. The supervisor shall be the secretary of said board of review and shall keep a record of the proceedings of the board and of all the changes made in such assessment roll, and shall file the same with the township or city clerk with the statements made by persons assessed. In the absence of the supervisor, the board shall appoint 1 of its members to serve as secretary. The state tax commission may prescribe the form of the record whenever deemed necessary.

HISTORY: CL 1897, 3856;—CL 1915, 4027;—CL 1929, 3421;—CL 1948, 211.33;—Am. 1964, p. 487, Act 275, Eff. Aug. 28.

EQUALIZATION BY COUNTIES.

211.34 Assessment rolls; examination, equalization, certification.

Sec. 34. (1) The board of commissioners in each county at its session in April in each year, shall examine the assessment rolls of the several townships or cities and ascertain whether the real and personal property in the respective townships or cities has been equally and uniformly assessed at true cash value. If, on such examination, it shall deem such assessments to be relatively unequal, it shall equalize the same by adding to or deducting from the valuation of the taxable property in any township or city such

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an amount as in its judgment will produce a sum which represents the true cash value thereof, and the amount added to or deducted from the valuations in any township or city shall be entered upon the records. Notwithstanding any other provision of this act, effective December 31, 1970, the boards of commissioners and the state tax commission shall equalize real and personal property separately by adding to or deducting from the valuation of taxable real property, and by adding to or deducting from the valuation of taxable personal property in any township, city or county, such amounts as will produce a sum which represents the proportion of true cash value established by the legislature. The tax roll and the tax statement shall clearly set forth the latest state equalized valuation for each item or property which shall be determined by using a separate factor for personal property and a separate factor for real property as equalized. Equalized values for both real and personal property shall be equalized uniformly at the same proportion of true cash value in such county. It shall also cause to be entered upon its records the aggregate valuation of the taxable real and personal property of each township or city in its county as determined by it. The board shall also make such alterations in the description of any lands upon the rolls as may be necessary to render the descriptions conformable to the requirements of this act. After the rolls shall have been equalized, each shall be certified to by the chairman and clerk of the board and be delivered to the supervisor of the proper township or city, who shall file and keep the same in his office.

(2) The board of commissioners of any county shall, before December 31, 1968, establish and maintain a department to survey assessments and assist the board of commissioners in the matter of equalization of assessments, and may employ therein such technical and clerical personnel as in its judgment are deemed necessary. The personnel of the department shall be under the direct supervision and control of a director of the tax or equalization department who may designate an employee of the department as his deputy. The director of the county tax or equalization department shall be appointed by the board of commissioners. The board of commissioners may, through the department, furnish assistance to local assessing officers in the performance of any duties imposed upon such officers by this act, including the development and maintenance of accurate property descriptions, the discovery, listing and valuation of properties for tax purposes, and the development and use of uniform valuation standards and techniques for the assessment of property. Actions heretofore taken by the board of commissioners of any county in establishing a department and employing personnel for the purposes herein provided are hereby approved and ratified.

Any supervisor of any township or city or the intermediate district board of education or the board of education of an incorporated city or village aggrieved by the action of the board of commissioners, in equalizing the valuations of the several townships or cities of the county, may appeal from such determination to the state tax commission in the manner herein provided. Whenever any supervisor or any board of education desires to appeal from the determination by the board of commissioners, he or it shall within 5 days after the adoption of the equalization report, file with the clerk of the board of commissioners a written or printed petition which shall set forth in detail the reasons for taking the appeal. The petition shall be signed and sworn to by the supervisor or majority of the members of the board of education taking the appeal; shall show that a certain township, city or school district has been discriminated against in such equalization, and shall pray that the state tax commission proceed at its earliest convenience to review the action from which appeal is taken. The clerk of the board of commissioners shall forthwith serve the petition personally or by registered mail upon the state tax commission except that in the case of petitions from the boards of education the clerk shall not serve the petition upon the state tax commission until he has been specifically directed so to do by a majority vote of the board of commis-

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sioners. The state tax commission shall, upon receipt of the petition, forthwith examine same, and if in its judgment there is a showing to the effect that the equalization complained of is unfair, unjust, inequitable or discriminatory may proceed at once to make an investigation of the matters set forth in the petition. The state tax commission shall have the same authority to consider and pass upon the action and determination of the board of commissioners in equalizing said valuations as it has to consider complaints relative to the assessment and taxation of property. The state tax commission shall have the right to order the board of commissioners to reconvene and to cause the assessment rolls of the county to be brought before it, and it may summon the several supervisors of the county before it to give evidence in relation to the equalization, and may take such further action and may make such further investigation in the premises as it may deem necessary. The state tax commission shall fix a valuation on all property investigated after consultation and with the cooperation of local assessing officers. If the state tax commission shall decide that the determination and equalization made by the board of commissioners is correct, no further action shall be taken. In case the state tax commission shall determine that the equalization made by the board of commissioners is unfair, unjust, inequitable or discriminatory, the state tax commission shall notify by mail the supervisor who has appealed, as well as each member of the board of commissioners and board of education, if the board has appealed, together with notice of the time and place of hearing. At least 7 days but not more than 20 days after mailing the notice, the commission shall hold a hearing in the county. The state tax commission shall also mail a written notice of the time and place of hearing to the county clerk, who shall also notify the members of the board of commissioners and board of education if the board has appealed of the time and place of hearing. At the hearing the supervisor who has lodged the appeal and any member of the board of commissioners and of the school board if the board has instituted the appeal shall be given the opportunity to submit evidence. Within not less than 5 nor more than 20 days after the hearing, the state tax commission shall make a final determination in writing. If the state tax commission, after the hearing, decides that the valuations of the county have been improperly equalized, it shall proceed to make deductions from, or additions to, the valuations of the respective townships, cities or school districts as may be deemed proper, and in so doing the commission shall have the same powers as the board of commissioners had in the first instance. The state tax commission forthwith, after completing its revision of the equalization of the valuation of the several assessment districts, shall report its action to the board of commissioners and board of education if the board has instituted the appeal by filing its report with the clerk of the board of commissioners. The action of the state tax commission in the premises shall be final and binding and shall constitute the equalization of the county for the tax year.

HISTORY: CL 1897, 3857;—Am. 1909, p. 688, Act 292, Eff. Sept. 1;—Am. 1913, p. 402, Act 201, Eff. Aug. 14;—CL 1915, 4028;—Am. 1921, p. 696, Act 380, Eff. Aug. 18;—Am. 1925, p. 114, Act 85, Eff. Aug. 27;—CL 1929, 3422;—CL 1948, 211.34;—Am. 1952, p. 446, Act 264, Eff. Sept. 18;—Am. 1954, p. 494, Act 200, Eff. Aug. 13;—Am. 1956, p. 36, Act 30, Imd. Eff. Mar. 28;—Am. 1964, p. 487, Act 275, Eff. Aug. 28;—Am. 1968, p. 302, Act 206, Eff. Nov. 15;—Am. 1970, p. 492, Act 152, Imd. Eff. Aug. 1.

TAXES, HOW AND BY WHOM CERTIFIED.

211.35 State tax statement; duties of auditor general, local supervisors; state and county tax apportionment.

Sec. 35. On or before the first day of September in each year, the auditor general shall make and record in his office a statement showing the taxes to be raised for state purposes that year, referring to the law on which each tax is based, and the total amount of such taxes. The state tax he shall apportion among the several counties in proportion to the valuation of the taxable property therein as determined by the last preceding state board of equalization, and shall before the October session of the

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board of supervisors in each year make out and transmit to the clerk of each county a statement of the amount of such taxes so apportioned to such county. He shall also, in a separate item of said statement, set forth the amount of indebtedness of such county to the state remaining unpaid at the time such statement is made, as shown by the statement of the account between the county and the state made by the auditor general on the first day of July next previous to such apportionment which amount shall be apportioned by the board of supervisors of the proper county at the same time as state taxes contained in said apportionment of the auditor general, and shall be levied in the same manner as and become a portion of the county taxes for the same year, unless the said indebtedness shall have been paid to the state before October first: Provided, That such portion thereof, if any, as should be assessed to a particular township, shall be apportioned to and assessed upon such township, ward or city.

HISTORY: CL 1897, 3858;—Am. 1915, p. 10, Act 5, Eff. Aug. 24;—CL 1915, 4029;—CL 1929, 3423;—CL 1948, 211.35.

211.36 Duties of township clerk, supervisor, county clerk, board of supervisors.

Sec. 36. The township clerk of each township, on or before September 15 of each year, shall make and deliver to the supervisor of his township, a certified copy of all statements and certificates on file, and of all records of any vote or resolution in his office authorizing or directing moneys to be raised therein by taxation for township, school, highway, drain, and all other purposes, together with a statement of the aggregate amount thereof, and such certified copies shall, by such supervisor, be delivered to the clerk of the county on or before October 1, and the same shall by said clerk be laid before the board of supervisors at its annual meeting and filed in his office. The board of supervisors shall not levy in the year voted any tax levy voted on or after September 15.

HISTORY: CL 1897, 3859;—CL 1915, 4030;—CL 1929, 3424;—CL 1948, 211.36;—Am. 1960, p. 46, Act 57, Eff. Aug. 17.

CITED IN OTHER SECTIONS: Sections 211.36 to 211.38 are cited in § 279.229.

211.37 Board of supervisors; duties; tax apportionment; verification of levies, tax spread expressed in millage.

Sec. 37. The board of supervisors, at its annual session in October in each year, shall ascertain and determine the amount of money to be raised for county purposes, and shall apportion such amount, and also the amount of the state tax and indebtedness of the county to the state among the several townships in the county in proportion to the valuation of the taxable property therein, real and personal, as determined by it, or as determined by the board of state tax commissioners upon appeal in the manner provided by law, for that year, which determination and apportionment shall be entered at large on its records. It shall also examine all certificates, statements, papers and records submitted to it, showing the moneys to be raised in the several townships for school, highway, drain, township and other purposes. It shall hear and duly consider all objections made to raising any such moneys by any taxpayer to be affected thereby. If it shall appear to the board that any certificate, statement, paper or record is not properly certified, or that the same is in anyway defective, or that any proceeding to authorize the raising of any such moneys has not been had or is in anyway imperfect the board shall verify the same, and if the certificate, statement, paper, record or proceeding can then be corrected, supplied or had, the board shall authorize and require the defects or omissions of proceedings to be corrected, supplied or had. It may refer any or all the certificates, statements, papers, records and proceedings to the prosecuting attorney, whose duty it shall be to examine the same and without delay report in writing his opinion to the board. It shall direct that such of the several amounts of money proposed to be raised for township, school, highway, drain and all other purposes as shall be authorized by law, be spread upon the assessment roll of the proper townships, wards and cities. Such action and direction shall be entered in full upon the

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records of the proceedings of the board, and shall be final as to the levy and assessment of all such taxes, except when there is a change made in the equalization of any county by the board of state tax commissioners upon appeal in the manner provided by law. Notwithstanding to the contrary in any law, the direction for spread of taxes shall be expressed in terms of millages to be spread against the state equalized values of properties and shall not direct the raising of any specific amount of money.

HISTORY: CL 1897, 3860;—Am. 1909, p. 690, Act 292, Eff. Sep. 1;—Am. 1913, p. 404, Act 201, Eff. Aug. 14;—CL 1915, 4031;—CL 1929, 3425;—CL 1948, 211.37;—Am. 1968, p. 671, Act 347, Eff. Nov. 15.

211.37a Appeal to state tax board; assessment of costs; method of reimbursement.

Sec. 37a. If upon such appeal to the board of state tax commissioners it is determined by said board that the appeal is groundless and not well founded, then the costs made and incurred by the county in defending the same and in the proceedings thereof, shall be paid by the township whose supervisor made such appeal. If the allegations set forth by the said supervisor making such appeal are determined to be well founded, then the said county shall pay the costs of the said township by it expended in making and prosecuting said appeal, but in no case shall more than 75 dollars costs be taxed by either side. The costs shall be taxed by affidavit before the county clerk in accordance with the rules of practice now governing circuit courts as to taxation of costs. Copies of the said bill of costs shall be served upon the county treasurer by the township and upon the supervisor of the township by the county. If costs be taxed in favor of the county and against the township, the county treasurer is hereby authorized to take the amount of said costs out of any funds due or that may become due said township, and transfer the same to the general fund of said county. If costs shall be taxed in favor of the township, the said county treasurer shall immediately pay over to the treasurer of said township from the general fund of said county, the amount of said taxed costs, and the township treasurer shall deposit the same to the credit of the contingent fund of said township.

HISTORY: Add. 1913, p. 405, Act 201, Eff. Aug. 14;—CL 1915, 4032;—CL 1929, 3426;—CL 1948, 211.37a.

BOARD OF STATE TAX COMMISSIONERS: Abolished; powers and duties transferred to the state tax department, which in turn has been abolished and superseded by the state tax commission, see Compilers' §§ 209.152 and 209.103 respectively.

211.38 Duplicate apportionment certificates; failure to certify, official notice.

Sec. 38. The clerk of the board of supervisors shall, immediately after the said apportionment, make out 2 certificates showing the millages apportioned to each township for state, county and the various township purposes, each tax being kept distinct, 1 of which he shall deliver to the county treasurer, and the other to the supervisor of the proper township: Provided, That if said clerk fail to make such certificate, the supervisor shall take official notice of all certificates, statements, papers and records in the office of the township and county clerk relating to the levy of taxes in his township, and of the action of the board of supervisors thereon.

HISTORY: CL 1897, 3861;—CL 1915, 4033;—CL 1929, 3427;—CL 1948, 211.38;—Am. 1968, p. 672, Act 347, Eff. Nov. 15.

SIMILAR PROVISIONS: See Compilers' § 234.3.

CLERK: Clerk of board of supervisors and county clerk same party, see Compilers' § 41.83.

TAXES—HOW TO BE ASSESSED.

211.39 Assessment of taxes; basis; method; tax receipts.

Sec. 39. The supervisor of each township or ward, and the assessing officer of each city or village, as provided by law, shall proceed to assess the taxes apportioned to his township, or assessment district, according and in proportion to the valuations entered by the board of review in the assessment roll of the township, ward, village or city for the year, but if the board of review makes no such entry, then on the valuation therein as entered by the supervisor or assessor. For the purpose of avoiding fractions in com-

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putation, the assessor may add to the amount of the several taxes to be raised not more than 1%. The excess shall belong to the contingent fund of the township, city or village, except that in a city where, by special provision, county taxes are now collected by the county treasurer, the excess of county taxes shall belong to the contingent fund of the county. Such taxes shall be separately assessed and shall be entered in separate columns, or if authorized by a resolution of the board of supervisors of the county adopted by a majority of the members elect thereof, such taxes in said county shall be entered either as 1 total sum, or in separate columns for each taxing unit. The columns shall be designated, combined county taxes, combined township taxes, combined city taxes, combined school taxes. If such taxes are entered as 1 total sum, or as combined unit taxes there shall be printed upon each tax receipt the percentage, or tax rate which each such tax is of said total sum, or is of each taxing unit sum, in lieu thereof a printed statement showing the tax rate of each separate tax shall be attached to the tax receipt at the time of payment by the officer collecting the tax.

HISTORY: CL 1897, 3862;—CL 1915, 4034;—CL 1929, 3428;—Am. 1941, p. 360, Act 234, Imd. Eff. Jun. 16;—Am. 1943, p. 374, Act 230, Eff. Jul. 30;—CL 1948, 211.39;—Am. 1961, p. 81, Act 82, Eff. Sep. 8;—Am. 1964, p. 73, Act 69, Eff. Aug. 28.

PROPERTY TAX ALLOCATION ACT: See Compilers' § 211.201 et seq.

SIMILAR PROVISIONS: See Compilers' § 234.4.

211.40 Lien for taxes; priority; statement and receipts for taxes to show taxing unit's fiscal year.

Sec. 40. Notwithstanding any provisions in the charter of any city or village to the contrary, all taxes shall become a debt due to the township, city, village and county from the owner or person otherwise to be assessed on the tax day provided for in sections 2 and 13 of this act, and the amounts assessed on any interest in real property shall, on the first day of December, for state, county, village or township taxes or upon such day as may be heretofore or hereafter provided by charter of a city or village, become a lien upon such real property, and the lien for such amounts, and for all interest and charges thereon, shall continue until payment thereof. Each statement and receipt for taxes on real estate sent or given by any county, township, city or village treasurer shall contain a statement, which shall be printed, stamped or written thereon, setting forth the date of the commencement and ending of the fiscal year of each taxing unit of government during which general taxes stated thereon will defray the costs of governmental services rendered thereby. And all personal taxes hereafter levied or assessed shall also be a first lien, prior, superior and paramount, on all personal property of such persons so assessed from and after the first day of December in each year for state, county, village or township taxes or upon such day as may be heretofore or hereafter provided by charter of a city or village, and so remain until paid, which said tax liens shall take precedence over all other claims, encumbrances and liens upon said personal property whatsoever, whether created by chattel mortgage, title retaining contract, execution, or upon any other final process of a court, attachment, replevin, judgment or otherwise, and whether such liens, claims and encumbrances created by chattel mortgage, title retaining contract, execution or upon any other final process of a court, attachment, replevin, judgment or otherwise, become effective prior to the effective date of this act or subsequent thereto, and no transfer of personal property assessed for taxes thereon shall operate to divest or destroy such lien, except where such personal property is actually sold in the regular course of retail trade. The personal property taxes hereafter levied or assessed by any city or village shall be a first lien, prior, superior and paramount to any other claims, liens and encumbrances whatsoever upon the personal property assessed as herein provided, any provisions in the charter of such cities or villages to the contrary notwithstanding.

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HISTORY: CL 1897, 3863;—CL 1915, 4035;—Am. 1929, p. 253, Act 107, Eff. Aug. 28;—CL 1929, 3429;—Am. 1934, 1st Ex. Ses., p. 128, Act 38, Imd. Eff. Mar. 28;—Am. 1941, p. 40, Act 44, Eff. Jan. 10, 1942;—CL 1948, 211.40;—Am. 1949, p. 113, Act 110, Eff. Sep. 23;—Am. 1958, p. 279, Act 209, Eff. Sep. 13.

CITED IN OTHER SECTIONS: The above section is cited in § 211.694.

211.41 Assessor, duties; local clerk, duties; county clerk, statement to auditor general, contents.

Sec. 41. Before the supervisor or assessing officer shall deliver such roll to the township treasurer or city collector he shall carefully foot the several columns of valuation and taxes, and make a detailed statement thereof, which he shall give the clerk of his township or city, and said clerk shall immediately charge the amount of taxes to the township treasurer or city collector. The clerk of each city and incorporated village shall report to the clerk of their respective counties all taxes levied in their respective cities or villages, and not included in the general tax levy, on or before the first day of October in each year. The county clerk shall, within 30 days after the close of the annual session of the board of supervisors in October in each year, forward to the auditor general, to be filed in his office, a statement showing the aggregate valuation of all property as assessed in each assessing precinct within the county during the current year. He shall include in such statement a detail of all taxes to be raised in the county for such year; also the amount of taxes not included in the general tax levy, reported to him by the several city and village clerks as above provided.

HISTORY: CL 1897, 3864;—Am. 1899, p. 422, Act 262, Eff. Sept. 23;—CL 1915, 4036;—CL 1929, 3430;—CL 1948, 211.41.

211.41a Statement of land conveyance furnished to township supervisors.

Sec. 41a. In such counties of this state in which the board of supervisors by a majority vote of the members shall vote in favor thereof, the register of deeds of any such county, within 30 days of the recording of any instrument conveying an interest in land, shall furnish the supervisor or supervisors of the township or townships in which the parcel or parcels of land are situated, a statement giving the names of the parties to the instrument recorded, a description of the parcel or parcels of land covered by the instrument recorded, and the interest in land conveyed.

HISTORY: Add. 1951, p. 116, Act 86, Eff. Sep. 28.

TAX ROLL.

211.42 Tax roll preparation; warrant; township treasurer, accounting; collection period; distraint sale; lost roll; tax roll defined.

Sec. 42. The supervisor shall thereupon prepare a tax roll, with the taxes levied as hereinbefore provided, and annex thereto a warrant signed by him, commanding the township or city treasurer to collect the several sums mentioned in the last column of such roll but the warrant shall not refer to the total or aggregate of the several sums mentioned in the last column, and to retain in his hand the amount receivable by law into the township treasury for the purpose therein specified, and to pay over to the county treasurer the amounts which shall have been collected for state and county purposes up to and including January 10 next following, and to the treasurer of each school district the amounts which shall have been collected for such school district up to and including January 10 next following, within 10 days thereafter, and notify the secretary or director of each school district of the amount paid to the school district treasurer, and the remainder of the amounts therein specified for said purposes, and account in full for all moneys received on or before March 1 next following. The warrant shall authorize and command the treasurer, in case any person named in the tax roll shall neglect or refuse to pay his tax, to levy the same by distress and sale of the

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goods and chattels of such person. The supervisor may make a new roll and warrant in case of the loss of the one originally given to the township treasurer; the copy of the roll with the warrant annexed shall be known as "the tax roll."

HISTORY: CL 1897, 3865;—Am. 1897, p. 394, Act 261, Eff. Aug. 30;—CL 1915, 4037;—CL 1929, 3431;—Am. 1945, p. 417, Act 269, Eff. Sep. 6;—CL 1948, 211.42;—Am. 1965, p. 104, Act 72, Imd. Eff. Jun. 22;—Am. 1968, p. 672, Act 347, Eff. Nov. 15.

211.43 Notice to township treasurer of apportionment of taxes; bond, exception; township tax roll; maximum amount of taxes on hand.

Sec. 43. The supervisor of each township, on or before the 5th day of November in each year, shall notify the township treasurer of the amount of the state, county and school taxes as apportioned to his township, and such treasurer, on or before the 28th day of November, shall give to the county treasurer a bond running to the county in the actual amount of state, county and school taxes, except such school taxes as are collected through a city treasurer, with sufficient sureties to be approved by the supervisor of the township and the county treasurer, conditioned that he will pay over the county treasurer as required by law all state and county taxes, and pay over to the respective school treasurers all school taxes, which he shall collect during each year of his term of office and duly and faithfully perform all the other duties of his office: Provided, however, That if corporate surety bond be provided then the bond to be approved only by the county treasurer: Provided, That when said bond is furnished by a surety company authorized to transact business under the laws of this state it shall be sufficient that said bond be equal to 40 per cent of the amount of state, county and school taxes: Provided further, That when said bond is furnished by a surety company, the premium and cost of said bond given to the county shall be paid by the county treasurer from the general fund of the county against which such premium and cost is hereby made a charge: Provided, however, That the county treasurer having so paid the premium may bill each district school board afforded protection by said bond, that portion of the premium charge as is allocated to the school taxes, and the school district treasurers shall pay such allocated premium charge as determined by the county treasurer for the protection of school taxes from available school district funds: Provided further, That, in case the county treasurer and township supervisor shall determine that the bond of the township treasurer recorded with the township clerk and on file with the township supervisor is adequate and sufficient to safeguard the proper accounting of state, county and school taxes as required by law, then the township treasurer shall not be required to file with the county treasurer the bond hereinbefore provided for, and the county treasurer shall deliver to the supervisor on or before the 1st day of December a signed statement of his approval thereof, upon the receipt of which and on or before the 1st day of December the supervisor shall deliver to the township treasurer the tax roll of this township. The county treasurer shall file and safely keep such bond in his office, and shall give to the township treasurer a receipt stating that he has received the bond required, which receipt the township treasurer shall deliver to the supervisor on or before the 1st day of December. The supervisor after the delivery of such receipt and on or before the 1st day of December, shall deliver to the township treasurer the tax roll of his township. Such township treasurer shall at no time have on hand collections of state, county and school taxes in excess of 25 per cent of the amount of such taxes apportioned to his township and from time to time whenever such collections on hand shall reach such percentage he shall immediately account for and turn over to the county treasurer the total amount of such state and county tax collections on hand and to the several school district treasurers the total amount of such school tax collections on hand and notify the secretary or director of the school districts the total amount of taxes paid to the school district treasurers which notification shall show the different funds for which the taxes were collected.

HISTORY: CL 1897, 3866;—Am. 1903, p. 34, Act 28, Eff. Sep. 17;—Am. 1911, p. 253, Act 156, Eff. Aug. 1;—CL 1915, 4038;—CL 1929,

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3432;—Am. 1933, p. 389, Act 242, Eff. Oct. 17;—Am. 1934, 1st Ex. Ses., p. 102, Act 28, Imd. Eff. Mar. 28;—Am. 1945, p. 417, Act 269, Eff. Sep. 6;—CL 1948, 211.43;—Am. 1949, p. 363, Act 267, Eff. Sep. 23;—Am. 1951, p. 134, Act 103, Imd. Eff. May 31.

211.43a Delay in receipt of tax roll; fees for unpaid taxes; delinquent tax return.

Sec. 43a. That whenever any township, city or county treasurer does not receive the tax roll within the time specified under the provisions of section 43 of this act by reason of any delay caused by an appeal to the board of state tax commissioners as provided by Act No. 201, Public Acts of 1913, such treasurer shall receive taxes appearing on such roll with the additional charge of 1 per cent for a collection fee for the period of 30 days after the receipt of the tax roll, except in counties, cities or townships where some special provision is made by law for a collection fee the treasurer shall comply with such special provisions during said 30-day period. On all taxes unpaid at the expiration of said 30-day period he shall add 4 per cent, and on or before the expiration of 60 days from the receipt of said tax roll by said township or city treasurer he shall make a return to the county treasurer of the uncollected taxes assessed on real and personal property as provided by section 55 of this act.

HISTORY: Add. 1917, p. 3, Act 1, Imd. Eff. Feb. 27;—CL 1929, 3433;—CL 1948, 211.43a.

NOTE: Act 201 of 1913, above referred to, is Compilers' §§ 211.37 and 211.37a and is also a former amended form to Compilers' § 211.34.

BOARD OF STATE TAX COMMISSIONERS: Abolished; powers and duties transferred to the state tax department, which in turn has been abolished and superseded by the state tax commission, see Compilers' §§ 209.152 and 209.103 respectively.

211.43b Public moneys; depository; liability.

Sec. 43-b. The governing board or legislative body, as the case may be, of every county, township, school district, highway district, city or village or any other municipal corporation within this state shall provide by resolution for the deposit of all public moneys which shall come into the hands of the treasurer or tax collector of their respective units of government, including all moneys held by such treasurer or tax collector for the state, county and/or other political units of the state, and such resolution shall specify the bank or banks where such public money shall be deposited and may limit the amount to be deposited in any one depository. Such designation shall continue until revoked by a resolution redesignating such depository, but nothing herein shall authorize the deposit of moneys in any such bank or banks in excess of the amount that any such bank may otherwise lawfully receive. Whenever any treasurer or tax collector shall have deposited all public moneys coming into his hands in accordance with such resolution, neither such treasurer or tax collector nor the surety or sureties on his official bond shall be liable for any loss occasioned by the failure or default of any such designated depository or depositories, regardless of whether any such deposit was secured or not. Failure on the part of any such treasurer or tax collector to deposit public moneys coming into his hands in accordance with the terms of such resolution shall render him and his surety or sureties liable for any loss occassioned [sic] by such failure, but in no case shall the surety or sureties be liable in an amount in excess of the penalty of their respective bonds.

HISTORY: Add. 1934, 1st Ex. Ses., p. 103, Act 26, Imd. Eff. March 28;—Am. 1935, p. 148, Act 93, Imd. Eff. May 28;—CL 1948, 211.43b.

COLLECTING OF TAXES.

211.44 Tax collections; tax statement, mailing, time; form; fees; waiver; prevention of tax loss.

Sec. 44. On receiving such tax roll the township treasurer or other collector shall proceed to collect such taxes. The township treasurer or other collector shall mail to each taxpayer at his last known address on his tax roll, on the receipt of such tax roll, a statement showing the description of the property against which the tax is levied, the assessed valuation of such property and the amount of the tax thereon. The tax statement shall set forth the state equalized valuation. The expense of preparing and mailing such statement shall be paid from the county, township, city or village funds. Fail-

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ure to send or receive such notice shall not in any way prejudice the right to collect or enforce the payment of any tax. The township treasurer shall remain in his office at some convenient place in his township on every Friday in the month of December, from 9 a.m. to 5 p.m. to receive taxes, but he shall receive taxes upon any week day when they may be offered. On all sums voluntarily paid before February 15 of the succeeding year, he shall add 1% for collection fees, and upon all taxes paid on or after February 15 he may add to the tax and 1% fee an additional collection fee equal to 3% of the tax. Taxes collected by the township treasurer after the last day of February and before settlement with the county treasurer shall have added thereto a 4% collection fee and interest on the tax at the rate of 1/2 of 1% per month, which payment shall be treated as though collected by the county treasurer. Collection fees for years prior to 1964 on taxes which have been paid in full and which have not been heretofore collected by the township treasurer are deemed waived. If the treasurer shall not mail the statements hereinabove required to be mailed on or before December 30, he shall be limited to 1% for collection fees with respect to taxes collected by him on and after February 15. In townships in which the treasurer receives a salary, the township board only may waive all or part of the collection fees on taxes paid on or before February 15. All fees collected by the township treasurer in townships where the treasurer receives a salary shall be credited to the contingent fund of the township. In a city in which the treasurer receives a salary the city commission or council may waive all or part of the collection fee on taxes paid on or before the due date established for the collection of taxes. When the bond of the treasurer, as provided in section 43, is furnished by a surety company, the cost of the bond shall be paid by the township from the contingent fund of the township. If the township treasurer is apprehensive of the loss of any personal tax assessed upon his roll, he may enforce its collection at any time, and if compelled to seize property or bring suit in December may add 4% for collection fees.

HISTORY: CL 1897, 3867;—Am. 1915, p. 319, Act 187, Eff. Aug. 24;—CL 1915, 4039;—Am. 1929, p. 547, Act 217, Eff. Aug. 28.—CL 1929, 3434;—Am. 1931, p. 136, Act 88, Eff. Sep. 18;—Am. 1932, 1st Ex. Ses., p. 37, Act 21, Imd. Eff. May 6;—Am. 1945, p. 8, Act 8, Imd. Eff. Feb. 15;—CL 1948, 211.44;—Am. 1951, p. 114, Act 85, Eff. Sep. 28;—Am. 1952, p. 407, Act 251, Eff. Sep. 18;—Am. 1959, p. 318, Act 216, Eff. Mar. 19, 1960;—Am. 1961, p. 201, Act 144, Eff. Sep. 8;—Am. 1964, p. 489, Act 275, Eff. Aug. 28;—Am. 1965, p. 834, Act 411, Imd. Eff. Nov. 3, —Am. 1968, p. 476, Act 277, Imd. Eff. Jul. 1.

211.44a Repealed. 1959, p. 319, Act 216, Eff. Mar. 19, 1960.

Section made provisions relating to township treasurer's salary, if adopted by electors, and provided election procedure and form of ballot.

211.45 Collection; time limit.

Sec. 45. All taxes shall be collected by the several township and city treasurers or collectors, before the first day of March, in each year.

HISTORY: CL 1897, 3868;—CL 1915, 4041;—CL 1929, 3436;—CL 1948, 211.45.

211.46 Taxes unpaid January 10; personal demand; use of mails; charter provision exception; receipts.

Sec. 46. For the purpose of collecting the taxes remaining unpaid on the tenth day of January, the said treasurer shall, thereafter during that month, call personally upon each person liable to pay such taxes, if a resident of such township, or at his usual place of residence or business therein, and demand payment of the taxes charged against him. If such person is not a resident of the township, but resides within the county, or an adjoining county, and his residence is known to the treasurer, he shall make such demand either personally or by mail. In cases of companies or corporations demand may be made at the principal or other office of such company or corporation, or by mail directed to such corporation or company, or its principal officer at its usual place of business. In cities where some special provision is made for demand or collection of taxes, the collector or treasurer shall comply with such special provision, otherwise be bound by the provisions of this act. If demand is sent by mail, the amount of the tax shall be stated and the place and time where and when it may be paid. He shall

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give a receipt for every tax paid, and shall enter in ink the fact of payment, and the date thereof upon his tax roll. In case of taxes assessed upon the shares of the capital stock of any bank he shall call upon the cashier of such bank and demand payment thereof, and thereupon it shall be the duty of such cashier to pay the same, and charge the amount so paid against the shares of stock so taxed.

HISTORY: CL 1897, 3869;—CL 1915, 4042;—CL 1929, 3437;—CL 1948, 211.46.

211.47 Unpaid taxes; distraint; sale, notice; surplus; return, unrecovered taxes; power to sue; possessor's recourse; release of levy; audit.

Sec. 47. If any person, firm or corporation shall neglect or refuse to pay any tax assessed to him or them, the township or city treasurer, as the case may be, shall collect the same by seizing the personal property of such person, firm or corporation, to an amount sufficient to pay such tax, fees and charges for subsequent sale, wherever the same may be found [in the state], and from which seizure no property shall be exempt. He may sell the property seized to an amount sufficient to pay the taxes and all charges, in the place where seized, or in the township or city of which he is treasurer, at public auction, on giving public notice of the same at least 5 days previous to the sale, by posting written or printed notices in 3 public places in the township, village or city where the sale is to be made, which sale may be adjourned from time to time if he shall deem the same necessary; and in case property shall be seized and advertised as herein directed, during the life of the warrant, the sale may take place at any time within 6 days after the expiration thereof. If it becomes necessary to sell personal property which brings more than the amount of taxes and charges, the balance shall be returned to the person, firm or corporation from whose possession the property was taken, except as hereinafter provided. If the property so distrained cannot be sold for want of bidders, and in such cases only, the treasurer shall return a statement of the fact, and such tax shall be returned as unpaid. The township treasurer, if otherwise unable to collect a tax on personal property, may sue the person, firm or corporation to whom it is assessed, in the name of the township, village or city, and garnishee any debtor or debtors of such person, firm or corporation. The tax roll shall be prima facie evidence of the debt sought to be recovered: Provided, That when any person having possession of the personal property of any other person, firm or corporation shall be assessed for such property and shall be obliged to pay the taxes thereon, such person, firm or corporation so paying the taxes, may recover of the person, firm or corporation for whose benefit the taxes were paid, the money so paid, with the interest thereon, in an action of assumpsit: Provided further, That in case where levy is made, as hereinbefore provided, for taxes assessed upon land, the levy shall be released if, within 10 days after it is made, the persons having the title to said land shall deliver to the commissioner of the state land office a deed conveying the land to the state as to an individual, free from all mortgages or liens whatsoever, and in such case the taxes thereon shall be returned as in the case of other taxes unpaid upon lands, and the auditor general shall charge back to the county all local taxes on said land and shall cancel the state taxes thereon; and in case land is so deeded to the state it shall thereafter be subject to all the provisions of law governing lands deeded to the state by the auditor general under the provisions of section 127 of Act 206 of 1893 as amended: Provided further, That in case the land is deeded to the state as herein provided the board of state auditors shall audit and allow the actual expenses of the township treasurer incurred in making the levy on said land and compensation therefor at 2 dollars per day, the account therefor to be certified by the commissioner of the state land office, and the amount thereof shall be paid out of the general fund of the state.

HISTORY: Am. 1895, p. 521, Act 229, Imd. Eff. May 31;—CL 1897, 3870;—Am. 1899, p. 335, Act 215, Eff. Sept. 23;—CL 1915, 4043;—CL 1929, 3438;—CL 1948, 211.47.

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NOTE: Sec. 127, above referred to, was repealed by Act 234, 1941, an amendatory act to this act. See Compilers' § 211.67a.
COMMISSIONER OF STATE LAND OFFICE: Abolished; powers and duties transferred to the public domain commission, which in turn has been abolished and superseded by the department of conservation, see Compilers' §§ 322.221 and 299.2 respectively.

211.47a Treasurer's bill of sale of property sold for unpaid taxes; contents.

Sec. 47a. The township or city treasurer when requested shall execute, acknowledge and deliver to the purchaser a bill of sale describing the property and setting forth the particulars of the sale.

HISTORY: Add. 1958, p. 224, Act 191, Eff. Sep. 13.

211.48 Collector's fee; statement of personalty removed; evidence; collection; executive levies.

Sec. 48. In case of a distress and sale of goods and chattels, for the payment of any tax, the treasurer or other collecting officer may also collect on such sale $1.50 over and above the tax, as his fees for making such sale, which fees and percentage hereinbefore provided shall be in full for his services in collecting such taxes; and in case payment of such tax shall be made after the distress and before the sale, it shall be lawful for such treasurer or collecting officer to require the payment of $1.50 as his fee for making such distress, and to enforce payment of the same, if need be, by making sale notwithstanding the tax shall have been paid. And whenever any personal property having been assessed to any person in any township or ward in this state shall be removed therefrom before the taxes assessed thereon shall be collected, and there being no other personal property sufficient in said township or ward whereon the treasurer or other collecting officer can levy and collect said taxes, or any of them, he shall have full power, and it shall be his duty to make a statement, duly certified by him to be correct and true, showing that personal property has been assessed to such person, naming him, the valuation thereof, the various taxes thereon, and the total thereof, as appears from the roll in the hands of such treasurer, and that such property has been removed from such township, ward or city since the assessment thereof, and that the taxes or some portion of them has not been paid; which statement shall be witnessed and acknowledged in the same manner as deeds of real estate are acknowledged, and shall be received in all courts and other places as evidence of the facts therein contained, without proof of its execution, and shall be prima facie evidence of the validity of the tax therein named against the person therein named, and shall be full and ample authority to the treasurer or other tax collector to whom it shall be sent to levy and collect the same in the same manner as other personal taxes are collected by him when spread upon his own roll. Such statement may be sent to the township or city treasurer or other collecting officer of any township or city in this state, where the person against whom such assessment was made may have property, and the treasurer, or other collecting officer to whom such statement shall have been transmitted, shall, upon the receipt of the same, proceed to collect said taxes out of any property belonging to the owner of such property so taxed as aforesaid, within his jurisdiction, liable to be seized for taxes, together with double collection fees therefor, and the further sum of 25 cents to defray the expense of transmitting the taxes so collected as hereinafter provided, and shall give his receipt therefor. The said treasurer, or other collecting officer, shall thereupon transmit the taxes, and 1/2 of the collection fees as aforesaid collected, to the township treasurer, or other collecting officer, from whom he received such statement, and the latter shall, upon the receipt of said taxes and collection fees, mark the said taxes in ink as paid upon his tax roll, and the date of the receipt of the same, retaining the collection fees so received as aforesaid, as his fees in the matter of the collection of said taxes. Executions issued upon judgments rendered for any tax, may be levied upon any property, without exemption, the same as though seized for sale under warrants issued for the collection of taxes by township supervi-

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sors, and collected in the same manner, in all other respects, as provided by law for the collection of judgments.

HISTORY: CL 1897, 3871;—CL 1915, 4044;—CL 1929, 3439;—CL 1948, 211.48.

DEEDS: Execution and acknowledgment, see Compilers' § 565.8.

211.49 Surplus from sale; contested claim; remedy; treasurer's liability; rule in action.

Sec. 49. Whenever a surplus arising from the sale of any property distrained for taxes, shall be claimed by any other than the person for whose tax such property was sold, and such claim shall be contested, either of the contestants may prosecute an action against the other, as for money had and received, and in such action the rights of the parties to such surplus shall be determined. For the purpose of such action the defendant shall be deemed to be in possession of the surplus in the hands of the treasurer, and upon the presentation to said treasurer of a certified copy of the final judgment rendered in such action he shall pay over the same to the party recovering such judgment, and no such treasurer shall be liable to any claimant of such surplus, the right to which is contested as provided in this act, until he shall have refused to pay over such surplus upon the production of a certified copy of the judgment as aforesaid. In any action brought pursuant to this section no other case shall be joined, nor shall any set-off be allowed, and if an execution issue on a judgment so rendered, it shall direct the costs only of such action to be levied by virtue thereof.

HISTORY: CL 1897, 3872;—CL 1915, 4045;—CL 1929, 3440;—CL 1948, 211.49.

211.50 Township treasurer; appointment to fill vacancy, bond, term, notice of appointment.

Sec. 50. In case any township treasurer shall neglect to give either of the bonds required, or shall die, resign, or remove out of the township or become unable to discharge the duties of his office, the township board shall forthwith appoint a new treasurer, who, on giving the required bonds, shall execute the duties of the office for the remainder of the year and until his successor is elected and qualified. The township clerk shall immediately notify the county treasurer of such appointment.

HISTORY: CL 1897, 3873;—CL 1915, 4046;—CL 1929, 3441;—CL 1948, 211.50.

VACANCY: In office of township treasurer, see a similar provision in Compilers' § 41.59.

211.51 Township treasurer; failure to file bond; sheriff; powers, bond; compensation.

Sec. 51. In case the township treasurer shall neglect or refuse to file his bond with the county treasurer, in the manner and within the time prescribed by law, and the township board shall fail to appoint a treasurer who shall give such bond, and deliver a receipt for the same to the supervisor by the tenth day of December, the supervisor shall deliver the tax roll with the necessary warrant directed to the sheriff of the county, who shall, before he receives said tax roll, execute and deliver like bonds required of the township treasurer, and make like collections and returns, and shall be entitled to the same compensation on all taxes collected by him by virtue of such warrant as is allowed to the township treasurer, and for the purpose of collecting the same, shall be vested with all the powers conferred upon the township treasurer, and suit may be brought on such sheriff's bond under the same circumstances as on those of a township treasurer.

HISTORY: CL 1897, 3874;—CL 1915, 4047;—CL 1929, 3442;—CL 1948, 211.51.

211.52 Incomplete collection; disbursement of collection funds.

Sec. 52. In case the township treasurer or other collecting officer shall not collect the full amount of taxes required by his warrant to be paid into the township treasury, such portion thereof as he shall collect shall be retained by him to be paid out for the following purposes: The amount of school taxes collected to be paid to the treasurer of

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each school district and the secretary or director of each school district notified of such amount paid, the state and county taxes to the county treasurer as in this act provided, the amount collected for general township purposes to be paid on the order of the township board, the amount collected for highway purposes to be paid on the order of the commissioner of highways countersigned by the township clerk or supervisor, and the amount collected for any special fund to be paid on the order of the proper officer, but in no case shall the amounts collected for any 1 fund be paid on the orders drawn on any other fund.

HISTORY: CL 1897, 3875;—CL 1915, 4048;—CL 1929, 3443;—Am. 1945, p. 418, Act 269, Eff. Sept. 6;—CL 1948, 211.52.

211.53 Payment of taxes; partial, under protest, suit; receipt; undivided share, method.

Sec. 53. Any person may pay the taxes or special assessments, or any one of the several taxes or special assessments, on any parcel or description of land, or on any undivided share thereof, and the treasurer shall note across the face of the receipt in ink any portion of the taxes or special assessments remaining unpaid. He may pay any tax or special assessment, whether levied on personal or real property, under protest, to the treasurer, specifying at the time, in writing, signed by him, the grounds of such protest, and such treasurer shall minute the fact of such protest on the tax roll and in the receipt given. The person paying under such protest may, within 30 days and not afterwards, sue the township for the amount paid, and recover, if the tax or special assessment is shown to be illegal for the reason shown in such protest. In cities where, by special provision, state and county taxes are collected by the county treasurer, suits for the recovery of state and county taxes only shall be brought against the county, and any such suit against a county for the recovery of taxes or special assessments so paid to the county treasurer shall proceed in all respects as provided herein for suits against townships. When payment of the taxes or special assessments on any parcel or description of land or on any undivided share thereof, is made to any city, village, township or county treasurer, said treasurer shall place or cause to be placed upon the face of the receipt the following certificate: "I hereby certify that application was made to pay all taxes and special assessments due and payable at this office on the description shown in this receipt except .....

(Signed) ..... Treas."

Same; by lienholder or tenant.

Any person owning an undivided share or other part or parcel of real property assessed in 1 description may pay on the part thus owned, by paying an amount having the same relation to the whole tax or special assessment as the value of the part on which payment is made has to the value of the whole parcel; the application to pay the taxes or special assessments on any part of any parcel or description of land shall be accompanied by a statement from the assessing officer of the township or city in which said lands are situated showing the valuation of said part and of the several parts of said parcel or description of land, and it shall be the duty of such assessing officer to make such valuations and furnish such a statement at the request of any person who shall present to such assessing officer a correct description and division of the parcel or description of land to be divided. The person making such payment shall accurately describe the part or share on which he makes payment, and the receipt given, and the record of the receiving officer shall show such description, and by whom paid; and in case of the sale of the remaining part, or share for nonpayment of taxes or special assessments, he may purchase the same in like manner as any disinterested person could. Any person having a lien on property may, after 30 days from the time the tax is payable, pay the taxes thereon, and the same may be added to his lien and recovered with the rate of interest borne by the lien. A tenant of real estate may pay the taxes

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thereon and deduct the same from his rent, unless there be an agreement to the contrary. Such payment may be made to the township treasurer while the tax roll is in his hands, or afterwards to the county treasurer. The receipt given shall be evidence of such payment. Every such receipt shall be deemed to include the foregoing certificate, and unless otherwise noted thereon, shall be construed as an application to pay all taxes and special assessments assessed against the property described therein and then due and payable at the office of the treasurer issuing such receipt.

Same; mineral rights.

Any person owning either the mineral rights or surface rights in property, but not both, which rights are authorized under this act to be separately assessed may pay on the rights so owned as herein authorized for the payment upon an undivided share in such property except that the state geologist or his authorized deputy, instead of the local assessing officer, shall furnish a statement showing the valuation upon said mineral rights.

Same; separate assessment of land acquired for highway purposes.

If a part of any parcel of real property is acquired for highway purposes, it shall be separately assessed and the assessing officer shall make such allocation of the taxes or special assessments between the part so acquired and the remainder as may be deemed by the assessing officer to be in conformity with standard assessment practices. Upon the payment of the taxes or assessments attributable thereto, the part or parcel of real property so acquired shall be removed from the tax rolls. The acceptance by the city, village, township or county treasurer of such payment shall not affect, prejudice or destroy any tax lien on the remainder of the parcel of real property from which the part is taken.

HISTORY: CL 1897, 3876;—Am. 1901, p. 178, Act 130, Eff. Sep. 5;—Am. 1913, p. 111, Act 76, Eff. Aug. 14;—CL 1915, 4049;—CL 1929, 3444;—Am. 1931, p. 47, Act 32, Eff. Sep. 18;—Am. 1935, p. 84, Act 54, Imd. Eff. May 13;—Am. 1941, p. 360, Act 234, Imd. Eff. Jun. 16;—Am. 1945, p. 223, Act 159, Imd. Eff. May 16;—CL 1948, 211.53;—Am. 1962, p. 126, Act 133, Imd. Eff. May 4.

211.53a Recovery of excess payments not made under protest.

Sec. 53a. Any taxpayer who is assessed and pays taxes in excess of the correct and lawful amount due because of a clerical error or mutual mistake of fact made by the assessing officer and the taxpayer may recover the excess so paid, without interest, if suit is commenced within 3 years from the date of payment, notwithstanding that the payment was not made under protest.

HISTORY: Add. 1958, p. 279, Act 209, Eff. Sep. 13.

211.53b Clerical errors and mutual mistakes as to assessment; corrections, payments and rebates.

Sec. 53b. As an alternative to section 53, whenever there has been a clerical error or a mutual mistake of fact relative to the correct assessment figures, the rate of taxation or the mathematical computation relating to the assessing of taxes, and the error or mutual mistake is verified by the local assessing officer, and approved by the board of review at a meeting held only for such purpose on Tuesday following the second Monday in December. The board of review shall file an affidavit relative to the errors or mutual mistake with the proper officials who are involved with the assessment figures, rate of taxation or mathematical computation and all official records relative thereto shall be corrected. Where such error or mutual mistake results in an overpayment or underpayment, the rebate shall be made to the taxpayer or the taxpayer notified and payment made within 30 days of such notice. A correction under this section may be made in the year in which the error was made or in the following year only.

HISTORY: Add. 1967, p. 168, Act 142, Eff. Nov. 2.

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211.54 Collected and unpaid taxes; accounting to county treasurer; time.

Sec. 54. Within 20 calendar days after the time specified in his warrant, the township treasurer or other collecting officer shall pay to the county treasurer all state and county taxes collected, and within the same time shall make his statement of unpaid taxes upon real and personal property as required in section 55.

HISTORY: Am. 1897, p. 283, Act 225, Imd. Eff. May 29;—CL 1897, 3877;—Am. 1901, p. 278, Act 193, Eff. Sep. 5;—CL 1915, 4050;—CL 1929, 3445;—CL 1948, 211.54;—Am. 1960, p. 7, Act 8, Eff. Aug. 17.

RETURN OF DELINQUENT TAXES.

211.55 Delinquent taxes; statement of township treasurer; statement filed with school district; rejection of taxes; cancellation of taxes, persons in service, payment.

Sec. 55. If the township treasurer or other collecting officer shall be unable to collect any of the taxes on his roll, assessed on real property, he shall make a duplicate statement of the same with a full and perfect description of such property, as assessed upon said roll, with the several taxes assessed upon each parcel thereof, which statement shall be verified by the affidavit of such treasurer or collector that such taxes remain unpaid, and that he has not, upon diligent inquiry, been able to discover any goods or chattels liable to pay such sums whereupon he could levy the same. The said treasurer or collector shall also make a duplicate statement showing the taxes upon personal property remaining unpaid, and the names of the persons against whom assessed, and the amount against each; and in such statements shall set forth the amount of all moneys collected by him on account of taxes, which statement shall be verified by the affidavit of such treasurer, in which he shall state in substance that the sums mentioned in such statement as uncollected remain unpaid; that he has not, upon diligent inquiry, been able to discover any goods or chattels belonging to the person liable to pay such sums whereupon he could levy the same, and that the amount of moneys collected by him upon such tax roll is truly stated therein. The county treasurer shall immediately compare such statements with the said tax roll, and if he finds the same to be correct, he shall add to each of them a certificate showing that he has examined and compared such statements with the said tax roll and found them correct, and shall file the original of such statements in his office and forward the duplicate to said township clerk who shall file the same in his office: Provided, That the county treasurer may at any time reject any tax upon any land which shall have been twice assessed, or upon any parcel which shall be so erroneously or defectively described upon the tax roll that it cannot be correctly and easily ascertained. The township treasurer or other collecting officer upon filing such statement with the county treasurer, or within 5 days thereafter, shall file a duplicate statement with the secretary or director of each school district showing the amount of school taxes collected for the school district and the amount of school taxes remaining unpaid which have been returned delinquent to the county treasurer. The township treasurer or other collecting officer at the time of filing such statement shall also prepare duplicate statements or copies thereof to be signed and approved by the secretary or director of each school district which shall be recorded by the township clerk and filed with the supervisor of the township. The county treasurer shall cancel all real estate taxes assessed against lands upon which exemption has been claimed and allowed under the provisions of paragraph (e) of the eleventh subdivision of section 7 of Act No. 206 of the Public Acts of 1893, as amended, being section 211.7 of the Compiled Laws of 1948. Upon the cancellation of the amount of taxes exempted under the provisions of said paragraph (e) of the eleventh subdivision of section 7 of Act No. 206 of the Public Acts of 1893, as amended, being section 211.7 of the Compiled Laws of 1948, the county treasurer shall prepare a statement showing all descriptions concerning which such taxes have been can-

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celled, the names and addresses of the persons whose taxes have been cancelled, the total amount of taxes cancelled, together with the amount of taxes assessed against such descriptions, and shall forward such statement to the auditor general who shall draw his warrant upon the state treasurer, for payment from the general fund, for the total amount of taxes cancelled as shown by such statement and forward such warrant to the county treasurer. The county treasurer shall give to the township treasurer a receipt, stating the amount of moneys paid to him by such township treasurer, for which the township shall receive a credit on the books of the county treasurer, and he shall also give the township treasurer a statement of all taxes rejected by him, the amount of delinquent taxes returned, and the amount of any unpaid taxes on personal property, which receipt and statements shall be the vouchers of such treasurer of the amounts specified therein.

HISTORY: CL 1897, 3878;—CL 1915, 4051;—CL 1929, 3446;—Am. 1931, p. 135, Act 87, Eff. Sep. 18;—Am. 1937, p. 233, Act 149, Imd. Eff. Jul. 2;—Am. 1939, p. 62, Act 37, Imd. Eff. Apr. 13;—Am. 1943, p. 374, Act 230, Eff. Jul. 30;—Am. 1945, p. 418, Act 269, Eff. Sep. 6;—Am. 1947, p. 449, Act 282, Eff. Oct. 11;—CL 1948, 211.55;—Am. 1951, p. 147, Act 117, Imd. Eff. May 31.

211.56 Township or city treasurer; discharge of bond; tax roll, filing; evidence; delinquent personal taxes, accounting, liability, collection by county treasurer.

Sec. 56. The county treasurer shall thereupon indorse the fact of such settlement on the bond of the township or city treasurer, which indorsement shall operate as a discharge of the treasurer and his sureties from the obligation thereof, unless the return of such treasurer is incorrect, in which case such bond shall continue in force, and such treasurer and his sureties shall be liable thereon for all damages occasioned by such incorrect returns; and the township treasurer shall immediately deposit his tax roll with the county treasurer, who shall file and preserve the same in his office, and which said roll or a duly certified copy thereof shall, for all purposes, in all courts, suits and proceedings, be taken, held and used as evidence, in the same manner and with like effect as the original roll. The county treasurer shall give the township or city treasurer a statement of all the personal taxes which remain uncollected, taken from the return of the latter, with a warrant authorizing him or his successor to collect them according to law, and thereafter such treasurer or his successor shall have the same power to collect such taxes as under the original warrant: Provided, That nothing in this act contained shall require any township or city to advance to the county treasurer or school district treasurer the amount of any unpaid state, county and school district taxes assessed against personal property, but any sums collected by any township or city treasurer upon such state and county personal property taxes subsequent to said settlement with the county treasurer shall be paid to the county treasurer and any sums collected by any township or city treasurer upon such school district personal property taxes subsequent to said settlement with the county treasurer shall be paid to the school district treasurer within 10 days after the collection thereof and the county treasurer and the township or city treasurer shall thereupon credit the same upon the returned tax roll and give receipt therefor, and in his next settlement with the auditor general he shall account for such portion thereof as represents state taxes. The bond, if any, given by the township or city treasurer to the county treasurer covering the collection of state, county and school taxes shall not be kept in force on account of any unpaid personal property taxes but in case any treasurer should default in the payment to the county treasurer of any collected state or county personal property taxes or to the school district treasurer of any collected school district personal property taxes, after the termination of such bond, then the township or city of which he is treasurer shall be liable therefor: Provided further, That the board of supervisors in any county now or hereafter having a population of 400,000 or more may by resolution of a majority of the supervisors-elect in such county provide for the collection of such

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delinquent personal taxes by the county treasurer, in the following manner: After the accounting has been made and the other duties performed, set forth in this section, the county treasurer shall collect such delinquent state, county, city, township, village or school district taxes. On the first day of March or as soon thereafter as possible, he shall send notices to all known delinquent taxpayers, demanding payment of the delinquent personal property taxes. Failure to send or receive such notice shall not in any way prejudice the right to collect or enforce the payment of such tax. If any such delinquent taxpayer shall neglect or refuse to pay such tax, the county treasurer shall have like power of distraint and sale as that given the township or city treasurer in section 47 of this act. He may also use whatever remedies there may be at law or equity for the collection of any indebtedness in order to enforce the payment of such tax. He shall add to the amount of the assessed tax any collection fee, distraint and sale fee, interest, penalty or charge in this act set forth and shall also collect whatever costs, fees, or expenses as may be allowed by any court in which action may have been taken. All such fees, interest, penalties, costs, charges or expenses as he may collect shall go to the general fund of the county. The amount of the assessed taxes collected by him shall be distributed to the different taxing units in the same manner as the delinquent land taxes collected by him are distributed.

HISTORY: CL 1897, 3879;—CL 1915, 4052;—CL 1929, 3447;—Am. 1933, p. 303, Act 200, Eff. Oct. 17;—Am. 1945, p. 419, Act 269, Eff. Sept. 6;—Am. 1947, p. 637, Act 339, Eff. Oct. 11;—CL 1948, 211.56.

211.56a Personal property taxes unpaid for 5 years; striking from rolls; decree; duties of county treasurer.

Sec. 56a. On or before the first day of May in the sixth year after any tax upon personal property has been levied which remains uncollected, the township or city treasurer shall make in substantial record books duplicate statements showing such taxes upon personal property remaining unpaid, and the names of the persons against whom assessed, the amount assessed against each which remains uncollected to which shall be added all fees and penalties for which provision is made by this act or by any city charter. The original copy of such statement shall be filed with the circuit court of the county in which such township or city is located together with a petition, which shall appear on the first page of the record book containing the statement required herein, addressed to such circuit court stating therein that the taxes upon personal property as shown in such statement have remained unpaid for more than 5 years after they were returned to the county treasurer as delinquent, that the same have remained delinquent despite the fact that he and his predecessors in office have exercised due diligence in an effort to collect them and they are, to his best knowledge and information, uncollectible. Such petition shall pray that a date, not less than 30 nor more than 45 days after the date of filing such petition, shall be set for a hearing thereon and that said court shall, after said hearing, enter a decree in favor of such township or city providing in all cases where the court shall determine that the township or city treasurer and his predecessors in office have exercised due diligence in an effort to collect the taxes upon the personal property listed in said statement provided for in this section, that such taxes shall be stricken from the tax rolls of the county and township or city and shall cease to constitute an asset of such township or city, of the county in which the same is located, and of any school district in which such personal property was located at the time it was assessed for taxes. The township or treasurer shall, not less than 10 days prior to the date set by the circuit court for the hearing herein provided for, notify the county treasurer and the clerk or secretary of any school district in which any personal property may have been located at the time it was assessed for taxes of the filing with the circuit court of such petition and of the statement herein required to be made and of the date set for hearing thereon. Within 15 days after the hearing herein provided for shall have been held a final decree shall be entered in the

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chancery record for recording the decrees of such court, having the usual caption for decrees, and shall state, as to all items or personal taxes set forth in the statement of uncollected taxes filed with the court for which the township or city treasurer and his predecessors in office shall be deemed by said court to have exercised due diligence in an effort to collect the taxes upon such personal property, that such taxes shall be stricken from the tax rolls of the county and of the township or city and shall cease to constitute an asset of such township or city, of the county in which the same is located and of any school district in which such personal property was located at the time it was assessed for taxes and that the debt created by the provisions of this act or by any city charter of the person assessed for such taxes to the township or city shall, from the date of such decree, assume the status of a debt against which the statute of limitations has run. A copy of such decree shall be served upon the county clerk, the clerk of the township or city, as the case may be, and upon the clerk or secretary of each school district located in such township or city: Provided, however, That in counties where the county treasurer collects such delinquent personal property taxes as provided in section 56, above set forth, the said county treasurer shall undertake and carry out all of the proceedings to strike from the rolls in like manner as above provided for the respective township and city treasurers, and in the construction of this section 56a, the words county treasurer shall be read into the act wherever the words township or city treasurer occur.

HISTORY: Add. 1941, p. 361, Act 234, Imd. Eff. June 16;—Am. 1947, p. 638, Act 339, Eff. Oct. 11;—CL 1948, 211.56a.

211.57 Delinquent tax statement; county treasurer, duties; county clerk's certificate; return of delinquent taxes to state treasurer; notice to delinquent taxpayers.

Sec. 57. When any county treasurer shall receive from a township, city or village treasurer a statement of unpaid taxes, together with a list of the lands on which the same are delinquent, verified according to law, such county treasurer shall enter the same at length on the books in his office, provided for that purpose, and he shall make a statement of all the descriptions of land returned as delinquent for unpaid taxes, except such as may have been rejected by him, with the several taxes assessed upon such descriptions respectively, which statement shall be compared by the county clerk with the statement of unpaid taxes filed by the township, city or village treasurer, and if the county clerk finds it to be a true statement thereof, he shall add to it a certificate that he has, upon careful examination, found it correct. Such statement, so made, compared and certified shall be considered the return of delinquent taxes by the county treasurer to the department of the state treasury under the provisions of this act, and shall be completed not later than May 1 next after the return to the county treasurer of the statements of the several township treasurers. The state treasurer, when in his judgment it may be deemed expedient, may extend for a period not to exceed 30 days the time within which said statement shall be completed. The state treasurer shall prescribe rules and regulations governing and shall supervise the preparation of such statement. Such statement shall be kept on file in the office of the several county treasurers as custodians for the state treasurer and shall not be forwarded to the state treasurer. It shall be the duty of the several county treasurers to perform such duties with respect to the maintenance and correction of such statement as shall be prescribed by the state treasurer. The keeping of such statement shall take the place of the records of delinquent taxes in the department of the state treasury prior to sale of lands delinquent for taxes, as in this act provided.

Within 120 days after the county treasurer shall receive from the township treasurer a statement of unpaid taxes, together with a list of the lands on which the same are delinquent, verified according to law, the county treasurer shall mail to the persons as-

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sessed for such unpaid taxes as well as the legal owner of the property in cases where they are not the same party a notice that the same have been returned to the county treasurer as unpaid. The notice shall state the amount of taxes unpaid, and penalties, interest and charges thereon, and shall state that a description of the property assessed is on file in the office of the county treasurer. This paragraph shall not apply in any county of this state until adopted by resolution by a majority vote of the members elect of the board of supervisors of such county.

HISTORY: Am. 1897, p. 283, Act 225, Imd. Eff. May 29;—CL 1897, 3880;—CL 1915, 4053;—CL 1929, 3448;—Am. 1935, p. 415, Act 243, Imd. Eff. Jun. 8;—Am. 1937, p. 639, Act 325, Imd. Eff. Jul. 27;—Am. 1939, p. 63, Act 37, Imd. Eff. Apr. 13;—CL 1948, 211.57;—Am. 1967, p. 260, Act 193, Eff. Nov. 2.

211.57a Auditor general to prescribe practice for county treasurers; failure of treasurer to comply; auditor general may complete work, expense borne by county; auditor general to furnish to county treasurers changes in tax laws; duty of treasurer.

Sec. 57a. It shall be the duty of the auditor general to prescribe uniform practices, forms and methods which shall be used by the several county treasurers of this state in carrying out the provisions of this act. All proceedings under the authority of the provisions of this act shall be conducted in conformity with the uniform practices prescribed therefor by the auditor general. On the neglect or failure on the part of any county treasurer to abide by the uniform practices and use the uniform forms prescribed, the auditor general may give notice in writing to the county clerk and to the board of county supervisors, or in lieu of such board the board of county auditors in counties having such board, which notice shall state the facts constituting the alleged neglect or failure. If such alleged neglect or failure is not corrected within 10 days after the giving of such notice, the auditor general shall have complete power and authority, by himself or his deputy or authorized agents, to enter the office of said county treasurer and complete the work in said office in conformity with such uniform practices, the expenses thereof to be charged back to the county, which expense shall be paid from the general fund of the county.

It shall be the duty of the auditor general within 30 days after the final adjournment of the legislature in every year to furnish the county treasurers with instructions relative to changes made in the tax laws of the state with respect to the duties of the township treasurers and county treasurers in connection with the collection of taxes. It shall be the duty of the several county treasurers within 7 days after the receipt of such instructions to forward a copy thereof to each township treasurer in his respective county. Such instructions shall contain all changes made since the filing of the previous instructions. In case of the furnishing of the first instructions to county treasurers under the provisions of this section, all changes of tax collection procedure as well as instructions with respect to tax collection procedures shall be furnished.

HISTORY: Add. 1939, p. 64, Act 37, Imd. Eff. Apr. 13;—CL 1948, 211.57a;—Am. 1953, p. 30, Act 34, Imd. Eff. Apr. 29.

211.58 Payments to county treasurer; receipt, numbering, certificate.

Sec. 58. After the return of lands for unpaid taxes the county treasurer is authorized to receive, under like provisions as in section 53 of this act, the amounts of the several taxes or any of them due, and the board of supervisors in each county may authorize notice to be given to all delinquent taxpayers so far as known: Provided, That neither taxes nor special assessments which are delinquent may be paid under protest to the county treasurer. The county treasurer shall issue duplicate receipts for all such taxes received by him, which shall be accounted for by the county clerk, or by the board of auditors in counties having such boards, 1 of such duplicate receipts shall be delivered to the person paying the taxes, and 1 filed in the office of the county treasurer, which receipt shall be available to the county clerk or board of county auditors in counties having such boards for abstracting and accounting purposes. All receipts issued under

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the provisions of this section shall be consecutively numbered by the printer and by such printer delivered to the county clerk who shall account for same. At the time the printer delivers the same to the county clerk, said printer shall notify the auditor general of such delivery, specifying the quantity and numbers of such receipts: Provided, That except when the final installment of the tax is paid, the county treasurer shall not issue a receipt for a payment of less than $1.00 and any tax or installment then sought to be paid in an amount less than $1.00 shall not be discharged or considered paid unless the sum of $1.00 is paid, and the difference between the amount of the tax paid and said $1.00 shall be deemed to be a part payment of the cost of issuing such receipts and shall be credited to the general fund of the county: Provided further, That in the case of payments by the same taxpayer as many descriptions shall be included in 1 receipt as will be sufficient to make a payment of $1.00, as near as may be: Provided further, That when payment of the taxes on any parcel or description of land or on any undivided share thereof is made to any county treasurer, said treasurer shall place or cause to be placed upon the face of the receipt or redemption certificate, the following certificate: "I hereby certify that application was made to pay all taxes and special assessments due and payable at this office on the description shown in this receipt except for the years and items as follows:

(Signed) ..... Treas."

Every such receipt shall be deemed to include the foregoing certificate, and unless otherwise noted thereon, shall be construed as an application to pay all taxes and special assessments assessed against the property described therein and then due and payable at the office of the treasurer issuing such receipt. Future installments of special assessments and future installments of taxes payable under the provisions of Act No. 126 of the Public Acts of 1933, as amended, shall not be considered as being then due and payable.

HISTORY: CL 1897, 3881;—Am. 1905, p. 310, Act 213, Eff. Sept. 16;—Am. 1913, p. 111, Act 76, Eff. Aug. 14;—CL 1915, 4054;—Am. 1917, p. 799, Act 320, Eff. Aug. 10;—CL 1929, 3449;—Am. 1931, p. 414, Act 239, Eff. Sept. 18;—Am. 1937, p. 639, Act 325, Imd. Eff. July 27;—Am. 1939, p. 64, Act 37, Imd. Eff. April 13;—Am. 1941, p. 362, Act 234, Imd. Eff. June 16;—CL 1948, 211.58.

211.59 Payments to county treasurer; collection fee; expense fee; disposition.

Sec. 59. Any person may pay the taxes or any 1 of the several taxes, on any parcel or description of land returned as aforesaid, or on any undivided share thereof, with interest computed thereon from March 1 next after the same were assessed, at the rate of 1/2 of 1% per month or fraction thereof, with 4% as a collection fee, to the county treasurer of the county in which the lands are situated, at any time before they are sold. On all descriptions of land on which any of the several taxes remain unpaid on October 1 next preceding the time prescribed for the sale thereof, there shall be charged an additional $3.00 for expenses, which shall thereafter be a lien on said land and when collected $1.00 shall belong to the general fund of the state to reimburse the state for the cost of publishing the lists of lands and other expense, and $2.00 shall belong to the general fund of the county to reimburse such county for the expense incurred in preparing the list of delinquent lands for sale.

The collection fee paid to the county treasurer shall belong to the general fund of the county, and that paid to the state treasurer shall belong to the general fund of the state.

HISTORY: CL 1897, 3882;—Am. 1899, p. 423, Act 262, Eff. Sept. 23;—CL 1915, 4055;—Am. 1921, p. 280, Act 129, Eff. Aug. 18;—CL 1929, 3450;—Am. 1932, 1st Ex. Ses., p. 46, Act 30, Imd. Eff. May 12;—Am. 1933, p. 469, Act 267, Imd. Eff. July 21;—Am. 1934, 1st Ex. Ses., p. 96, Act 21, Imd. Eff. March 28;—Am. 1937, p. 123, Act 91, Imd. Eff. June 18;—Am. 1939, p. 65, Act 37, Imd. Eff. April 13;—Am. 1941, p. 363, Act 234, Imd. Eff. June 16;—CL 1948, 211.59;—Am. 1954, p. 66, Act 55, Eff. Aug. 13;—Am. 1966, p. 327, Act 244, Imd. Eff. Jul. 11.

Sec. 2 of amendatory Act 129 of 1921 read as follows: "All acts and parts of acts inconsistent with this act are hereby repealed."

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SALE, REDEMPTION AND CONVEYANCE OF DELINQUENT TAX LANDS.

211.60 Tax sale; lands to be sold; fee for expenses; collection fee; lien of state; period for which charged.

Sec. 60. All lands which have been or may hereafter be returned as delinquent for taxes, and upon which any taxes are now or shall hereafter remain unpaid, after their return under the provisions of this act, or to the several county treasurers of the state, shall be subject to disposition, sale and redemption for the enforcement and collection of such tax liens, in the method and manner as hereinafter provided. On the first Tuesday in May in each year, there shall be held in the several counties in this state a tax sale by the county treasurers thereof for and in behalf of the state as hereinafter provided. At the tax sale lands delinquent for taxes assessed in the third year preceding such sale or in any prior year shall be sold for the total of all the unpaid taxes of said years. All such delinquent tax sales shall include $3.00 for expenses as provided in section 59 and a collection fee of 4% and interest at 3/4 of 1% per month from the date such taxes originally became delinquent, in accordance with the provisions of the general tax law. In the disposition and sale of such delinquent tax lands the people of the state shall be deemed to have a valid lien upon the lands, with all the rights to enforce the same as a preferred or first claim upon such lands, and the rights and choses to enforce such lien shall be held and construed by all the courts of this state as the prima facie rights of the state, and shall not be set aside or annulled except in the manner and for the causes herein specified.

HISTORY: CL 1897, 3883;—CL 1915, 4056;—CL 1929, 3451;—Am. 1937, p. 640, Act 325, Imd. Eff. Jul. 27;—Am. 1939, p. 65, Act 37, Imd. Eff. Apr. 13;—Am. 1941, p. 363, Act 234, Imd. Eff. Jun. 16;—CL 1948, 211.60;—Am. 1954, p. 66, Act 55, Eff. Aug. 13;—Am. 1966, p. 328, Act 244, Imd. Eff. Jul. 11.

NOTICE AND LISTS OF LANDS TO BE SOLD.

211.61 State treasurer's petition for sale; schedules to be annexed, contents; collection and expense fees; record book.

Sec. 61. In sufficient time before the time fixed herein for the annual tax sale, the state treasurer shall prepare and file in the office of the county clerk in each county in which lands are to be sold under the provisions of this act, a petition addressed to the circuit court for said county, stating therein by apt reference to lists or schedules annexed thereto a description of all lands in such county upon which taxes have remained unpaid for more than 1 year after they were returned as delinquent, and the total amount of such taxes, with interest computed thereon as provided in this act to May 1 following the filing of the petition, and a collection fee of 4% extended separately against each parcel of land and he shall include with and add to such total amount against each parcel, $3.00 for expenses as provided in section 59. Such petition shall pray a judgment in favor of the state against the land for the payment of the several amounts so specified therein, and in default thereof that such lands be sold. It shall be signed by the state treasurer and need not be otherwise verified, and shall be deemed equivalent to a bill in chancery to enforce the lien for such taxes, interest and charges, averring their validity, that they have not been paid, and praying for a sale to pay such lien. Lands heretofore or hereafter bid off in the name of the state and thus held, and on which taxes have been assessed subsequent to the tax for which such lands were sold and purchased by the state, shall be included in such petition for all such subsequent taxes which have remained unpaid for more than 1 year after they were returned as delinquent. The petition shall be in a substantial record book, with the lists of lands and taxes annexed following the same therein. Such record shall be ruled with appropriate columns, 1 containing a description of the lands, with other columns as the state treasurer may find necessary. The word "petition" shall be construed to include the lists annexed thereto. The record shall be called "tax record".

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Parts of descriptions of land upon which taxes are paid before sale, or which are withheld from sale, the amount paid on taxes before sale, the amount of taxes, interest and charges adjudged against lands, special orders made by the court relating to any parcel of land or any tax, the interest in each parcel of land sold, the name of each purchaser and his address, and the number of certificate of sale shall be entered in said record under their appropriate headings, opposite to the description of lands affected thereby. The county treasurer shall, under the direction of the state treasurer, prepare the lists and schedules herein required.

HISTORY: Am. 1897, p. 284, Act 225, Imd. Eff. May 29;—CL 1897, 3884;—Am. 1899, p. 423, Act 262, Eff. Sep. 23;—CL 1915, 4057;—CL 1929, 3452;—Am. 1937, p. 123, Act 91, Imd. Eff. Jun. 18;—Am. 1939, p. 66, Act 37, Imd. Eff. Apr. 13;—Am. 1941, p. 364, Act 234, Imd. Eff. Jun. 16;—CL 1948, 211.61;—Am. 1954, p. 67, Act 55, Eff. Aug. 13;—Am. 1966, p. 328, Act 244, Imd. Eff. Jul. 11.

211.61a Notice to taxpayer; treasurer to mail, form; expenses.

Sec. 61a. As soon as the state treasurer's petition, with a list of delinquent tax lands is filed with the county clerk under the provisions of section 61 of this act and not less than 30 days before the date fixed for the annual tax sale, the county treasurer of each county in this state shall notify such persons, according to the records of his office, each piece or parcel of land upon which taxes are then delinquent, and which are subject to sale at the next ensuing annual tax sale by mailing to the last known address of such persons, a notice in substantially the form prescribed below. The notice shall be sent to each person, directed to his last known post-office address with postage fully prepaid thereon:

Office of the county treasurer of ..... county, Michigan.

Sir:

You are hereby notified that the annual tax sale of lands for delinquent taxes of 19...., and prior years for the county of ....., will be made at the county treasurer's office of said county at the county seat of said county, on the ..... day of May, 19.... . According to the records of this office the following described lands are assessed to you and certain years' taxes thereon appear to be unpaid as stated below.

Description of land:

.....

Amount of delinquent taxes unpaid for the year 19....., $..... . If the taxes on the above mentioned lands are not paid prior to the date upon which said sale is to be held, then said lands will be sold for the taxes above stated.

Very truly yours,

.....

County Treasurer.

At the time the state treasurer forwards his petition to the county clerk of each county, he shall also send to the county treasurer of each county in this state, a sufficient number of printed forms to enable the county treasurer to notify the owners of all lands included in the petition in accordance with the provisions of this section. The cost of mailing the notices shall be paid to the county treasurer out of the general or contingent fund of each county on allowance by the board of supervisors or board of county auditors. Failure to receive or serve such notice shall not invalidate the proceedings taken under the state treasurer's petition and decree of the circuit court, in foreclosure and sale of the lands for taxes.

HISTORY: Add. 1905, p. 339, Act 234, Eff. Sep. 16;—Am. 1913, p. 76, Act 52, Eff. Aug. 14;—CL 1915, 4058;—CL 1929, 3453;—Am. 1937, p. 641, Act 325, Imd. Eff. Jul. 27;—Am. 1939, p. 66, Act 37, Imd. Eff. Apr. 13;—Am. 1941, p. 365, Act 234, Imd. Eff. Jun. 16;—CL 1948, 211.61a;—Am. 1967, p. 280, Act 193, Eff. Nov. 2.

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211.62 County clerk and circuit judge; duties; court order, form.

Sec. 62. It shall be the duty of the county clerk, on the filing of the said petition, to at once present the same to the circuit judge of the county in which said delinquent tax lands are situated, and it shall be the duty of said circuit judge to make an order in the form herein prescribed, which order, when so made and signed by the circuit judge, shall be countersigned by the county clerk as register in chancery, and recorded by him in the proper books of his office, and thereupon it shall be the duty of said county clerk to immediately make a true copy of said order, and transmit the same to the auditor general. Said order shall be substantially in the following form:

STATE OF MICHIGAN, }
County of ..... } ss.

The circuit court for the county of ..... in chancery.

In the matter of the petition of ....., auditor general of the state of Michigan, for and in behalf of said state, for the sale of certain lands for taxes assessed thereon: On reading and filing the petition of the auditor general of the state of Michigan, praying for a decree in favor of the state of Michigan, against each parcel of land therein described, for the amounts therein specified, claimed to be due for taxes, interest and charges on each such parcel of land, and that such lands be sold for the amounts so claimed by the state of Michigan. It is ordered that said petition will be brought on for hearing and decree at the ..... term of this court, to be held at ....., in the county of ....., state of Michigan, on the ..... day of ..... A.D. 18...., at the opening of the court on that day, and that all persons interested in such lands or any part thereof, desiring to contest the lien claimed thereon by the state of Michigan, for such taxes, interest and charges, or any part thereof, shall appear in said court, and file with the clerk thereof, acting as register in chancery, their objections thereto, on or before the first day of the term of this court above mentioned, and that in default thereof the same will be taken as confessed and a decree will be taken and entered as prayed for in said petition. And it is further ordered that in pursuance of said decree the lands described in said petition for which a decree of sale shall be made, will be sold for the several taxes, interest and charges thereon as determined by such decree, on the first Tuesday in May thereafter, beginning at 10 o'clock a.m., on said day, or on the day or days subsequent thereto, as may be necessary to complete the sale of said lands and of each and every parcel thereof, at the office of the county treasurer, or at such convenient place as shall be selected by him at the county seat of the county of ....., state of Michigan; and that the sale then and there made will be a public sale, and each parcel described in the decree shall be separately exposed for sale for the total taxes, interest and charges, and the sale shall be made to the person paying the full amount charged against such parcel, and accepting a conveyance of the smallest undivided fee simple interest therein; or, if no person will pay the taxes and charges and take a conveyance of less than the entire thereof, then the whole parcel shall be offered and sold. If any parcel of land cannot be sold for taxes, interest and charges, such parcel shall be passed over for the time being, and shall, on the succeeding day, or before the close of the sale, be reoffered, and if, on such second offer, or during such sale, the same cannot be sold for the amount aforesaid, the county treasurer shall bid off the same in the name of the state.

Witness the Hon. ....., circuit judge, and the seal of said (circuit) court of ..... county, this ..... day of ..... A.D. 18....

Countersigned, ...
Circuit Judge.

.....
Register.

HISTORY: Am. 1895, p. 294, Act 154, Eff. Aug. 30;—Am. 1897, p. 285, Act 225, Imd. Eff. May 29;—CL 1897, 3885;—Am. 1899, p. 424, Act 262, Eff. Sept. 23;—CL 1915, 4059;—CL 1929, 3454;—CL 1948, 211.62.

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211.63 Designated newspapers; auditor general, duties; notice of tax sale advertising.

Sec. 63. The newspapers in which such order and petition are to be published shall be designated by the auditor general on or before September 1 in each year, and not afterwards, unless the publisher of the newspaper so designated shall fail to accept such designation within 15 days after the same is made, or shall refuse or neglect to publish and print such order and petition, or unless, from any other cause, such publication shall become impracticable; in which case the auditor general shall designate some other newspaper for that purpose before the time limited for commencing publication. In counties where 1 or more regularly established newspapers have been printed, published and circulated more than 1 year prior to such designation, 1 of such newspapers shall be designated for the publication herein required.

The auditor general shall also cause to be carried in not to exceed 10 newspapers in each county a notice advising the public of the tax sale advertising. The newspapers shall be designated by the auditor general, and the notice referred to shall be carried once in each of the newspapers designated on a date selected by the auditor general and shall contain the name of the newspaper in the county which has been designated to print the order and petition and description of lands advertised.

HISTORY: Am. 1897, p. 286, Act 225, Imd. Eff. May 29;—CL 1897, 3886;—CL 1915, 4060;—CL 1929, 3455;—Am. 1939, p. 67, Act 37, Imd. Eff. Apr. 13;—CL 1948, 211.63;—Am. 1965, p. 392, Act 229, Imd. Eff. Jul. 16.

211.64 Publication by distribution; county treasurer, duties.

Sec. 64. In case there is no paper published in such county, or if from any cause no paper can be secured in any county to publish such order and petition, the auditor general shall cause such order and petition containing the list of lands delinquent for taxes to be printed in proper form for general distribution, and shall furnish the county treasurer with such number of the same as may be necessary to furnish each voter at the last general election in said county with 1 copy, and such county treasurer shall distribute the order and petition in such manner that copies thereof may become public in every township in said county, and shall post or cause to be posted 3 copies in 3 public places in each township, and shall file affidavit of the posting and distribution of the same in the usual form in the office of said county treasurer and of the auditor general.

HISTORY: CL 1897, 3887;—CL 1915, 4061;—CL 1929, 3456;—CL 1948, 211.64.

211.65 Lands delinquent for taxes; advertisement cost, limit; additional notices.

Sec. 65. The total cost of the advertising shall not exceed the sum of $4.00 per column inch as measured in the initial publication and shall include the description of lands so advertised and sold. The petition and court order, column headings and captions within the columns shall be paid for at the same rate. Copy for the description of lands for the tax sale and for the petition and court order shall be set on 6 point slugs in columns at least 11 picas wide, except for captions and headings within the columns, the size of which shall be specified by the auditor general. Copy set on slugs larger in size than 6 point shall be paid for on the basis of the amount of space required if set on 6 point slugs.

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The additional notices referred to in section 63 shall not exceed 2 columns in width and 5 inches in length and the inch rate charged for such notices shall not exceed the designated newspaper's published inch rate prices.

HISTORY: CL 1897, 3888; Am. 1913, p. 105, Act 72, Eff. Aug. 14;—CL 1915, 4062;—Am. 1921, p. 86, Act 56, Eff. Aug. 18;—CL 1929, 3457;—Am. 1932, 1st Ex. Ses., p. 35, Act 19, Imd. Eff. May 5;—Am. 1933, p. 462, Act 262, Imd. Eff. Jul. 17;—Am. 1937, p. 124, Act 91, Imd. Eff. Jun. 18;—Am. 1939, p. 67, Act 37, Imd. Eff. Apr. 13;—Am. 1948, 1st Ex. Ses., p. 10, Act 7, Imd. Eff. Apr. 28;—CL 1948, 211.65;—Am. 1953, p. 108, Act 111, Eff. Oct. 2;—Am. 1965, p. 393, Act 229, Imd. Eff. Jul. 16.

211.66 Publication of petition and order for hearing; jurisdiction, objections, hearing, evidence; order setting aside taxes; decree.

Sec. 66. The auditor general shall cause a copy of the order and a copy of the petition to be published once in each week for 3 consecutive weeks preceding the time fixed for the hearing thereof, in some regularly established newspaper in the county where such petition is filed, to be selected by the auditor general. The order and petition shall both be published in the same newspaper, the order immediately preceding the petition: Provided, In such petition it shall be sufficient to print against each parcel the years for which delinquent and the total of taxes, interest and charges due in said years. The cost of such publication shall be paid by the state. The proprietor of such newspaper shall furnish the proper county treasurer, not to exceed 300 copies of such publication, 10 such copies to each city and village clerk and township supervisor, and 2 such copies to the auditor general, and the auditor general and county treasurer shall carefully examine the notices published and see that they are correct. The term 3 consecutive weeks means 3 publications and the dates of the publications shall be specified by the auditor general. Any person familiar with the facts may make an affidavit as to the publication required. The auditor general shall not pay for any such publication until satisfied that it has been made according to law. The publication of the order and petition aforesaid shall be equivalent to a personal service of notice on all persons who are interested in the lands specified in such petition, of the filing thereof, of all proceedings thereon and on the sale of the lands under the decree, and shall give the court jurisdiction to hear such petition, determine all questions arising thereon, and to decree a sale of such lands for the payment of all taxes, interest and charges thereon. The circuit court in chancery shall have jurisdiction to hear, try and determine the matters alleged in such petition, even though the amount involved therein be less than $100.00. It shall be the duty of the prosecuting attorney to prosecute all such proceedings on the part of the state. If he shall refuse, neglect or be unable to do so, the court shall appoint some competent person to take charge of and prosecute the same, who shall be paid by the county. The board of supervisors may employ some competent person to prosecute such proceedings or assist therein. Proof of the publication of the order and petition herein required shall be filed in both the office of the county clerk and auditor general before any final order is made. Proof of the filing of such affidavit of publication in the office of the auditor general may be made by affidavit of the auditor general, or his deputy. Any person having any interest in the lands or any portion thereof included or referred to in said petition desiring to contest the validity of any tax shall file in writing his objections thereto with the clerk of the county in which said lands are advertised for sale and serve a copy thereof on the prosecuting attorney of the county, and the auditor general, and the county, city, village, township and school district, the validity of the taxes of which are contested, and file proof of such service on or before the day fixed in said notice for the hearing of such petition, and shall not be allowed to make any objections not therein specified. Hearing upon such objections shall not be held until such service has been made and due proof thereof filed. If on the day fixed in such notice for the hearing of such petition or on the day following that day, it shall be made to appear to the court that any person has been prevented from filing his objections to any tax without any fault on his part, such further time may be granted for that purpose as may seem proper, not

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exceeding 5 days. The court shall give precedence to the hearing of such petition over all other business, shall examine, consider and determine the matters therein stated and objections made, in a summary manner without other pleadings, and make final decree thereon as the right of the case may be. The taxes specified in the petition shall be presumed to be legal and a decree be made therefor unless the contrary is proved. Evidence shall be taken in open court. All oral testimony shall, at the request of any person interested, be written down and filed. The court may make such orders from time to time as may be necessary to facilitate the proceedings, and shall decide all questions as to the admissibility of evidence, and the decisions so made shall be final and not subject to review or appeal. If the lands of 2 or more persons have been assessed together, the court may, if practicable, separate the same and apportion to each parcel its just proportion of the taxes, interest and charges. If any tax shall be found illegal, such part shall be set aside and the remaining tax shall be decreed valid. The total amount of taxes, interest and charges, as fixed by the court, shall be entered by the register of the court opposite each parcel of land in the column of said record under the heading "amount decreed against lands." If the court shall make any order setting aside the taxes on any parcel of land, or any part thereof, or any special order relating to any particular parcel of land, or taxes thereon, a brief entry of such order shall be made upon said records opposite such land or tax, which shall be signed by the judge of the court, either by his full name or initials, and such entry shall have the same effect as if made and entered as a part of a final decree. At least 10 days prior to the time fixed for the sale of such lands, the court shall make a final decree in favor of the state of Michigan for the payment of such taxes, interest and charges as shall be valid, and determine the total amount thereof chargeable against each parcel of land, and shall order and decree that unless such payment be made such several parcels of land, or so much of each as may be necessary to satisfy the amount fixed by such decree, shall severally be sold as the law directs. Such decree shall be considered as a several decree in favor of the state of Michigan against each parcel of land for each tax included therein. The court may decree such costs against a person contesting any tax as may be equitable, if the tax, or any part thereof which remains unpaid, be adjudged valid. In the absence from the file of proper affidavit of publication as required by this section, secondary evidence of such publication and of the due filing of such affidavit shall be admissible: Provided, That according to the calendar entry of the clerk of such court an affidavit of publication was filed. The affidavit of such publication filed in the office of the auditor general shall be admissible as secondary evidence.

HISTORY: Am. 1895, p. 310, Act 162, Eff. Aug. 30;—CL 1897, 3889;—Am. 1899, p. 45, Act 31, Imd. Eff. Apr. 6;—Am. 1899, p. 435, Act 264, Eff. Sep. 23;—CL 1915, 4063;—CL 1929, 3458;—Am. 1937, p. 124, Act 91, Imd. Eff. Jun. 18;—Am. 1939, p. 68, Act 37, Imd. Eff. Apr. 13;—Am. 1941, p. 365, Act 234, Imd. Eff. Jun. 16;—CL 1948, 211.66;—Am. 1965, p. 393, Act 229, Imd. Eff. Jul. 16.

211.67 Decree for sale; form; vesting of title in state; disposition of disputed taxes; appeal, condition; rejection and reassessment.

Sec. 67. Such final decree shall be entered in the chancery record for recording decrees of such court, have the usual caption for decrees, and shall be substantially in the following form:

"State of Michigan,
The circuit court for the } In chancery
county of .....

At a session of said court held at the court house in the ..... of ..... on the ..... day of ..... A.D. 19....

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Present: Hon. ....., Circuit Judge

In the matter of the petition of ....., auditor general of the state of Michigan, for and in behalf of said state, for the sale of certain lands for taxes assessed thereon:

The said petition and the matters therein stated, and the objections filed to certain taxes therein claimed (if any such objections are filed) came on to be heard, and proof of the due publication of the order of hearing, and of said petition having been made and filed, and after hearing all parties interested therein: It is ordered, adjudged and decreed that the amount of taxes, interest, collection fee, and charges set down in the column headed 'amount decreed against lands,' in the tax record of which said petition forms a part, are valid, and decree is made in favor of the state of Michigan therefor against each parcel of said land for payment of the amount set down in said column opposite to such parcel. It is further ordered, adjudged and decreed that unless said amount be paid prior to said sale, that said several parcels of land, or such interest therein as may be necessary to satisfy the amount herein decreed against the same, shall be severally sold as the law directs, on the ..... day of May, A.D. 19...., beginning at 10 o'clock a.m. on said day, or on the day or days subsequent thereto as may be necessary to complete the sale of said lands and of each and every parcel thereof, at the office of the county treasurer, or at such convenient place as shall be selected by him at the county seat of the county of ....., state of Michigan. It is further ordered, adjudged and decreed that title to each parcel of land ordered in this decree to be offered for sale, and which parcel of land is bid in at such sale to the state, shall become absolute in the state of Michigan on the expiration of the period of redemption from such sale, and all taxes, special assessments, which are charged against or are liens upon such parcel, and other liens and encumbrances, against such parcel of whatever kind or nature, shall be cancelled as of such date, unless any said parcel of land shall be redeemed as provided in section 74 of Act No. 206 of the Public Acts of 1893, as amended, or unless an appeal shall have been taken as provided in said act. It is further adjudged and decreed that the several special orders made by this court, and entered on said tax records, are made a part hereof, with the same effect as if entered herein.

(Countersigned) .....

Circuit Judge

.....

Clerk of Courts."

Unless sooner redeemed, upon the expiration of such period of redemption provided for in section 74 of this act, absolute title to the lands so sold and bid in to the state shall vest in the state of Michigan as provided in said decree. If costs are adjudged against any person contesting a tax, the decree therefor shall be in proper form and execution awarded. The decree shall be signed by the judge and countersigned by the clerk. Immediately after the entry of such decree, the county clerk shall make a certified copy thereof, and annex the same to the tax record. He shall thereupon deliver such tax record to the county treasurer, in whose office the same shall remain, except as needed in the office of the county clerk. If from any cause the hearing on said petition is not had on the day fixed in the notice therefor, the same shall stand continued from day to day during the term without the entry of any order of continuance, until disposed of, and if it shall for any reason be found impracticable to hear and determine the objections to all of the taxes specified in such petition within the time herein fixed for that purpose, then and in that case the court shall, within the time herein

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named, make a final decree as to all taxes to which no objections have been filed, and also those to which objections have been filed, which the court has then heard and passed upon. Such decrees shall be signed and recorded as hereinbefore provided. The court shall proceed with the consideration of the remaining taxes embraced in such petition, and objections thereto, and as soon as practicable dispose of the same by 1 or more decrees and in such form as the court may determine, which shall be entered in the chancery record of decrees of such court, and the same shall describe the lands and specify the total amount of taxes, interest and charges on each parcel thereof. The county clerk shall immediately thereafter deliver to the county treasurer a certified copy of such decree, to be kept and used as hereinbefore provided. Such copy of decree shall be annexed to the tax record and shall thereby become a part thereof. If from any cause no decree shall be made on such petition as to the taxes therein named, or any part thereof, the auditor general shall, as soon as practicable, file a new petition for decree and sale, and proceedings thereon shall be the same and a decree and sale made as herein provided.

In case a decree is given in favor of the validity of any disputed tax, and the person contesting its validity desires to appeal to the supreme court, he shall be allowed to do so on paying the amount of the decree to the county treasurer, within 10 days after the date of such decree, who shall retain the same until the decision of the supreme court, and pay the same to the party interested, if such tax is held invalid; if held valid, then such money shall be credited to the proper fund. By such payment the land in question shall be discharged from the lien of the tax. In case the decision is against the validity of any tax, either the county treasurer or the auditor general shall have a right to direct an appeal therefrom to the supreme court on behalf of the state, but there shall be no sale for the tax held invalid, until such decision has been reversed or modified by the supreme court.

The proceedings where the validity of any tax is in dispute shall, where no other provision is made herein, follow the ordinary chancery practice, and the court may allow amendments as in ordinary cases. Notice shall be given of all appeals to the supreme court, and such appeal shall be claimed, entered and bond for costs given, within 20 days after the making and entering of the decree. Any party appealing from such decree, except the auditor general and any political subdivision of the state, shall file a bond for costs in the usual form, the amount thereof and sureties thereon to be approved by the court which entered the decree. The judge shall, at the request of either party and on due notice, settle in proper form a case containing so much of the record and proceedings as may be necessary to the due understanding thereof by the supreme court, and if appeal shall be taken, such case shall be transmitted to such court. An appeal as to the tax on any parcel shall not delay or affect the proceedings for the sale of any land on which there has been no appeal.

In case the court in its decree shall determine an assessment to be void because of an erroneous or indefinite description of the parcel of land, the court shall, in such decree, direct the auditor general to reject such tax and cause the same to be reassessed on a correct description of the parcel of land. Such decree shall also set forth the correct description of such land.

HISTORY: CL 1897, 3890;—Am. 1899, p. 426, Act 262, Eff. Sept. 23;—CL 1915, 4064;—CL 1929, 3459;—Am. 1937, p. 180, Act 114, Imd. Eff. June 25;—Am. 1939, p. 541, Act 282, Imd. Eff. June 16;—Am. 1941, p. 387, Act 234, Imd. Eff. June 16;—CL 1948, 211.67.

211.67a Delinquent tax lands; deed to state; recording.

Sec. 67a. The state treasurer shall within 60 days convey by deed to the state all lands the title to which has become absolute in the state by virtue of court decree and nonredemption within the statutory period. The board or department having control and jurisdiction of land so conveyed shall cause said deeds to be recorded in the office of the register of deeds of the proper county. The register of deeds upon delivery to

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him for that purpose of any such deed shall record the same in his office. The register of deeds for recording such deeds shall receive the sum of 50 cents each.

Cancellation of taxes; removal from tax roll.

All taxes and special assessments which are charged against or are liens upon said lands at the time the title becomes absolute in the state, and all taxes and special assessments which are charged against or are liens upon lands sold by the department of conservation or the state land office board on land contract at the time any such land contract is forfeited, shall be canceled, but no part of such taxes due to the inferior taxing units shall be charged to the state, but the state, and its inferior taxing units, respectively, shall bear the loss on such taxes which properly belongs to each, and the county treasurer shall make lists of all such lands in each taxing unit of the county and transmit such lists to the respective assessing officers of the county in which such lands are located. Each assessing officer shall produce his list to the board of review while in session for the purpose of reviewing the assessment roll. The assessing officer shall omit and cancel from his assessment roll all lands the title to which has become absolute in the state, and any lands sold on land contract by the department of conservation or state land office board where such land contract has been forfeited, as shown by said list and it shall be the duty of the board of review, when in session to compare the assessment roll of the taxing unit with the lists so furnished by the county treasurer, and correct all mistakes, and said lands, the title to which has become absolute in the state, including any lands sold on land contract by the department of conservation or state land office board where such land contract has been forfeited, shall be subject to taxation or special assessment for any purpose immediately after the same shall be offered for sale and the bid accepted in accordance with the provisions of Act No. 155 of the Public Acts of 1937, as amended, and notice of sale given to the county treasurer by the state land office board or the department of conservation.

Conveyance to state housing development authority.

Notwithstanding any other provision of law, the state treasurer shall upon request of the state housing development authority convey by deed to the state housing development authority any lands title to which has become absolute in the state by virtue of court decree and not redeemed within the statutory period. These shall be lands which the state housing development authority has determined are needed to promote a program of home ownership among low and moderate income persons.

HISTORY: Add. 1937, p. 182, Act 114, Imd. Eff. Jun. 25;—Am. 1939, p. 543, Act 282, Imd. Eff. Jun. 16;—Am. 1941, p. 369, Act 234, Imd. Eff. Jun. 16;—Am. 1943, p. 380, Act 231, Imd. Eff. Apr. 20;—CL 1948, 211.67a;—Am. 1968, p. 513, Act 303, Imd. Eff. Jul. 1.

211.67b Lands sold for taxes; easements, right of way, permit, dedication.

Sec. 67b. Notwithstanding any other provision of law, any land sold for taxes shall remain subject to any visible or recorded easement, right of way or permit in favor of the United States, the state or any political subdivision or agency thereof or any public authority or drainage district, or granted or dedicated for public use or for use by a public utility.

HISTORY: Add. 1964, p. 86, Act 86, Eff. Aug. 28.

211.68 Unoffered lands; state bid; taxation.

Sec. 68. If for any reason the treasurer of any county shall fail to offer the lands lying therein and included in the decree for sale for delinquent taxes thereon, then so many of such lands so included in such decree as shall not be so offered for sale, shall be considered and treated as if bid off to the state by the county treasurer, and shall be subject to redemption and sale in the same manner and within the same time as may be provided by law in the case of lands actually bid in for the state as provided in this act. All lands bid off to the state as provided in this section shall continue liable to be taxed in the same manner as if not bid in to the state until the expiration of the period

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of redemption provided in section 74 of this act, and all such taxes shall be a charge and lien upon such lands as in the case of other lands, except as provided in this act.

HISTORY: CL 1897, 3891;—CL 1915, 4065;—CL 1929, 3460;—Am. 1941, p. 370, Act 234, Imd. Eff. June 16;—CL 1948, 211.68.

211.69 Delinquent tax lands of incompetent persons; equitable relief; state's lien.

Sec. 69. Whenever it shall be satisfactorily shown to the court that any lands included in such petition as delinquent for taxes shall belong to infants, minor heirs, idiots or insane persons, without guardians or without any other means of support, the court is, in his discretion, authorized to withhold such lands from sale, until a settlement of such person can be made, and a guardian chosen or appointed to protect the rights and interests of such person: Provided, Such withholding shall not act to prejudice the lien of the state, county or township for such taxes, or the right to include the same in any subsequent petition for sale as in this act provided. In case of the sale of lands belonging to any infant, idiots, minor heirs, insane or incompetent persons, if it shall appear to any court that it is necessary to protect the rights of such incompetent person, to order any sale canceled, or deferred, it may so order, and in such case all proceedings may be stopped, sale canceled or action stayed until the proper proceedings can be had to protect the rights and property of such incompetent person or persons.

HISTORY: CL 1897, 3892;—CL 1915, 4066;—CL 1929, 3461;—CL 1948, 211.69.

SALE BY COUNTY TREASURER.

211.70 Sale; payment of bid; cancellation and forfeiture for failure to make; reoffer, state bid; report and confirmation of sale; setting aside; report to auditor general.

Sec. 70. On the first Tuesday of May, beginning at 10 o'clock a.m., the county treasurer shall commence the sale of the lands mentioned in the decree upon which the amounts charged shall not have been paid, and shall continue the same from day to day, Sundays and other legal holidays excepted, until so much of each parcel shall be sold as shall be sufficient to pay such amounts: Provided, That the county treasurer may deputize 1 or more persons in his office to conduct such sale for him and in his behalf. Such appointments shall be filed by the county treasurer with the county clerk in the court proceedings relating to the tax sale. Each parcel described in the decree shall be separately exposed to sale for the total taxes, interest and charges, and the sale shall be made to the person paying the full amount charged against such parcel, and accepting a conveyance of the smallest undivided fee simple interest therein. No greater interest in any parcel shall be sold than is sufficient to pay the amount of the tax on which the same is sold. If no person will pay the several taxes and charges and take a conveyance of less than the entire thereof, then the whole parcel shall be offered and sold. The sale shall be at the county seat, at the office of or at such convenient place as shall be selected by the county treasurer, and shall be subject to the taxes assessed subsequent to taxes included in the decree and for the year for which the sale is made. The county treasurer may, in his discretion, require immediate payment of any person to whom any parcel of such land may be struck off, and in all cases where payment is not made in 24 hours after sale, he shall declare the bid cancelled and sell the land again; and any person to whom any parcel of land shall be so struck off neglecting for 24 hours after the close of such sale to pay to the county treasurer the amount of such bid, shall forfeit to the state 5 times the amount of such bid, and costs of suit therefor, which amount may be recovered in the name of the people of the state of Michigan in an action of debt, in any court of competent jurisdiction, and it shall be the duty of the county treasurer and prosecuting attorney of the county to prosecute for all such delinquencies and penalties without unnecessary delay. Any

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subsequent bid of such person made at the sale may be disregarded by the treasurer. If any parcel of land cannot be sold for taxes, interest and charges, such parcel shall be passed over for the time being, and shall, on the succeeding day, or before the close of the sale be reoffered; and if, on such second offer, or during such sale, the same cannot be sold for the amount aforesaid, the county treasurer or his deputy or deputies shall bid off the same in the name of the state for the state, county and township, in proportion to the taxes, interest and charges due each. And in such case the taxes assessed on the lands so bid off to the state, and the interest and charges thereon, shall remain a lien upon said lands, and any person or persons may thereafter purchase such lands of the state, as provided in this act. The county treasurer shall enter or cause to be entered in the proper columns of the tax record the interest in lands sold, the name and post-office address of each purchaser opposite each parcel of land sold, and the word "state" opposite each parcel bid off in the name of the state. Certificates shall be given to each purchaser of the lands and interest bid off by him, showing the year's tax for which he has purchased, and also the amount thereof, and of all charges paid by him at the time of such purchase, stating that he will be entitled to a deed after the period of redemption provided for in section 74 has expired, and that if the sale is not confirmed the money will be returned. As soon as possible after the conclusion of any sale, and within 25 days after the day named in the notice for the commencement thereof, the county treasurer shall make and file with the clerk of the court a report of such sale, therein referring to the tax record for the particulars thereof: Provided, however, That the court may upon petition by the county treasurer extend the time within which said report shall be required to be filed not to exceed 50 days from the date of the commencement of the sale. All sales shall stand confirmed, subject to the right of redemption provided for in section 74, unless objections thereto are filed within 8 days after the time limited for filing such report, without the entry of an order or further notice. The practice with reference to setting aside such sale shall be the same, so far as applicable, as in a sale in equity on the foreclosure of mortgages: Provided, No sale shall be set aside for inadequacy of price, except upon payment of the amount bid upon such sale, with interest and costs: Provided further, That no sale shall be set aside after confirmation, except in cases where the taxes were paid, or the property was exempt from taxation. In such cases the owner of such lands may move the court at any time within 1 year after he shall have notice of such sale to set the same aside, and the court may so order upon such terms as may be just. As soon as practicable after sales are confirmed and within 30 days from the date of confirmation, the county treasurer shall make full report of the same to the auditor general, in such form as the auditor general shall prescribe, giving a description of the property sold, the amounts for which the same was sold, and the names and addresses of the purchasers, and thereupon the auditor general shall, after the period of redemption provided in section 74 has expired, execute deeds to the purchasers in such form as shall be determined by him. All lands bid off in the name of the state shall continue liable to be taxed in the same manner as if they were not the property of the state, except as hereinafter provided. If from any cause the lands, or any parcel thereof decreed for sale by the auditor general, shall not be sold as advertised, it shall be the duty of the auditor general to cause sale to be made at such other time as he may fix for that purpose, of which notice shall be published at least 4 weeks prior to such day, and such notice shall contain a description of the lands and the amount claimed thereon, as hereinbefore provided in the first instance. The sale and all proceedings thereon shall be the same as if made on the first day fixed therefor. The several county treasurers shall receive on such sale only such funds as shall be receivable at the state treasury, and all moneys received at any tax sales that belong to the state shall be paid into the state treasury, and the expenses of advertising and sale exclusive of the county's share shall

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be paid therefrom on the warrant of the auditor general, and the remainder shall be placed to the credit of the general fund.

HISTORY: Am. 1897, p. 286, Act 225, Imd. Eff. May 29;—CL 1897, 3893;—Am. 1899, p. 428, Act 282, Eff. Sept. 23;—CL 1915, 4067;—CL 1929, 3462;—Am. 1931, p. 118, Act 71, Imd. Eff. May 6;—Am. 1937, p. 641, Act 325, Imd. Eff. July 27;—Am. 1941, p. 370, Act 234, Imd. Eff. June 16;—CL 1948, 211.70.

211.71 Purchaser's certificate; form.

Sec. 71. At the sale aforesaid the respective county treasurers shall give to the purchasers, on the payment of the bids, a separate certificate in writing for each parcel, describing the lands purchased and the amount paid therefor, the name of the person to whom the same was issued, the number, date and amount of each certificate, and such certificate shall be regularly numbered and entered in the book kept for that purpose and designated as the tax record. Such certificate shall be in substantially the following form:

State of Michigan }
} ss
County of ..... }

County treasurer's office, ... A.D. 19.....

I, ..., county treasurer of the county of ....., in said state, do hereby certify that I did, at public auction, pursuant to notice given as by law required, on this ..... day of ....., A.D. 19...., sell to ..... of ....., the lands herein described, for the sum of ..... dollars and ..... cents, said sum being the amount due and unpaid for taxes, interest and charges on said lands for the year of our Lord 19...., that the said purchaser, his heirs or assigns, will, if said sale stands confirmed, be entitled to a deed of conveyance of said lands, after the expiration of the redemption period following the sale thereof as herein evidenced, unless sooner redeemed from such sale according to law or unless title passes to the state under either prior or subsequent tax sales, in which case no refund of the aforesaid sum shall be made to such purchaser. Said lands are described as follows, with the sum for which they were sold, set opposite each description, that is to say: (Here insert description, and the amount bid therefor).

.....

County Treasurer

HISTORY: Am. 1895, p. 295, Act 154, Eff. Aug. 30;—Am. 1897, p. 289, Act 225, Imd. Eff. May 29;—CL 1897, 3894;—CL 1915, 4068;—CL 1929, 3463;—Am. 1937, p. 643, Act 325, Imd. Eff. July 27;—Am. 1939, p. 543, Act 282, Imd. Eff. June 16;—Am. 1941, p. 372, Act 234, Imd. Eff. June 16;—CL 1948, 211.71.

211.72 Tax deed; title conveyed; quieting of title; writ of assistance; loss of certificate.

Sec. 72. On presentation of such certificate of sale to the auditor general or his deputy after the expiration of the time provided by law for the redemption of lands sold as aforesaid, the auditor general or his deputy shall execute and deliver to the purchaser, his heirs or assigns, a deed of the land therein described, unless the sale thereof shall have been redeemed or annulled as by law provided, which deed shall be entitled to record in the office of the register of deeds of the proper county, in the same manner and with like effect as other deeds duly witnessed, acknowledged and certified. Such deeds shall convey an absolute title to the land sold, and constitute conclusive evidence of title, in fee, in the grantee, subject, however, to all taxes assessed and levied on such lands subsequent to the taxes for which the same was bid off. Such title shall, also, be subject to unpaid installments of taxes under the provisions of Act No. 126 of the Public Acts of 1933, as amended, and all taxes for years subsequent thereto. Any person holding any state tax deed of lands executed by the auditor general for nonpay-

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ment of taxes may commence a suit in the circuit court in chancery of the county where such lands lie to quiet his title thereto without taking possession of such lands and all parties who have or claim to have, or appear of record in the register's office in the county where such lands are situated to have any interest in such land or who may be in possession thereof may be made defendants in such suit; and no outstanding unrecorded deed, mortgage or claim shall be of any effect as against the title or right of the plaintiff as fixed and declared by the decree made in such case; and if, upon hearing of such cause it shall appear that the plaintiff's title was invalid for any reason not enumerated in section 76 of this act, such suit shall not be dismissed by the court but the court shall ascertain the amount due to the plaintiff for principal and interest to be computed at the rate of 7 per cent per annum and shall decree the payment thereof within a reasonable time, and in default thereof shall direct that such land be sold therefor and that the equity and right of redemption of all defendants in such suit, and all persons claiming under them shall be forever foreclosed: Provided, That the proceedings in such cases shall be conducted in the same manner as nearly as may be, and in conformity with the practice in the case of foreclosure of mortgages. The courts may, on application, put the purchaser in possession of the premises by writs of assistance. In the case of the loss of such certificate of sale, the purchaser or his legal representative or assignee, may file his affidavit of such loss, and that he was at the time of such loss the bona fide and legal holder thereof; and the auditor general or his deputy shall thereupon execute, as aforesaid, a deed for the lands described in such certificate, if the same shall not have been redeemed, in the same manner as though it had been presented and surrendered; if the same shall have been redeemed the money shall be refunded to such person upon surrender of the certificate or if lost upon presentation of such affidavit. No refund shall be made in case title to such lands shall have vested in the state pursuant to purchase at a prior or subsequent tax sale. Any person who shall make an affidavit as above required, or concerning any other matter which may be filed in the office of the auditor general, shall be liable to the penalties of perjury for any false statement made in such affidavit with intent to defraud, upon conviction thereof, before a court having jurisdiction of the offense.

HISTORY: CL 1897, 3895;—CL 1915, 4069;—CL 1929, 3464;—Am. 1931, p. 480, Act 290, Imd. Eff. June 8;—Am. 1941, p. 372, Act 234, Imd. Eff. June 16;—CL 1948, 211.72.

NOTE: Act 126, 1933, above referred to, is Compilers' § 211.301 et seq.

PERJURY: See Compilers' § 750.422 et seq.

211.73 Tax deed; setting aside or cancellation; 5 year limitation; improvements; refund; taxes.

Sec. 73. No sale of any lands or deed made by the auditor general under the provisions of this act shall be set aside or annulled by any court of this state after the purchaser, his heirs or assigns have been in actual and undisputed possession of such lands so sold or conveyed for a period of 5 years from the date of such purchase or deed. Whenever any sale made under this act is set aside by any court in a less time than 5 years, the court shall determine and decree the value of improvements made by the purchaser, if he has been in possession, and give judgment therefor, and issue execution to collect the same of the claimant before putting him in possession. If a sale made under this act is set aside by any court or is canceled by the auditor general as provided in this act, the auditor general shall refund to the purchaser the amount paid at the time of the sale, with interest thereon at the rate of 6 per cent per annum from the time of the purchase to the time when said sale was set aside or canceled, out of the general fund of the state: Provided, That no refund of purchase money and interest shall be made after a period of 5 years from the date of expiration of the redemption period in the case of a tax certificate, or after 5 years from the date the purchaser, his heirs or assigns, was entitled to a tax deed, in case a tax deed was issued. In such case the auditor general shall charge back to the county all taxes and the interest and

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charges thereon for all years for which it has been held that the taxes were invalid or the description erroneous, but for all years for which no invalidity has been found he shall proceed to enforce the collection of the taxes for all years refunded as herein provided, as in the case of taxes for which sale has not been made.

HISTORY: Am. 1895, p. 296, Act 154, Eff. Aug. 30;—CL 1897, 3896;—Am. 1899, p. 430, Act 262, Eff. Sept. 23;—CL 1915, 4070;—CL 1929, 3465;—Am. 1939, p. 90, Act 52, Imd. Eff. May 2;—CL 1948, 211.73.

211.73a Tax deed; notice, time; forfeiture and certificate of cancellation, recording; rights prior to amendment; litigation of issues, procedure; chancery jurisdiction.

Sec. 73a. The right to recover possession of any land, or to a refunding of the amount paid, or to secure a tax deed, by any person claiming through or under any deed executed by the auditor general or by any officer authorized to issue tax deeds under the provisions of any former tax law of the territory of the state of Michigan or by virtue of a certificate of purchase issued under the provisions of this act or by the provisions of any such former tax law, shall be forever barred by the actual, open and continuous possession of any person claiming such land adversely to such tax deed, or certificate of purchase, for the period of 5 years after the purchaser of such tax title, his heirs or assigns, is entitled to a deed thereof, or by failure of such tax title purchaser, his heirs or assigns, to make a bona fide attempt to give the notice or notices required by this act, or by the provisions of any such former tax law, for a reconveyance of the premises within the above specified period of 5 years. In case of such failure to give the required notice for reconveyance within the period of 5 years from the date such purchaser, his heirs or assigns shall become entitled to a tax deed to be issued by the auditor general, the person or persons, claiming title under tax deed or certificate of purchase shall be forever barred from asserting such title or claiming a lien on the land by reason of such tax purchase; and such purchaser, his heirs or assigns shall not thereafter be entitled to a refunding of the amount paid as a condition of the purchase of such tax title by reason of any defect, irregularity, invalidity, or any cause whatever affecting the taxes or the sale of the lands for such tax lien. The failure of such tax title purchaser, his heirs or assigns, to present such certificate of purchase or due proof of loss thereof to the auditor general or his deputy, as prescribed in section 72 of this act, or to the officer empowered by any former law to issue tax deeds, within the above specified period of 5 years, shall forever bar such tax title purchaser, his heirs or assigns from securing a tax deed. In the case of failure to present such certificate of purchase to the auditor general or his deputy or to such officer empowered by any former tax law to issue tax deeds, any person owning any interest in the lands so sold for taxes, upon the payment of 50 cents to the auditor general or his deputy, shall be entitled to a certificate of cancellation under the hand and seal of the auditor general or his deputy, setting forth a description of such certificate of purchase and that, according to the records of the auditor general, no tax deed has been issued for such certificate of purchase, and that the time for presentation of such certificate of purchase or due proof of loss thereof has expired, and neither such certificate of purchase nor due proof of loss thereof was presented within the time so limited. Such certificate of cancellation may be received and recorded in the office of the register of deeds of the county in which the lands affected are situated, and when recorded shall be prima facie evidence of the facts so certified, and shall have the same effect as evidence and notice of title as the recording of deeds and other conveyances, and such register of deeds shall be entitled, for the recording of such certificate of cancellation, to the same fees as for recording of deeds.

Provided, however, That this amended section shall not terminate any rights hereunder until 90 days after such effective date: Provided further, That if within the specified period of 5 years such tax title purchaser, his heirs or assigns, has made a bona

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fide attempt to give the notice or notices required by law for the reconveyance of the premises, neither the legality or sufficiency of such sale or notice, nor the bona fides of such purchaser in this attempt to give the statutory notice, shall be questioned, raised or adjudicated except in or by a suit in equity; and when in any case at law it shall appear that any such question is a material issue in the case, it shall on motion of either party be forthwith transferred to the equity side of the court, and there tried and determined in accordance with recognized equitable principles, including provisions for reimbursement for the value of improvements made and taxes paid or other expenses incurred. No person who has himself been properly served with such notice and failed to redeem from such sale in accordance with the provisions of the general tax law, within the period herein specified, shall thereafter be entitled to question or deny in any manner the sufficiency of such notice upon the ground that some other person or persons entitled to notice was not also served therewith: Provided further, That nothing in this section contained shall be deemed or construed, by implication or otherwise, to revive or give any effect to any such tax deed or certificate of purchase heretofore or hereafter barred or voided by operations of law or otherwise, and that all provisions of law in conflict herewith are hereby repealed.

HISTORY: Add. 1907, p. 63, Act 58, Eff. Sept. 28;—CL 1915, 4071;—CL 1929, 3466;—Am. 1939, p. 90, Act 52, Imd. Eff. May 2;—CL 1948, 211.73a.

211.73b Certificates and deeds issued prior to September 28, 1907; barred.

Sec. 73b. Any purchaser's certificate of tax sale of lands issued under this or any prior act, including any law of the territory of Michigan, prior to September 28, 1907, which, or due proof of loss of which, shall not have been presented to the auditor general or his deputy, as prescribed in section 72 of this act, within 90 days after the effective date of this section, shall be forever barred and shall cease to be a cloud upon the title to the lands affected thereby.

No action based upon any tax deed executed by any officer of the state of Michigan prior to September 28, 1907, shall be maintained in any court to recover lands in this state or to establish, maintain, or recover any interest therein against any person in possession thereof who, or whose predecessors in interest, shall have paid or caused to be paid all taxes regularly assessed against said lands for a period of at least 5 consecutive years next preceding the date when such action is brought and who claims said land under a connected chain of title from the person who was the last grantee in the regular chain of title of said lands at the time said tax deed was executed, unless said action shall be brought within 1 year from and after the effective date of this act.

In the case of unoccupied, unimproved, and uninclosed lands a person shall be deemed to be in possession of such lands for the purposes of the preceding paragraph whenever he or his predecessors in interest shall have paid or caused to be paid all taxes regularly assessed against said lands for a period of at least 5 consecutive years next preceding the date when action is brought against him.

Provided, however, That nothing in this section contained shall be deemed or construed, by implication or otherwise, to revive or give any effect to any such certificate or deed heretofore or hereafter barred or voided by operation of law or otherwise.

HISTORY: Add. 1939, p. 91, Act 52, Imd. Eff. May 2;—Am. 1941, p. 373, Act 234, Imd. Eff. June 16;—CL 1948, 211.73b.

211.73c Redemption; notice to owner of expiration of period; form.

Sec. 73c. Not later than 120 days prior to the expiration of the redemption period provided in section 74 of this act, the county treasurer of each county shall send a notice to each person to whom is assessed, according to the records of his office, each piece or parcel of land bid in to the state at the tax sale provided in section 70 of this act, and still held as a state bid. In case the records of his office do not indicate the

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person to whom the land is assessed or the address of such person, the county treasurer shall notify the several assessing officers of the description of such lands, so bid in to the state in their respective districts. After receiving such list and not later than 60 days prior to the expiration of the redemption period, the several assessing officers shall examine their assessment rolls and shall notify the person to whom is assessed, each piece or parcel of land so bid in to the state. The notice to the person to whom such property is assessed shall be in substantially the form prescribed below and shall be sent by registered mail with return receipt demanded, with postage fully prepaid thereon.

Sir:

You are hereby notified that according to the records of this office, the following piece or parcel of land, which is assessed to you, was sold and bid in to the state of Michigan at the annual tax sale of May, 19...., for delinquent taxes of 19...., and prior years. Unless redeemed from said sale on or before ..... 19...., the title to said land will vest and become absolute in the state of Michigan.

.....

Very truly yours,

.....County treasurer or

Assessor of.....

The cost of mailing the notice herein provided for shall be paid to the county treasurer or the assessing officer by the county, township, city or village as the case may be.

Provided, That failure to receive or serve such notice or any defect therein shall not invalidate the proceedings taken under the auditor general's petition and decree of the circuit court, in foreclosure and sale of such lands for taxes.

HISTORY: Add. 1941, p. 374, Act 234, Imd. Eff. June 16;—CL 1948, 211.73c.

REDEMPTION AND ANNULMENT.

211.74 Redemption; certificate; duties of county officers; authority of auditor general.

Sec. 74. Any person, city or political subdivision, owning any of the lands sold as aforesaid, or any interest therein, may, at any time before the first Tuesday of May in the year following such sale, redeem any parcel of such lands, or any part or interest in such lands, by showing to the satisfaction of the county treasurer or auditor general that such person, city or political subdivision owns only that part or interest in the same which such person, city or political subdivision proposes to redeem, by paying to the county treasurer or auditor general the amount of the sale of the parcel of land, or the portion thereof wished to be redeemed, and interest thereon at 1 per cent per month or fraction thereof from the first day of the month in which the tax sale opened. In case such person, city or political subdivision owns less than the whole description sold, the amount required to redeem such part shall be calculated as provided in section 53 of this act. Upon the payment of the redemption money and interest thereon at 1 per cent per month or fraction thereof to the county treasurer as aforesaid, he shall issue a redemption certificate in triplicate in such form as may be prescribed by the auditor general, such triplicate certificates shall be accounted for by the county clerk, or by the board of auditors in counties having such boards, who shall make an entry of the number of such certificate, the amount for which it was given and the name and address of the person paying the same. One of such triplicate certificates shall be delivered to the person making such redemption payment, 1 filed in the office of the county treasurer, and 1 of such triplicate certificates shall be left with the county

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clerk, or the board of auditors, to be immediately transmitted to the auditor general. In case the county clerk or board of auditors shall fail to forward to the auditor general such certificates as hereinbefore required, the auditor general, or his authorized agent or agents, are hereby authorized to take possession of the same in the office of the county clerk or board of auditors in counties having such boards, and the said certificates shall thereafter be part of the records and files of the auditor general.

The county treasurer shall also make a minute of such redemption certificate in the tax record book kept in his office, with the name of the payee, the date and amount paid. All redemption certificates issued under the provisions of this section shall be consecutively numbered by the printer and by such printer delivered to the county clerk who shall account for same. At the time the printer delivers the same to the county clerk, said printer shall notify the auditor general of such delivery, specifying the quantity and numbers of such receipts. Such certificate or triplicate, and the entry thereof by the clerk or the county treasurer, shall be evidence of such redemption payment in the courts of this state: Provided, That each county treasurer shall make a full and complete report to the auditor general of all redemption certificates issued by him during the redemption period which report shall be made not later than 20 days after the expiration of the redemption period. It shall be the duty of the auditor general to compel, in the manner provided by law, the filing of such reports, as herein provided, by the county treasurers and for that purpose may incur such expense as shall be required. Upon such redemption at the office of the auditor general the auditor general shall issue a redemption certificate in triplicate in such form as shall be prescribed by him, the original to be furnished to the person, city or political subdivision making such redemption, the duplicate to be filed in the office of the auditor general, and the triplicate shall be sent to the county treasurer of the proper county, who shall cause the proper entries to be made on the tax record of his county. Such certificate, or copy thereof, and the entry thereof by the county treasurer, shall be evidence of such redemption payment in the courts of this state.

HISTORY: Am. 1895, p. 296, Act 154, Eff. Aug. 30;—Am. 1897, p. 289, Act 225, Imd. Eff. May 29;—CL 1897, 3897;—Am. 1899, p. 430, Act 262, Eff. Sept. 23;—CL 1915, 4072;—Am. 1917, p. 800, Act 320, Eff. Aug. 10;—CL 1929, 3467;—Am. 1932, 1st Ex. Ses., p. 14, Act 10, Imd. Eff. April 28;—Am. 1937, p. 644, Act 325, Imd. Eff. July 27;—Am. 1939, p. 69, Act 37, Imd. Eff. April 13;—Am. 1939, p. 92, Act 52, Imd. Eff. May 2;—Am. 1941, p. 374, Act 234, Imd. Eff. June 16;—Am. 1943, p. 381, Act 231, Imd. Eff. April 20;—CL 1948, 211.74.

REDEMPTION: See also Compilers' § 211.141.

Sec. 74a.

HISTORY: Add. 1939, p. 544, Act 282, Imd. Eff. June 16;—Rep. 1941, p. 386, Act 234, Imd. Eff. June 16.

NOTE: This section dealt with redemption by one of joint owners.

211.75 Annulment of certificate of redemption or tax deed; copy, record, notice to auditor general.

Sec. 75. Whenever any court of competent jurisdiction shall annul any certificate executed by the county treasurer aforesaid or any deed issued by the auditor general, the clerk of such court, on the payment by any party interested of $1.00, shall deliver to such person a certified copy of such judgment or order, which certified copy of such judgment or order shall be a proper subject of record in the office of the register of deeds of the county in which the land is situated, and on recording the same, the register shall enter in the margin of the record of the tax deed affected a brief statement of such judgment or order, and shall also send notice of such judgment or order to the office of the auditor general.

HISTORY: CL 1897, 3898;—CL 1915, 4073;—CL 1929, 3468;—CL 1948, 211.75;—Am. 1963, p. 222, Act 158, Eff. Sep. 6.

211.76 Illegal tax; grounds for holding; other taxes sustained.

Sec. 76. In any suit or proceeding to enforce or set aside any tax before sale, such tax shall be held illegal only for 1 of the following reasons:

First, That no law authorizes such tax;

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Second, That the person or persons appointed to decide whether a tax shall be raised under a given law, have acted without jurisdiction, or have not imposed the tax in question;

Third, That the person or property assessed was exempt from the taxation in question or was not legally assessed;

Fourth, That the tax has been paid;

Fifth, That the supervisor or board of review in assessing a person or property for taxation, or in the apportionment of the tax to the person or property in question acted fraudulently.

If any such illegality, omission or fraud affects the amount of 1 tax only, the tax shall be sustained so far as the same is legal and just.

HISTORY: CL 1897, 3899;—CL 1915, 4074;—CL 1929, 3469;—Am. 1941, p. 375, Act 234, Imd. Eff. June 16;—CL 1948, 211.76.

211.77 Competent evidence.

Sec. 77. In the prosecution or defense of any action or proceeding by any person holding or claiming land under any deed or deeds of lands purchased for delinquent taxes, the party so claiming, under and by virtue of such purchase, may show his title to such land and premises, whether the same was derived under 1 or more purchases, and may give in evidence any and all deeds of conveyance or other evidence of such purchases as aforesaid, which he may at any time have received, and may claim title under any or all of them.

HISTORY: CL 1897, 3900;—CL 1915, 4075;—CL 1929, 3470;—CL 1948, 211.77.

TAX LANDS HELD BY THE STATE.

Secs. 78-82.

HISTORY: Secs. 78-79 Am. 1897, p. 390, Act 225, Imd. Eff. May 29;—CL 1897, 3901-3905;—Sec. 78 Am. 1899, p. 431, Act 282, Eff. Sept. 23.—Secs. 81-82 Am. 1907, p. 37, Act 34, Imd. Eff. April 3;—CL 1915, 4076-4080;—Sec. 79 Am. 1919, p. 53, Act 28, Eff. Aug. 14;—CL 1929, 3471-3475;—Rep. 1937, p. 648, Act 325, Imd. Eff. July 27.

These sections provided for the sale of state tax lands.

211.83 Loss of certificate of sale or deed; proof; issuance of deed, contents, fee.

Sec. 83. In case of the loss of such certificate of sale, the purchaser, or his legal representative or assigns, may file his affidavit, duly verified, of such loss, and that he was, at the time of such loss, the bona fide and legal holder and owner thereof. The auditor general or deputy auditor general shall thereupon execute, as aforesaid, a deed for the land described in said certificate, if the same shall not have been redeemed, in the same manner as though it had been presented and surrendered. The auditor general or deputy auditor general shall execute a second deed of lands conveyed as herein provided, in all cases in which he shall be satisfied, by sufficient proof, that the original deed and record thereof has been lost or destroyed, which said deed shall declare upon its face that it is a second deed, and shall recite the loss or destruction of the former deed, and its date, if possible. Such deed shall inure to the benefit of the grantee in the first deed, his heirs or assigns, as the case may be, and shall have the same force and effect as said first deed. Before the execution of such deed, the party applying therefor shall pay to the auditor general the sum of $1.00, which shall belong to the general fund of the state.

HISTORY: CL 1897, 3906;—CL 1915, 4081;—CL 1929, 3476;—Am. 1943, p. 382, Act 231, Imd. Eff. April 20;—CL 1948, 211.83.

211.84 Purchase of state bids after tax sale; unpaid taxes; certificate; deed.

Sec. 84. Any person may purchase any state bids at any time prior to April 20 in the year following the sale by paying therefor to the auditor general the amount for which the same was bid off to the state, with interest on the same at the rate of 1% per month or fraction thereof from the first day of the month in which such lands were bid

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off to the state. Purchase may be made of any state bid within such period without payment of the taxes of subsequent years as a condition of purchase; but for all taxes remaining unpaid the land shall be liable to sale as provided by section 85 of this act. Upon making payment as above, such purchaser shall be entitled to and receive a certificate, which shall have like effect as the certificate provided for by section 71 of this act. All the provisions of law relative to deeds executed by the auditor general on the surrender of certificates of sale made by the several county treasurers shall be applicable in making deeds for such purchases.

HISTORY: Am. 1895, p. 297, Act 154, Eff. Aug. 30;—CL 1897, 3907;—Am. 1899, p. 431, Act 282, Eff. Sep. 23;—Am. 1915, p. 9, Act 4, Eff. Aug. 24;—CL 1915, 4082;—CL 1929, 3477;—Am. 1932, 1st Ex. Ses., p. 15, Act 10, Imd. Eff. Apr. 28;—Am. 1937, p. 645, Act 325, Imd. Eff. Jul. 27;—Am. 1941, p. 376, Act 234, Imd. Eff. Jun. 16;—CL 1948, 211.84;—Am. 1961, p. 102, Act 95, Eff. Sep. 8.

211.85 Enforcement of remaining unpaid taxes.

Sec. 85. The sale of any of the bids of the state for which the time of redemption has not expired, shall in nowise prejudice the right to enforce the collection of any tax prior or subsequent to the year or years for which the same has been sold as aforesaid, and, for the taxes and charges remaining unpaid for said prior or subsequent year or years, the auditor general shall cause such lands to be offered in regular succession at the next ensuing annual sales for taxes, giving notice as required by law, unless previously redeemed or otherwise discharged.

HISTORY: CL 1897, 3908;—CL 1915, 4083;—CL 1929, 3478;—Am. 1937, p. 645, Act 325, Imd. Eff. July 27;—Am. 1941, p. 376, Act 234, Imd. Eff. June 16;—CL 1948, 211.85.

211.86 Ejectment action, authorized against state; evidence; tax refund.

Sec. 86. In all cases where it shall become necessary, in the prosecution of an action of ejectment by any person holding an adverse claim to any lands hereinafter bid in for the state as provided in this act, the auditor general may be defendant, and in all cases in the prosecution or defense of an action of ejectment or trespass by any person holding or claiming land under any deed or deeds or other conveyance of land bid off or purchased for delinquent or unpaid taxes, the party reclaiming under and by virtue of such purchase for unpaid taxes may show his title to said land and premises, whether the same was derived under 1 or more purchases or sales for taxes or otherwise, and may give in evidence any and all deeds of conveyance or other legal evidence of such purchase as aforesaid, which he may have received on sales for taxes, and may claim title under any or all of them: Provided, In no case shall the state or county be required to refund any taxes or money by reason of defect in said taxes or sales, prior to the particular tax or deed which may be decreed valid.

HISTORY: CL 1897, 3909;—CL 1915, 4084;—CL 1929, 3479;—CL 1948, 211.86.

ACCOUNTS AND SETTLEMENT THEREOF.

211.87 Adjustment of accounts; interest on delinquent payments; charge back lists.

Sec. 87. The accounts between the state, county and each township shall be adjusted on the basis of crediting and paying to each the taxes collected by and for each with the interest thereon. The auditor general shall, on the first day of January, April, July and October in each year, make a statement of account between the state and each county respectively, and render the same to the county treasurer of each county, and draw his warrant on the state treasurer, payable to such county treasurer, for all moneys in the state treasury collected for the county, township, school, highway or any other purposes for such county or township or district thereof, and transmit such warrant to the county treasurer, and notice to the county clerk thereof. At the same time the county treasurers shall pay to the state all moneys collected and due from their respective counties to the state, as shown by such account so rendered by the auditor general to be due the state. On January 15, and on the fifteenth day of each month thereafter, the county treasurer shall pay to the state all moneys coming into

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his hands from the collection of said state tax, and shall transmit therewith a sworn statement of the amount of taxes received from the collector in each assessing district in his county. Also the collector in each assessing district in the county shall pay to the county treasurer of its respective county all moneys collected not later than January 10, and not later than the tenth day of each month thereafter until the regular quarterly settlement for the quarter ending March 31 shall have been made each year. Said county treasurer or collector of each assessing district in the said county shall also pay to the auditor general for the use of the state 1/2 of 1% for each month or fraction thereof as interest on all money in his possession belonging to the state and not remitted on the fifteenth of the month on which remittance is to be made as herein provided. The auditor general shall include all sums due as interest in his quarterly statement to the county treasurer. Such sum shall be paid by the county the same as the taxes are paid and thereafter collected by the county from the treasurer or the sureties on his bond. The county treasurer of each county shall, on or before the fifteenth day of each month make out a detailed statement of the account for the preceding calendar month between the county and the several townships or cities, which statement shall show the different funds to which the several debits and credits belong, and render the same to the township or city treasurer, and pay all moneys shown by said statement so rendered to the township or city to the proper receiving officer of the township or city, and notify the township or city clerk of the items and total amount thereof; also a description of the lands upon which such taxes were paid. The county clerk shall charge such amounts to the county treasurer, and the township or city clerks shall charge such amount to the township or city treasurers on the books of their respective offices. Township and city treasurers shall not be required to make settlement with the county treasurers for the items of state and county taxes included in the annual charge back list until their annual settlement with their county treasurer. The board of supervisors by a majority vote of its members elect may authorize the county treasurer to pay directly to the school districts all moneys as shown on such statement due to the school districts within the county. In such case the county superintendent shall not be required to compute and report delinquent school taxes handled by the county.

HISTORY: Am. 1895, p. 297, Act 154, Eff. Aug. 30;—Am. 1897, p. 282, Act 224, Imd. Eff. May 29;—CL 1897, 3910;—Am. 1899, p. 123, Act 83, Imd. Eff. May 25;—CL 1915, 4065;—Am. 1925, p. 66, Act 54, Eff. Aug. 27;—Am. 1929, p. 250, Act 105, Eff. Aug. 28;—CL 1929, 3480;—Am. 1933, p. 188, Act 134, Eff. Oct. 17;—Am. 1939, p. 70, Act 37, Imd. Eff. Apr. 13;—CL 1948, 211.87;—Am. 1963, p. 27, Act 25, Eff. Sep. 6.

211.87a Detailed statement of delinquent to school district; contents; city or township treasurer, duty.

Sec. 87a. The township or city clerk shall within 10 days after receiving the notice from the county treasurer of the amount of delinquent taxes and a description of the land upon which said taxes were paid, make out and deliver to the moderator or secretary of the district board or board of education of each school district situated in whole or in part within such township or city to which money may be due from delinquent school taxes as shown by the statement of the county treasurer, a detailed statement showing the amount of such delinquent school tax together with the interest thereon and the year of assessment thereof and deliver a copy of such statement to the township or city treasurer. The township or city treasurer shall forthwith pay all moneys shown by such statement to be due such school district to the proper receiving officer of such district and notify the secretary or director of each respective school district of the total amount paid to the school treasurer.

HISTORY: Add. 1929, p. 556, Act 221, Eff. Aug. 28;—CL 1929, 3481;—Am. 1931, p. 135, Act 87, Eff. Sept. 18;—Am. 1945, p. 420, Act 289, Eff. Sept. 6;—CL 1948, 211.87a.

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211.87b Delinquent tax revolving fund; creation; disposition of funds; interest charges, collection fees.

Sec. 87b. (1) The board of supervisors of any county may create a delinquent tax revolving fund. Upon the establishment of the fund all delinquent taxes, except taxes on personal property, due and payable to a taxing unit which receives its delinquent taxes from the fund are due and payable to the county.

(2) The board of supervisors, by a majority vote of the members of the board, shall direct the county treasurer to pay from the fund any or all delinquent taxes which are due and payable to any school district, intermediate school district, community college district, city, township, special assessment district or any other political unit for which delinquent tax payments are due on settlement day with the city or township treasurers.

(3) The board of supervisors, by a majority vote of the members of the board, may direct the county treasurer to pay from the fund directly to a school district its share of the fund when a single school district exists within a political unit.

(4) The interest charges and collection fee rates established under this act shall remain in effect but shall be payable to the county and credited to the delinquent tax revolving fund.

(5) This section shall not supersede section 87 but is an alternative method for paying delinquent taxes to local units.

HISTORY: Add. 1968, p. 160, Act 107, Imd. Eff. Jun. 7;—Am. 1969, p. 397, Act 218, Imd. Eff. Aug. 6.

211.88 Tax report of auditor general; contents, time; entries of county treasurer.

Sec. 88. The auditor general shall, on the first Monday in each month, transmit to the treasurer of each county a list of the lands therein upon which the taxes have been paid to the state treasurer, and also a list of all lands bid in to the state which have been sold during the preceding month, and upon receiving such lists the county treasurer shall make the proper entries showing such payment or sale. Where a sale has been made by the auditor general the county treasurer shall note the fact upon the tax record.

HISTORY: CL 1897, 3911;—CL 1915, 4086;—CL 1929, 3482;—CL 1948, 211.88.

211.89 Unpaid taxes, fees, charges; disposition.

Sec. 89. To all taxes unpaid on the first day of March next after their assessment there shall be added interest at the rate of 1/2 of 1 per cent per month or fraction thereof, and to all taxes returned to the county treasurer there shall also be added a collection fee of 4 per cent. Such interest and collection fee shall be collected with such taxes, and the interest and taxes to be paid to the state, county and township, in proportion to their several rights therein.

The collection fee paid to the county treasurer shall belong to the general fund of the county, and that paid to the auditor general shall belong to the general fund of the state. No other charges shall be added to any taxes voluntarily paid either to the township treasurer, the county treasurer or the state treasurer, except the expense after it accrues under section 59 of this act. The various county and township treasurers shall allocate and distribute such moneys proportionately among the several county or township funds.

HISTORY: CL 1897, 3912;—Am. 1899, p. 432, Act 262, Eff. Sept. 23;—CL 1915, 4087;—Am. 1921, p. 280, Act 129, Eff. Aug. 18;—CL 1929, 3483;—Am. 1931, p. 135, Act 87, Eff. Sept. 18;—Am. 1939, p. 545, Act 282, Imd. Eff. June 16;—CL 1948, 211.89.

NOTE: See also Compilers' §§ 211.59 and 211.106.

211.90 Compensation and expenses; payment.

Sec. 90. All compensation of officers in the assessment and collection of taxes in townships and in the return of delinquent taxes to the county treasurer, except fees

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collected by township treasurers on their tax rolls, shall be paid by the township. All compensation of county officers and expense incurred by them under the provisions of this act shall be paid by the county, and the compensation of all state officers and expenses by them incurred or paid, shall be paid by the state. Expenses made by the state officers shall be audited by the auditor general and paid out of the general fund.

HISTORY: CL 1897, 3913;—CL 1915, 4068;—CL 1929, 3484;—CL 1948, 211.90.

211.91 Losses by default; allocation.

Sec. 91. All losses that may be sustained by the default of any township officer in the discharge of any duty imposed by this act, shall be chargeable to such township. All losses by default of any county officer shall be chargeable to such county, and all losses by default of any state officer shall be chargeable to the state.

HISTORY: CL 1897, 3914;—CL 1915, 4069;—CL 1929, 3485;—CL 1948, 211.91.

MISCELLANEOUS PROVISIONS.

211.92 List of part-paid and homestead lands; contents, time.

Sec. 92. The commissioner of the state land office shall, during the month of January in each year, furnish to the several county treasurers a list of all part paid state lands, and also of all licensed homestead lands that have been licensed for a term of 5 years and over, and upon which patents have not been issued, together with the date of each license and the name of the licensee, in their counties respectively, and such treasurer shall, on or before the tenth day of February next thereafter, cause to be delivered to the supervisor of each township affected thereby an accurate description of all such lands in his township, with the names of the persons holding the same.

HISTORY: CL 1897, 3915;—CL 1915, 4090;—CL 1929, 3486;—CL 1948, 211.92;—Am. 1949, p. 433, Act 285, Eff. Sep. 23.

Secs. 93-94.

HISTORY: CL 1897, 3916, 3917;—CL 1915, 4091, 4092;—Rep. 1921, p. 493, Act 263, Eff. Aug. 18.

Sec. 93 dealt with county treasurer's bond and causes of disability. Sec. 94 dealt with bond of person authorized to conduct sales in case of county treasurer's disability.

211.95 Auditor general withholding sale because of error; taxes charged back; change in boundaries.

Sec. 95. If the auditor general or county treasurer shall discover before the sale of any lands, as aforesaid, that for any reason they should not be sold, he shall cause the same to be withheld from sale; and if the error originated with the township or county officers the amount of such taxes shall be charged against the county from which the same was returned; if such error was made by a township officer the amount thereof shall be charged by the county treasurer to the township in which such error occurred. If there has been a change in the boundaries of any county or town in which the lands are situated after the return of such taxes, such rejected taxes shall be charged to the county to which the lands belong at the time of such rejection.

HISTORY: CL 1897, 3918;—CL 1915, 4093;—CL 1929, 3487;—Am. 1939, p. 71, Act 37, Imd. Eff. April 13;—CL 1948, 211.95.

211.96 Rejected taxes; list; reassessment.

Sec. 96. The county treasurer shall on or before the thirtieth day of June of each year prepare a statement of all rejected taxes giving the reasons for such rejections, and a description of the lands upon which the same were assessed; and the auditor general shall after due examination, if such rejections are approved, submit the same, through the county treasurer, to the board of supervisors at their next annual fall session. If such taxes shall have been rejected or charged back by the auditor general or the county treasurer, except for the reason that such land was not subject to taxation at the time of the assessment for such taxes, or that the taxes thereon have been paid, or that there had been a double assessment thereof, the board of supervisors shall cause the same to be reassessed upon the same land, and collected with the taxes of the then current year, and treated in the same manner as taxes of said current year

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and shall be subject to no other penalties than applies to the taxes of the year of the reassessment and shall be entitled to all the privileges and benefits of Act No. 126 of the Public Acts of 1933, as amended. If such taxes cannot be properly reassessed upon the same lands, the board of supervisors shall cause the same to be reassessed upon the taxable property of the proper township.

HISTORY: CL 1897, 3919;—CL 1915, 4094;—CL 1929, 3488;—Am. 1937, p. 176, Act 110, Imd. Eff. June 24;—Am. 1939, p. 71, Act 37, Imd. Eff. April 13;—Am. 1941, p. 376, Act 234, Imd. Eff. June 16;—Am. 1943, p. 382, Act 231, Imd. Eff. April 20;—CL 1948, 211.96.

211.97 Rejected taxes on detached lands, statement to auditor general; tax credit.

Sec. 97. It shall be the duty of the board of supervisors to furnish to the auditor general a list of all taxes which shall have been rejected or charged back to their county by him, upon lands which shall have been detached from such county subsequent to the time when such taxes were assessed, and the auditor general shall thereupon credit to such county the amount which he may have so far charged back, and charge the same to the county in which such lands may then be situated: Provided, Such taxes shall not have been previously paid or re-assessed.

HISTORY: CL 1897, 3920;—CL 1915, 4095;—CL 1929, 3489;—CL 1948, 211.97.

211.98 Conveyance; grounds for withholding; 5 year limitation; cancelling of sale; rejection and reassessment of taxes.

Sec. 98. Whenever any lands returned to the office of the auditor general under the provisions of any of the general tax laws, or to the county treasurer during the life of the tax law of 1891, shall have been sold on account of non-payment of taxes thereon, if the auditor general shall discover before a conveyance of said lands is executed and delivered:

First, That the land so sold was not subject to taxation at the date of the assessment of the taxes for which it was sold; or

Second, That the taxes had been paid to the proper officer within the time limited by law for the payment or redemption thereof; or

Third, That such sale was in contravention of any of the provisions of this act; or

Fourth, That a certificate, including the certificate provided for in section 135 of this act, tax history or statement to the effect that all taxes charged against said lands had been paid, has been given by the proper officer within the time limited by law for the payment or redemption thereof; or

Fifth, That the description of such lands as used in the assessment was so indefinite or erroneous as to result in the tax lien being void.

The auditor general shall withhold a conveyance of such lands and shall, on demand, cause the money paid therefor to be refunded to the purchaser with interest thereon at 6 per cent per annum: Provided, That in the fourth above mentioned case the person in whose behalf such certificate, tax history or statement was given shall, at the time of presenting such certificate to the auditor general, pay to the state treasurer, on the statement of the auditor general, all taxes and charges due to the state upon such lands at the time such certificate was issued: Provided further, That refunds of purchase money and interest shall not be made after a period of 5 years from the expiration of the redemption period. If the discovery is not made until after the conveyance has been executed and delivered, a certificate of error may be issued in proper form for record; and the deed, if not recorded shall be surrendered when the purchase money is refunded. If the deed has been recorded, the money shall be refunded on a recorded release from the holder of the tax deed: Provided further, That the conveyance of such lands shall not be withheld or a certificate of error issued after a period of 5 years from the date of sale thereof; except for the reasons, first, that the land described therein was not subject to taxation at the time of the assessment of the taxes

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for which it was sold; or, second, that the taxes had been paid to the proper officer within the time limited by law for the payment or redemption thereof: Provided further, That refund of purchase money and interest shall not be made after a period of 5 years from the date the purchaser, his heirs or assigns, was entitled to a tax deed.

In case a conveyance of lands is withheld or a certificate of error issued in accordance with the provisions of this section, the auditor general shall cancel such sale, and if conveyance is withheld or certificate of error issued for either of the first, second or fifth reasons above set forth, reject the taxes and special assessments for the nonpayment of which such lands were sold. Such rejected taxes and special assessments shall be reassessed in accordance with the provisions of section 96 of this act. In case such conveyance is withheld or certificate of error issued for either third or fourth reasons above set forth, he may proceed to enforce the collection of such taxes under and in accordance with provisions of this act, as in the case of lands returned hereunder.

HISTORY: Am. 1895, p. 298, Act 154, Eff. Aug. 30;—CL 1897, 3921;—Am. 1899, p. 432, Act 262, Eff. Sept. 23;—Am. 1903, p. 106, Act 80, Eff. Sept. 17;—CL 1915, 4096;—CL 1929, 3490;—Am. 1939, p. 93, Act 52, Imd. Eff. May 2;—Am. 1941, p. 377, Act 234, Imd. Eff. June 16;—CL 1948, 211.98.

211.98a Certificate of payment of taxes, certificate of error or cancellation of sale; payment by delinquent treasurer.

Sec. 98a. When taxes have been actually paid to the officer authorized by the provisions of this act to receive the same, and the entry of such payment was not made upon the tax roll, the person thereafter applying for a certificate of error or a cancellation of the sale and rejection of the taxes, shall present to the auditor general the certificate of the proper county treasurer that such taxes were paid on the ..... day of ..... (giving date), as appears from copy of receipt therefor on file in his office. A certified copy of such receipt shall be forwarded to the auditor general with such certificate. The county treasurer shall make a certified copy of receipts so presented to him and file the same in his office, and shall return to the person entitled thereto the original receipt. It shall be the duty of the county treasurer to immediately notify the person or officer receiving such payment of the production of such receipt and require payment to be made forthwith to him, the said county treasurer, of the amount not discharged by entry upon the tax roll at the time of payment. And in case of failure of said delinquent treasurer to pay said amount, as requested, within 30 days of the receipt of said notice, it shall be the duty of the county treasurer so notifying, to institute suit against delinquent treasurer and his bondsmen for the recovery of said amount. Upon the receipt of such money so paid to him, the county treasurer shall at once pay the same over to the proper township or other officer or fund entitled to the same, and shall notify the board of supervisors at their annual session in October of the several amounts thus collected and paid over.

HISTORY: Add. 1905, p. 309, Act 212, Eff. Sept. 16;—Am. 1909, p. 26, Act 19, Eff. Sept. 1;—CL 1915, 4097;—CL 1929, 3491;—Am. 1941, p. 378, Act 234, Imd. Eff. June 16;—CL 1948, 211.98a.

211.98b Withholding of conveyance of lands bid in to state; certificate of error; inapplicable to lands disposed of under state land board act.

Sec. 98b. The auditor general shall withhold a conveyance to the state, or if the deed has been executed, shall issue his certificate of error in case of any land the title to which has become absolute in the state by virtue of court decree, sale to the state and failure to redeem therefrom, for any of the reasons enumerated in section 98 of this act: Provided, however, That no certificate of error shall be issued pursuant to the provisions of this section with respect to any land or interests therein which have been conveyed, leased or otherwise disposed of by the state land office board or the department of conservation: Provided further, that in case conveyance is withheld or certificate issued upon the fourth ground enumerated in section 98, payment of such taxes be made as therein required.

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In case a conveyance of lands is withheld or a certificate of error issued in accordance with the provisions of this section, the auditor general shall cancel such sale, and if conveyance is withheld or certificate of error issued for either of the first, second or fifth reasons enumerated in section 98 of this act, shall reject the taxes and special assessments for the nonpayment of which such lands were sold. Such rejected taxes and special assessments shall be reassessed in accordance with the provisions of section 96 of this act.

HISTORY: Add. 1941, p. 378, Act 234, Imd. Eff. June 16;—CL 1948, 211.98b.

211.99 Unprejudicial irregularities; records prima facie evidence; presumption; signing of records; deed unimpeachable.

Sec. 99. No tax assessed upon any property, or sale therefor, shall be held invalid by any court of this state on account of any irregularity in any assessment, or on account of any assessment or tax roll not having been made or proceeding had within the time required by law, or on account of the property having been assessed without the name of the owner, or in the name of any person other than the owner, or on account of any other irregularity, informality, or omission, or want of any matter of form or substance in any proceeding that does not prejudice the property rights of the person whose property is taxed; and all proceedings in assessing and levying taxes and in the sale and conveyance therefor, shall be presumed by all the courts of this state to be legal, until the contrary is affirmatively shown. All records, statements and certificates herein provided for shall be prima facie evidence of the facts therein set forth. The absence of any record of any proceeding or proceedings, or the omission of any mention in any record of any vote or proceeding, or of mention of any matter in any statement or certificate that should appear therein under the provisions of any law of this state, shall not affect the validity of any proceeding, tax, or title depending thereon, provided the fact that such vote or proceeding was had or tax authorized is shown by any other record, statement or certificate made evidence by the terms of this act or any other law of this state. No tax, or sale of property for any tax, shall be rendered or held invalid by showing that any record, statement, certificate, affidavit, paper or return cannot be found in the proper office; and unless the contrary is affirmatively shown, the presumption shall be that such record was made, and such certificate, statement, affidavit, paper or return was duly made and filed. Where any statement, certificate, or record is required to be made or signed by a school district board or a township board, such statement, certificate or record may be made and signed by the members of such boards, or a majority thereof, and it shall not be necessary that other members be present when each signs the same. The provisions of this section shall not be construed to authorize any showing impeaching the validity of any deed executed by the auditor general under the provisions of this act, but such deed shall be held absolute and conclusive as herein provided.

HISTORY: CL 1897, 3922;—CL 1915, 4098;—CL 1929, 3492;—CL 1948, 211.99.

211.100 Prosecuting attorney; duties.

Sec. 100. It shall be the duty of the prosecuting attorney of each county to give his counsel and advice to the county treasurer, the township treasurers, and the supervisors of the county whenever they or any of them may deem it necessary for the proper discharge of the duties imposed upon them in this act free of charge.

HISTORY: CL 1897, 3923;—CL 1915, 4099;—CL 1929, 3493;—CL 1948, 211.100.

211.101 Deed to deceased person; title conveyed.

Sec. 101. In all cases of sale of lands for taxes, if the purchaser or his assigns shall die before a deed shall be executed on such sale, the deed may be executed by the auditor general, to and in the name of the deceased person, if such deceased person being still alive would be entitled to a deed, which deed shall vest the title in the heirs or devi-

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sees of such deceased person, in the same manner, liable to like claims of creditors and other persons as if the same had been executed to said deceased person immediately previous to his death, or the executor or administrator may assign the certificate of purchase and the deed may issue to the assignee thereof, and in like cases which have heretofore occurred, the same rule shall apply, and all deeds heretofore issued in the name of any person deceased who, if living at the time of the execution thereof, would have been entitled thereto, shall have like effect as above provided.

HISTORY: CL 1897, 3924;—CL 1915, 4100;—CL 1929, 3494;—CL 1948, 211.101.

211.102 Delinquent tax return to land office commissioner; time, record; failure to pay, forfeiture.

Sec. 102. The county treasurer shall, at the same time when he makes his return of delinquent lands to the auditor general, make a similar return to the commissioner of the state land office of all homestead and part paid state lands, the fee of which is in the state, the taxes upon which have not been collected, with a statement of the amount thereof. The commissioner of the state land office shall provide suitable books, and enter in the same the description of every parcel of land so returned to his office, and the taxes thereon. The person holding such interest in any parcel of said lands shall, on or before the first day of July following such return, pay to the state treasurer the taxes assessed thereon, with interest at the rate of 1 per cent per month or fraction thereof from the first day of March last preceding; and in default thereof the certificate of purchase of such parcel shall become void and such land shall be subject to sale and redemption in the same time and manner as lands forfeited for nonpayment of interest; and no patent shall be made of such lands until all taxes thereon are paid.

HISTORY: CL 1897, 3925;—Am. 1899, p. 433, Act 262, Eff. Sept. 23;—CL 1915, 4101;—CL 1929, 3495;—CL 1948, 211.102.

COMMISSIONER OF STATE LAND OFFICE: Abolished; powers and duties transferred to the public domain commission, which in turn has been abolished and superseded by the department of conservation. See Compilers' § 322.221, 299.2 respectively.

211.103 Delinquent tax return to land office commissioner; statement of taxes paid, time; credit.

Sec. 103. The commissioner of the state land office shall, on or before the first day of May and November in each year, make out and furnish to the auditor general a statement containing a description of the lands upon which the taxes have been paid, and the amount of such payments, and shall, at the same time, transmit to each county treasurer a copy of such statement so far as the same relates to his county. The auditor general shall credit to each county its proper part of such taxes, and the county treasurer shall credit each township with its share of such amount.

HISTORY: CL 1897, 3926;—CL 1915, 4102;—CL 1929, 3496;—CL 1948, 211.103.

COMMISSIONER OF STATE LAND OFFICE: Abolished; powers and duties transferred to the public domain commission, which in turn has been abolished and superseded by the department of conservation, see Compilers' §§ 322.221 and 299.2 respectively.

211.104 Improvements by dispossessed persons; lien.

Sec. 104. If any person dispossessed of lands purchased in pursuance of the provisions of this act shall have made improvements thereon, he shall be entitled to recover what such improvements are worth, and shall have a lien on such lands therefor, and may enforce the same by bill in equity where no other provision is made by law.

HISTORY: CL 1897, 3927;—CL 1915, 4103;—CL 1929, 3497;—CL 1948, 211.104.

211.105 Organization of new county; division of township; effect on assessments; credit.

Sec. 105. In case of the organization of a new county after the time for making the assessment roll, and prior to the return of the township treasurer, such new organization shall in no way affect the assessment, collection or return of taxes for that year on any lands attached to the new county. No division of a township after the time for making the assessment roll, and prior to the return of the township treasurer, shall in any way affect the assessment, collection and return of such taxes; but such taxes shall

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be assessed, collected and returns made as though there had been no such division. If lands are detached from any county after the taxes thereon are returned to the auditor general, and any such taxes are afterwards rejected or set aside, the county from which they were detached shall receive credit, and the county to which they are attached shall be charged, as may be proper under the provisions of this act.

HISTORY: CL 1897, 3928;—CL 1915, 4104;—CL 1929, 3498;—CL 1948, 211.105.

211.106 Payment to county treasurer before sale; part payment, effect.

Sec. 106. The taxes on any lands returned as delinquent may be paid to the county treasurer at any time prior to the day of sale. After such petition is filed with the county clerk, payment of part of the taxes therein specified shall not stay proceedings thereon to enforce payment of such part of such taxes as are not paid, but such proceedings shall continue as to all unpaid taxes as herein provided.

HISTORY: Am. 1895, p. 299, Act 154, Eff. Aug. 30;—CL 1897, 3929;—CL 1915, 4105;—CL 1929, 3499;—Am. 1937, p. 645, Act 325, Imd. Eff. July 27;—Am. 1939, p. 72, Act 37, Imd. Eff. April 13;—CL 1948, 211.106.

NOTE: See also Compilers' §§ 211.59 and 211.89.

211.107 Application of act; board of review in cities, duties, proceedings, oath of office.

Sec. 107. This act shall be applicable to all cities and villages where not inconsistent with their respective charters. With such exceptions, the provisions herein as to supervisors, township treasurers, and boards of review, shall include all assessing and collecting officers, and all boards whose duty it is to review any assessment roll. The word township may include city, ward or village. When, by the charter or ordinances of any city or village, delinquent taxes or assessments are returned with other taxes to the county treasurer, such city or village shall not be entitled to payment of or credit for the same until the money has been received, notwithstanding anything in their respective charters to the contrary: Provided, That in any incorporated city, the charter of which does not provide for a board of review, such board shall consist of the several supervisors or other officers making the assessment, the city attorney, and additional members to be appointed by the common council, who shall not be aldermen, equaling the number of supervisors or assessing officers. The session of said board of review shall be held at the council room on the same days as designated in this act for the meeting of the township board of review, and the proceedings thereof conducted, as near as may be, in the same manner. Said board shall elect a chairman and clerk, who shall certify to the correctness of the several assessment rolls when completed, substantially as the form prescribed in sections 29 and 30 of this act. The appointed members of said board of review shall take the constitutional oath of office, which shall be filed in the office of the city recorder or clerk.

HISTORY: CL 1897, 3930;—CL 1915, 4106;—CL 1929, 3500;—CL 1948, 211.107.

211.107a Authority of city to increase rate of taxation; referendum, maximum; reduction, limitation.

Sec. 107a. No city shall have power to increase the rate of taxation now fixed by law, unless the authority to do so shall be given by a majority of the electors of said city voting at the election at which said proposition shall be submitted, but the increase in any case shall not be such as to cause such rate to exceed 2 per centum of the assessed value of the real and personal property in such city: Provided, That no tax rate of any city shall be fixed which will reduce the combined taxing power of county, state, school district, metropolitan district, and port district, or any combination of these units, over any parcel of property, below 15 mills per dollar of assessed valuation, except as provided in section 11(b) of Act No. 62 of the Public Acts of 1933, as amended.

HISTORY: Add. 1949, p. 681, Act 317, Eff. Sep. 23.

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211.108 Unpaid tax return; ordinance; description rejected by county treasurer; judicial sale, authorization.

Sec. 108. The authorities of any city or village, the charter of which does not so provide, may provide by ordinance for the return of all unpaid taxes on real property to the county treasurer in the same manner and with like effect, as returns by township treasurers. In such case the words and characters by which the property is described on the village tax roll and so returned must be the same as the words and characters used to describe the property as it appears on the regular township roll, and the county treasurer shall reject, as provided in section 55 hereof, any description returned by the village treasurer which does not agree with the description as it appears on the regular township tax roll for the same year. The taxes thus returned shall be collected in the same manner as other taxes returned, as provided in this act. The authorities of any city or village, which, by its charter, has the right to sell lands for unpaid taxes or assessments, may provide for judicial sale of such lands. Such sale shall be made on petition filed in behalf of the city or village in interest, and shall conform, as near as practicable, to the provisions as to sale in this act: Provided, That whenever any lands are offered at such sale that have been bid to the state at any tax sale made under the provisions of any general tax law, and upon which such bid or bids remain undischarged, any sale made of such lands at the city tax sale shall be conditioned upon the payment of the tax lien held by the state on said land and the sale, so made, shall be void if the tax lien held by the state shall remain unsatisfied.

HISTORY: Am. 1897, p. 262, Act 208, Eff. Aug. 30;—CL 1897, 3931;—CL 1915, 4107;—CL 1929, 3501;—Am. 1943, p. 375, Act 230, Eff. July 30;—CL 1948, 211.108.

211.109 Deputies; authorized acts, responsibility.

Sec. 109. When an officer is authorized to do any act his deputy shall have the same authority, and such officer shall be responsible for the acts of his deputy.

HISTORY: CL 1897, 3932;—CL 1915, 4108;—CL 1929, 3502;—CL 1948, 211.109.

211.110 Compensation of county and township officers; powers of cities.

Sec. 110. Supervisors shall be allowed for their services in assessing property, making tax rolls, and for extending taxes thereon, at the rate of 2 dollars for each day actually and necessarily spent in making the same; the members of the board of review shall be paid at the same rate per day for each day actually and necessarily spent in the attendance upon the board; the accounts for such services shall be verified, audited and paid as other township expenses. County officers shall be paid for services under this act by salary or otherwise as the board of supervisors shall determine: Provided, That all cities in this state shall be exempted from the provisions of this section, and the common council shall have power to fix and determine the compensation of the city assessor and [of] his assistants and of the boards of review, boards of estimates, and all other like officers.

HISTORY: CL 1897, 3933;—CL 1915, 4109;—CL 1929, 3503;—CL 1948, 211.110.

211.111 Deputy township treasurer; appointment, responsibility, compensation.

Sec. 111. Any township treasurer with the approval of the township board and the consent of his bondsmen, which consent shall be in writing and shall be filed with the clerk of the township, may appoint a deputy who shall possess all the powers and may perform all the duties of the treasurer. Such township treasurer and his bondsmen shall be liable for all the acts and defaults of such deputy treasurer. Such deputy shall be paid by salary or otherwise as the township board determines.

HISTORY: Am. 1897, p. 271, Act 214, Eff. Aug. 30;—CL 1897, 3934;—CL 1915, 4110;—CL 1929, 3504;—CL 1948, 211.111;—Am. 1959, p. 49, Act 46, Eff. Mar. 19, 1960.

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211.112 Collected taxes unaccounted; power of supervisor.

Sec. 112. If at any time it shall be discovered that the treasurer of any township has received the tax assessed upon property which has been returned delinquent, the supervisor shall have power, and he is hereby required to collect the same, in the name of his township, from such treasurer or his sureties, together with interest and charges.

HISTORY: CL 1897, 3935;—CL 1915, 4111;—CL 1929, 3505;—CL 1948, 211.112.

211.113 Waste; removal of property from lands bid to state prohibited; warrant for seizure and sale of property; agreement; injunctive relief.

Sec. 113. It shall be unlawful for any person to remove any building or fixture therefrom, sand, gravel or minerals or to cut or remove any logs, wood or timber or any other part of such property reflected in any assessment thereof resulting in any unpaid tax lien, from any lands sold and bid to the state of Michigan, for the nonpayment of taxes, while the state remains the owner of such lands or the holder of any tax lien thereon by virtue of such sale or the nonpayment of any other delinquent taxes, and if any person shall remove such building or fixtures therefrom, sand, gravel or minerals or shall cut or remove such logs, wood, timber or any other part of such property reflected in any assessment thereof resulting in any unpaid tax lien from such lands during the time aforesaid the auditor general or his deputy shall issue a warrant under his hand, in the name of the people of the state of Michigan, directed to the sheriff of the county where such lands are situated, giving therein a description of such lands, the amount of such taxes with interest and charges thereon, then remaining unpaid, commanding such sheriff forthwith to seize such buildings, fixtures, sand, gravel, minerals, logs, wood, timber, or other property reflected in any assessment thereof, resulting in any unpaid tax lien wherever the same may be found in any county in this state and to sell the same or a sufficient quantity thereof to satisfy such taxes, with the interest and charges thereon and the cost of such seizure and sale. The sheriff shall receive such warrant and execute the same as therein directed, as in case of levy and sale on execution, and make return thereof with his doings thereon to the auditor general, within 60 days after the receipt of the same, and pay over all money collected thereon to the state treasurer. The auditor general may furnish the state trespass agent with lists or plats of land bid in by the state and on which the taxes remain unpaid, and the said trespass agent shall examine such lands and promptly report to the auditor general all violations of the provisions of this section. The sheriff and county treasurer of each county are hereby directed to report all such trespass and other acts, prohibited by this section, to the auditor general immediately whenever they shall have knowledge of the same, and any county or township officer having knowledge of such trespass or other acts shall report the facts to the sheriff or county treasurer: Provided, That any person having a fee interest or a land contract vendee, may enter into a contract and agreement with the auditor general or the county treasurer, whereby such person may proceed to remove any such buildings or fixtures therefrom, sand, gravel or minerals or to cut or remove any logs, wood, timber, or any other part of such property reflected in any assessment thereof resulting in any unpaid tax lien provided such person posts satisfactory bonds securing to the state absolute protection against loss to the state, county or any subdivision thereof by reason of such cutting or removing.

The state or any board or department thereof, having jurisdiction thereof, shall have the right to an injunction to restrain waste on any of such land and to prevent the removal or tearing down of any such building or the removal of a fixture therefrom or any such sand, gravel or minerals or the cutting or removal of any such logs, wood, timber or any other part of such property reflected in any assessment thereof, whether or not such acts constitute waste. The circuit court in chancery of the county in which

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such lands or any part thereof are situated shall have jurisdiction to grant such relief upon the filing of a bill or petition therefor whether or not other relief is sought.

HISTORY: Am. 1895, p. 299, Act 154, Eff. Aug. 30;—CL 1897, 3936;—CL 1915, 4112;—CL 1929, 3506;—Am. 1939, p. 85, Act 51, Imd. Eff. May 2;—Am. 1941, p. 378, Act 234, Imd. Eff. June 16;—CL 1948, 211.113.

211.114 Injunctions.

Sec. 114. No injunction shall issue to stay proceedings for the assessment or collection of taxes under this act.

HISTORY: CL 1897, 3937;—CL 1915, 4113;—CL 1929, 3507;—CL 1948, 211.114.

211.115 Waste injunction by certificate holder; procedure.

Sec. 115. The holder of any certificate of sale shall, at any time after its issue, have the right to an injunction to restrain waste on any of the lands described in such certificate and the circuit court in chancery of the county in which such lands are situated shall have jurisdiction to grant such relief on bill or petition, where no other relief is sought.

HISTORY: CL 1897, 3938;—CL 1915, 4114;—CL 1929, 3508;—Am. 1939, p. 86, Act 51, Imd. Eff. May 2;—CL 1948, 211.115.

211.116 Assessment or review willfully erroneous; penalty.

Sec. 116. If any supervisor or other assessing officer of any township or city shall willfully assess any property at more or less than what he believes to be its true cash value, he shall be guilty of a misdemeanor, and on conviction thereof he shall be punished by imprisonment in the county jail not exceeding 1 year, or by fine not exceeding 300 dollars, at the discretion of the court. If any board whose duty it is to review the assessment of an assessing officer shall willfully assess property at more or less than its cash value, the members voting in favor of such action shall severally be guilty of a misdemeanor and on conviction shall be punished by imprisonment in the county jail not exceeding 6 months, or by fine not exceeding 300 dollars, at the discretion of the court.

HISTORY: CL 1897, 3939;—CL 1915, 4115;—CL 1929, 3509;—CL 1948, 211.116.

211.117 Failure to record payment; penalty.

Sec. 117. If any officer to whom any tax is paid shall fail to make proper entry and return of such payment, he shall be liable to any person injured, for the full amount of the injury, and if such failure is willful he shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be punished by imprisonment in the county jail not more than 6 months or by fine not more than 300 dollars.

HISTORY: CL 1897, 3940;—CL 1915, 4116;—CL 1929, 3510;—CL 1948, 211.117.

211.118 Perjury.

Sec. 118. Any person who, under any of the proceedings required or permitted by this act shall willfully swear falsely, shall be guilty of perjury and subject to its penalties.

HISTORY: CL 1897, 3941;—CL 1915, 4117;—CL 1929, 3511;—CL 1948, 211.118.

PERJURY: See Compilers' § 750.422 et seq.

211.119 Willful neglect; penalty.

Sec. 119. Any officer who shall willfully neglect, or refuse to perform any of the duties imposed upon him by this act shall, when no other provision is made herein, be guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the county jail not exceeding 6 months, or by fine not exceeding 300 dollars, in the discretion of the court, and shall be liable to any person injured thereby to the full extent of the injury sustained.

HISTORY: CL 1897, 3942;—CL 1915, 4118;—CL 1929, 3512;—CL 1948, 211.119.

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211.120 Repealed. 1970, p. 596, Act 215, Imd. Eff. Oct. 4.

Section required banks and other financial institutions to file stockholder statements annually with county clerk.

211.121 Publication of tax laws, distribution; service claims audit.

Sec. 121. The auditor general shall, from time to time, as he may deem necessary, cause to be printed at the expense of the state, a sufficient number of copies of this act, and such other laws in force relating to the taxation of property, as may be requisite to a full understanding of all the duties of assessing officers, or other state, county or township officers, with proper side notes, index and forms of proceedings, as may be necessary and proper; to furnish 1 copy to each supervisor, assessor, township clerk and county clerk, and 3 copies to each county treasurer. Each copy shall be marked "state property." He shall transmit to each county treasurer, at the expense of the county, a sufficient number of copies for each county, and every county treasurer shall immediately furnish to the township clerk of each township 5 copies, to be distributed by him to the officers entitled thereto. The board of state auditors shall examine and audit all properly certified claims for services rendered and expenses incurred under the provisions of sections 121, 127 and 128 of this act.

HISTORY: CL 1897, 3944;—CL 1915, 4120;—CL 1929, 3514;—CL 1948, 211.121.

211.122 Forms and record books; auditor general to prescribe.

Sec. 122. It shall be the duty of the auditor general to prescribe or approve all forms, blanks and record books made necessary by this act, and it shall be the duty of said county clerks and treasurers to use the blanks prescribed or approved by the auditor general, and no others.

HISTORY: CL 1897, 3945;—Am. 1913, p. 52, Act 33, Eff. Aug. 14;—CL 1915, 4121;—CL 1929, 3515;—Am. 1941, p. 379, Act 234, Imd. Eff. June 16;—CL 1948, 211.122.

Sec. 123.

HISTORY: CL 1897, 3946;—CL 1915, 4122;—CL 1929, 3516;—Rep. 1941, p. 386, Act 234, Imd. Eff. June 16.

This section provided for statement of delinquent taxes for 1891-1892.

211.124 Auditor general; duties; completed acts recognized; county treasurer's deeds; new deed; future proceedings.

Sec. 124. From and after the passage of this act the auditor general shall perform all the duties in relation to taxes levied, assessed, collected and returned delinquent, sold or to be sold as required by this act: Provided, It shall not be necessary for him to sell or order resold, advertise or re-advertise, and revise or renew any act done by any officer or court under and by virtue of the said act heretofore mentioned in the preceding section, but all such proceedings and acts shall be recognized and held to be legal and valid under this act, subject, however, to the provisions of section 98 of this act. In all cases where deeds have been issued by county treasurers, any such deeds shall be valid and of such force and effect as if issued by the auditor general, but the auditor general may cancel any deed so made by any county treasurer, on the request of the holder thereof, and issue a new deed signed by the auditor general or his deputy as in this act provided. And for all lands advertised and sold by any county treasurer under the authority granted in said act before mentioned, such advertisement and sale shall be held legal and valid, but all such proceedings and all proceedings necessary to be had hereafter in relation to such lands and taxes shall be had under the provisions of this act.

HISTORY: Am. 1895, p. 300, Act 154, Eff. Aug. 30;—CL 1897, 3947;—CL 1915, 4123;—CL 1929, 3517;—CL 1948, 211.124.

211.125 Vested rights.

Sec. 125. All rights which may have accrued to any person, as well as all rights which have accrued or become vested in any individual, corporation, municipality, or the state, under any of the heretofore existing tax laws of the state which have been amended, modified, changed or repealed, shall not be affected, changed or destroyed, but the same shall remain in force, subject to review and enforcement in the courts of

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this state, and for the completion of all proceedings heretofore begun for the collection of taxes or the enforcement of all the requirements of such laws.

HISTORY: CL 1897, 3948;—CL 1915, 4124;—CL 1929, 3518;—CL 1948, 211.125.

211.126 Repeal; saving clause.

Sec. 126. That Act No. 200 of the Public Acts of 1891, entitled "An act to provide for the assessment of property and the levy of taxes thereon, and for the collection of taxes heretofore and hereafter levied, and to repeal Act No. 195 of the Session Laws of 1889, except as provided in this act, and all other acts and parts of acts in anywise contravening any of the provisions of this act," approved July 7th, 1891, and all other acts and parts of acts in anywise contravening any of the provisions of this act, be and the same is hereby repealed: Provided, That such repeal shall not destroy or affect any rights which may have accrued or may hereafter accrue under such acts or parts of acts while the same were in force.

HISTORY: CL 1915, 4125;—CL 1929, 3519;—CL 1948, 211.126.

Sec. 1 of Act 142 of 1905 also repeals Act 200 of 1891.

INSPECTION AND DISPOSITION OF STATE TAX LANDS.

Sec. 127.

HISTORY: Am. 1895, p. 301, Act 154, Eff. Aug. 30;—CL 1897, 3949;—Am. 1899, p. 151, Act 107, Imd. Eff. June 8;—CL 1915, 4126;—Am. 1927, p. 239, Act 155, Imd. Eff. May 12;—CL 1929, 3520;—Am. 1931, p. 68, Act 50, Imd. Eff. April 29;—Am. 1933, p. 403, Act 250, Eff. Oct. 17;—Am. 1937, p. 645, Act 325, Imd. Eff. July 27;—Rep. 1941, p. 386, Act 234, Imd. Eff. June 16.

This section provided for abandoned lands and state title to lands sold for taxes. See Compilers' § 211.67a.

Sec. 127a.

HISTORY: Add. 1917, p. 746, Act 302, Eff. Aug. 10;—CL 1929, 3521;—Rep. 1937, p. 648, Act 325, Imd. Eff. July 27.

This section provided for deeds to state. See Compilers' § 211.67a.

211.127b Abandoned land; state title absolute; state conveyances to city or village; sale, proceeds.

Sec. 127b. Lands located within the corporate limits of any city or village, and acquired by the state by virtue of the automatic operation of section 127 hereof prior to June 15, 1933, and not heretofore conveyed to the state by the auditor general in accordance with said section, after absolute title thereto has been determined so to be in the state by final judgment or decree of a court of competent jurisdiction, and after such judgment or decree is no longer subject to modification or reversal by the same or a higher court, shall be conveyed by the director of conservation to such city or village. All lands conveyed hereunder or any part thereof or interest therein may be sold by such city or village as provided by law or charter, and the proceeds of any such sale shall be applied as provided in section 131 hereof.

HISTORY: Add. 1947, p. 451, Act 283, Imd. Eff. June 27;—CL 1948, 211.127b.

Sec. 128.

HISTORY: CL 1897, 3950;—Am. 1899, p. 153, Act 107, Imd. Eff. June 8;—CL 1915, 4127;—CL 1929, 3522;—Rep. 1941, p. 386, Act 234, Imd. Eff. June 16.

This section provided for recording of deeds to state. See Compilers' § 211.67a.

Sec. 129.

HISTORY: CL 1897, 3951;—CL 1915, 4128;—CL 1929, 3523;—Rep. 1941, p. 386, Act 234, Imd. Eff. June 16.

This section provided for records of commissioner of the state land office, now abolished.

211.130 Taxes cancelled; allocation of burden; correction of assessment roll.

Sec. 130. All taxes charged against such lands in the office of the auditor general at the time they are deeded to the state shall be canceled, but no part of such taxes due to the township or county shall be charged to the state, but the state, county and township respectively shall bear the share of loss on such taxes that properly belongs to each, and the auditor general shall make a list of all such lands in each county on or before the first day of March in each year and transmit such list to the county treasurer and the county treasurer shall serve, or cause to be served, upon the supervisor

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of the township in which such lands are located a copy of the list of lands in such township as furnished to said treasurer by the auditor general. Said supervisor shall produce said list to the board of review while in session for the purpose of reviewing the assessment roll. The supervisor shall omit and cancel from his assessment roll all said lands so deeded to the state, as shown by said list, and it shall also be the duty of the board of review, when in session, to compare the assessment roll of the township with the list so furnished by the county treasurer, as aforesaid, and correct all mistakes, and said lands so deeded as aforesaid shall not be liable to any assessment for any purpose until the same are again sold and deeded by the state, and notice of said sale and deeding given to the county treasurer by the commissioner of the state land office, as hereinafter provided.

HISTORY: CL 1897, 3952;—Am. 1899, p. 153, Act 107, Imd. Eff. June 8;—CL 1915, 4129;—CL 1929, 3524;—CL 1948, 211.130.

COMMISSIONER OF STATE LAND OFFICE: Abolished; powers and duties transferred to the public domain commission, which in turn has been abolished and superseded by the department of conservation, see Compilers' §§ 322.221 and 299.2 respectively.

211.130a, 211.130b Repealed. 1964, p. 392, Act 256, Eff. Aug. 28.

Sections stated rights of homestead entryman's widow or orphaned children.

211.131 Lands withheld from tax sale; minimum price on sale lands; authority of director of conservation and municipalities; distribution of receipts.

Sec. 131. The director of conservation may, with the approval of the conservation commission, withhold from sale such lands as he may determine to be suitable for state forests, state parks, state game refuges, public hunting or recreational grounds. The said director of conservation may affix a minimum price upon any such land not so reserved and withheld. All such lands not so withheld from sale and not held by a city or village shall be offered for sale by said director of conservation at prices to be discretionary with him: Provided, That in the sale of these lands not so reserved and held, the same rules and regulations as provided in Act No. 21 of the Public Acts of 1873, as amended, being sections 322.261 to 322.264 of the Compiled Laws of 1948, shall govern, and no bid shall be accepted for less than the minimum price affixed by such director of conservation. The proceeds from any such sale, after deducting costs paid by the department of conservation for maintaining any of such lands in condition to protect the public health and safety, shall be accounted for to the state, county, township and school district in which the lands are situated pro rata according to their several interests therein arising from the nonpayment of taxes and special assessments thereon as such interest shall appear in the offices of the auditor general, county, city or village treasurers. In case written application shall be made to the director of conservation to purchase any description of said lands not so withheld from sale by the state it shall then be the duty of the director of conservation to examine and appraise the value of the land so offered to be purchased as aforesaid. The director of conservation shall make a record of said appraisement, in a book to be kept in his office for that purpose. After such examination and appraisement, if the director of conservation with the approval of the conservation commission does not elect to withhold said lands from sale as provided herein, it shall be competent and the director of conservation is hereby authorized to sell such description of land to any person so applying for the purchase thereof, but at not less than the appraised valuation. In case of the sale of said lands, the director of conservation shall execute and deliver to the purchaser a deed in such form as he may determine. All moneys received by the director of conservation upon the sale of said lands as provided under the last above proviso shall by him be depos-

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ited in the state treasury to the credit of the state, county and township wherein said lands are situated in proportion to the amount of taxes due to the state, county and township upon the land so sold by the director of conservation at the time of the conveyance to the state of such lands.

HISTORY: Am. 1897, p. 329, Act 240, Eff. Aug. 30;—CL 1897, 3953;—Am. 1899, p. 154, Act 107, Imd. Eff. June 8;—Am. 1901, p. 188, Act 141, Imd. Eff. May 17;—Am. 1915, p. 351, Act 208, Eff. Aug. 24;—CL 1915, 4130;—Am. 1927, p. 241, Act 155, Imd. Eff. May 12;—Am. 1929, p. 600, Act 246, Eff. Aug. 28;—CL 1929, 3527;—Am. 1931, p. 69, Act 50, Imd. Eff. April 29;—Am. 1931, p. 402, Act 230, Imd. Eff. May 29;—Am. 1937, p. 645, Act 325, Imd. Eff. July 27;—Am. 1941, p. 380, Act 234, Imd. Eff. June 16;—CL 1948, 211.131;—Am. 1964, p. 134, Act 141, Aug. 28.

211.131a Delinquent tax lands; conveyance to owner; distribution of moneys received.

Sec. 131a. When the title to any lands shall be vested in the state by virtue of any tax sale, if the state treasurer discovers before a contract or deed of the land is executed and delivered, and before such lands have been developed, improved, dedicated for public use, or otherwise disposed of or encumbered by the department of conservation that the land was not delinquent for the taxes of 1 or more of the years for which the same was sold or that the taxes of any 1 or more of the years should have been rejected for any of the reasons set forth in section 98, or that the taxes of 1 or more years subsequent to the year or years for which the state acquired title have been paid to any county, township, city or village treasurer prior to the date title vested in the state, the state treasurer upon certification by the county treasurer of payment of the amount due on the land as delinquent taxes, together with interest and penalties to date, shall so certify to the department of conservation, which is authorized to convey the land described in such certificate to the owner thereof. All moneys received by the county treasurer as herein provided shall be by him deposited in the undistributed tax fund of the county and distributed by the county treasurer to the credit of the state, county and township, wherein the lands are situated in proportion to the amount due the state, county and township upon the lands so conveyed by the department of conservation.

Deed, revival of title, liens, encumbrances, priorities.

No deed issued under the provisions of this section shall be construed to vest in the grantee therein named any title or interest in such lands beyond that which he would have owned had not title become vested in the state, but such grantee shall be entitled to a lien on such lands, or on such parts thereof or interests therein as were not owned by him, for the amount paid for such deed or such portion thereof as may be lawfully charged to such parts or interests in addition to the lien or other interest before held by such grantee, which lien may be enforced in any court of competent jurisdiction as in other cases of liens upon lands, with interest thereon at 6% per annum from the date of such payment. Such deed shall operate to revive all titles, liens and encumbrances, with their respective priorities, as the same would have existed had not the title become vested in the state, subject to the lien of the grantee therein named as hereinabove set forth.

Mining property; conveyance, reservation.

When the title to mining property shall be vested in the state, if the department of conservation shall discover that the mining company has leased part of the property, and such lease was in effect in the year the taxes for which the state acquired title were assessed, and the property is still occupied by the lessee, the department of conservation is hereby authorized and empowered to convey to the lessee occupying the land, but reserving the mineral rights to the state. The purchaser shall furnish the department of conservation a correct legal description of the property applied for, and shall pay to the county treasurer a sum equal to 25% of the assessed valuation as fixed and determined by the local assessing officer, which sum shall be distributed to the local taxing units in proportion to the delinquent taxes assessed against each descrip-

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tion. Upon certification by the county treasurer that the sum has been paid, the department of conservation shall execute and deliver a quitclaim deed.

Mining property; redemption.

When mining property, part of which has been leased and the lease was in effect when the tax was assessed, and which is occupied by the lessee, is sold for delinquent taxes, the lessee may redeem before the first Tuesday in May of the year following the sale. The lessee may redeem upon furnishing the county treasurer or auditor general a correct legal description of the premises upon which redemption is to be made, and by payment of a proportionate share of the taxes due on the entire parcel as determined by the local assessing officer.

Conveyance to lessee; interest.

If a tax deed is issued to the purchaser as provided in section 72, the purchaser shall convey title to the lessee occupying the land upon the payment of a proportionate share of the taxes due on the entire parcel upon a valuation fixed by the local assessing officer, plus 6% interest per annum. Upon payment of these amounts to the tax deed holder, the tax deed holder shall give the lessee a quitclaim deed to the surface rights.

HISTORY: Add. 1931, p. 464, Act 280, Imd. Eff. Jun. 6;—CL 1948, 211.131a;—Am. 1951, p. 211, Act 167, Eff. Sep. 28;—Am. 1961, p. 9, Act 9, Imd. Eff. Apr. 28;—Am. 1962, p. 159, Act 158, Imd. Eff. May 9;—Am. 1968, p. 477, Act 277, Imd. Eff. Jul. 1.

211.131b Certain state lands not subject to entry as homestead lands.

Sec. 131b. Hereafter lands which have been or shall hereafter be deeded to the state of Michigan as provided in sections 127 and 127-a of this act shall not be subject to entry as homestead lands.

HISTORY: Add. 1935, p. 255, Act 162, Eff. Sept. 21;—CL 1948, 211.131b.

Sections 127 and 127a have been repealed.

211.131c Municipalities may withhold lands from sale; redemption by owner; certificate; when not redeemed.

Sec. 131c. Any municipality may at any time prior to the first Tuesday in November following the vesting of title in the state of Michigan, withhold from sale any lands lying within its boundaries by filing with the department of conservation an application for such withholding, which application shall accurately describe such lands by their legal descriptions according to the records of the auditor general or the department of conservation. Such withholding shall only be effective until the first Tuesday in November of the year following the date of withholding and shall not affect the right of the state to take possession of such lands and manage and rent the same during the period they are withheld. Any of the lands so withheld may be redeemed for the benefit of the former owner by the payment of all amounts due on said lands as delinquent taxes and special assessments, which had been assessed or were a lien at the time title vested in the state, together with interest and penalties thereon, interest to be computed to the date of the application to redeem and in accordance with the provisions of the general tax laws or the charter of a municipality collecting its own delinquent taxes and assessments for tax and assessment liens of such municipality. After such redemption has been effected, the auditor general shall so certify to the department of conservation, which is hereby authorized and empowered to convey the land described in such certificate to the owner thereof. Any municipality collecting its own delinquent taxes and assessments may redeem said lands as owner as herein provided in the event that said municipality, either prior to or during the withholding period, has acquired title to said property by foreclosure of its tax or assessment liens or otherwise, and in which foreclosure proceeding the state need not be named as a party. Such redemption may be effected by payment in the same manner as herein provided for redemption for the benefit of the former owner except that all delinquent taxes and special assessments which had been assessed or were a lien at the time title vested in the state shall be paid in full, together with interest and penalties thereon, interest

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to be computed to the date of application to redeem and in accordance with the provisions of the general tax laws, and the tax and assessment liens of the municipality so redeeming need not be paid. After such redemption has been effected, the auditor general shall so certify to the department of conservation, which is hereby authorized and empowered to convey the land described in such certificate to such municipality. In the event lands included in said application are not redeemed, such lands shall be administered by the department of conservation as provided in section 6 of Act No. 155 of the Public Acts of 1937, as amended, being section 211.356 of the Compiled Laws of 1948, the same as though said application had not been made and if sold the proceeds of such sale paid pro rata to such municipality as provided in section 131 of this act.

No redemption deed issued under the provisions of this section shall be construed to vest in the grantee therein named any title or interest in such lands beyond that which he would have owned, had not title become vested in the state, but such grantee shall be entitled to a lien on such lands, or on such parts thereof or interests therein as were not owned by him, for the amount paid upon such redemption or such portion thereof as may be lawfully charged to such parts or interests, in addition to the lien or other interests before held by such grantee; which lien may be enforced in any court of competent jurisdiction as in other cases of liens upon lands, with interest thereon at 6 per cent per annum from the date of such payment. Such deed, except in those cases where there is redemption as owner by foreclosure decree as above provided by a municipality collecting its own delinquent taxes and assessments for tax and assessment liens of such municipality, shall operate to revive all titles, liens and encumbrances, with their respective priorities, as the same would have existed had not the title become vested in the state, subject to the lien of the grantee therein named as hereinabove set forth.

HISTORY: Add. 1951, p. 211, Act 167, Eff. Sep. 28.

211.131d Tax reverted lands; contracts for management.

Sec. 131d. When title to any lands is vested in this state by virtue of a tax sale and the lands come under the control and jurisdiction of the department of conservation, the department with the approval of the administrative board may enter into contracts with licensed real estate brokers for the management thereof and collection of rents therefrom. The department with the approval of the administrative board may pay commissions, not in excess of that usually paid in the area for such services, for collection of such rents and maintenance costs incident to proper management of such properties from the proceeds of revenues from the sales and rents of such properties.

HISTORY: Add. 1968, p. 295, Act 198, Imd. Eff. Jun. 22.

Sec. 132.

HISTORY: CL 1897, 3954;—CL 1915, 4131;—CL 1929, 3528;—Rep. 1941, p. 386, Act 234, Imd. Eff. June 16.

This section provided for taxation of improvements upon and homestead lands under contract. The statutes since 1935 have prohibited such contracts, see Compilers' § 211.131b.

211.133, 211.134 Repealed. 1964, p. 392, Act 256, Eff. Aug. 28.

Sections provided for taxation of lands obtained under a homestead entry contract, after entryman had perfected his title and provided for disposition of receipts received for, and payment of expenses incurred in regard to such lands.

SUPPLEMENTARY.

211.135 Recording of conveyances; tax certificate; excepted conveyances; register of deeds, violation, penalty.

Sec. 135. When any deed, land contract, plat of any townsite, village or addition to any townsite, village or city plat, or any other instrument for the conveyance of title to

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any real estate, is presented to the register of deeds of any county in this state for record or filing in his office, he shall require from the person presenting the same a certificate from the auditor general, or from the county treasurer of the county whether there are any tax liens or titles held by the state, or by any individual, against such piece or description of land sought to be conveyed by such instrument, and that all taxes due thereon have been paid for the 5 years next preceding the date of such instrument, and a certificate from the city, village, or township treasurer, wherein the lands are located, in any city, village or township collecting its own delinquent taxes or special assessments, whether there are any tax titles or certificates of tax sale held by such city, village or township, or by any individual, against such piece or description of land sought to be conveyed by such instrument, and that all tax titles, tax certificates, or special assessments sold thereon to the city, village or township certifying, have been redeemed for the 5 years next preceding the date of such instrument, and in default of the presentation of such certificate or certificates he shall not record the same until such certificate is secured and presented. When any instrument is presented for certification on or after March 1 and before the local treasurer of the unit in which the lands are located has made his return of current delinquent taxes, the county treasurer shall include with his certification a notation that the current delinquent return was not available for examination, and the register of deeds shall not refuse to record the instrument because of lack of complete certification. Taxes cancelled by court decree made pursuant to section 67 of this act shall be deemed to have been paid within the meaning of this section, provided title to the lands against which such taxes were assessed is not in the state at the date of such certificate. The register of deeds shall note the fact upon said deed that said certificate or certificates have or have not been presented to him when such instrument is presented for record, and in case the person presenting such instrument shall refuse to procure such certificate or certificates, he shall endorse that fact upon said instrument, over his official signature, and shall refuse to receive and record the same: Provided, That the provisions of this section shall not apply to the filing of any town or village plat for the purpose of incorporation, in so far as the land therein embraced is included in a plat already filed in the office of the register of deeds, or in so far as the description of lands therein is not changed by such plat, nor to the filing of any copy of the town, village or city plat in case the original plat filed in the office of such register of deeds has been lost or destroyed, nor to any sheriff's or commissioner's deed executed for the sale of lands under any proceeding in law, or by virtue of any decree of any of the courts of this state, nor to any deed of trust by any assignee, executor or corporation executed pursuant to any law of this state, nor to any quitclaim deed or other conveyance containing no covenants of warranty; nor to any land patent executed by the president of the United States, or the governor of this state, nor to any tax deed made by the auditor general; nor to any deed executed by any railroad company conveying its right of way, provided such deed is accompanied by a certificate of the auditor general showing that all specific taxes due from said railroad company have been paid, to and including the year in which such deed is executed. A violation of the provisions of this section by any register of deeds shall be deemed a misdemeanor, and upon conviction thereof he shall be fined not to exceed $100.00, and he shall further be liable to the grantee of any instrument so recorded for the amount of damages sustained, to be recovered in an action for debt in any court of this state.

HISTORY: Am. 1895, p. 301, Act 154, Eff. Aug. 30;—CL 1897, 3957;—CL 1915, 4134;—CL 1929, 3531;—Am. 1931, p. 446, Act 261, Eff. Sep. 18;—Am. 1941, p. 382, Act 234, Imd. Eff. Jun. 16;—CL 1948, 211.135;—Am. 1958, p. 183, Act 164, Eff. Sep. 13.

CITED IN OTHER SECTIONS: The above section is cited in § 101.

Sec. 136.

HISTORY: Rep. 1945, p. 410, Act 267, Imd. Eff. May 25. This section made temporary provisions for the sale of state tax lands held for five years prior to the annual sale in 1890. It expired by limitation Jan. 1, 1894.

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211.137 Writs of assistance.

Sec. 137. The circuit court may, on application, put the purchaser of any lands, including the state of Michigan and its grantees, sold under the provisions of this act in possession of the premises by writs of assistance.

HISTORY: CL 1897, 3958;—CL 1915, 4135;—CL 1929, 3532;—Am. 1941, p. 383, Act 234, Imd. Eff. June 16;—CL 1948, 211.137.

Sec. 137-a.

HISTORY: Add. 1934, 1st Ex. Ses., p. 85, Act 14, Imd. Eff. March 28;—Rep. 1941, p. 386, Act 234, Imd. Eff. June 16.

NOTE: This section provided for orders of continuance, in causes on applications for writs of assistance.

211.138 Treatment of delinquent lands prior to 1891; tender of legal charges, effect.

Sec. 138. All lands which have been returned to the auditor general as delinquent for taxes under the provisions of any general tax law in force prior to the passage of Act 200 of the Public Acts of 1891, and upon which the taxes are now or shall hereafter remain unpaid and which have not been sold for such taxes, and all lands so returned which have been heretofore sold for such delinquent taxes, and upon which the sale or sales so made shall have been or may hereafter be set aside by any court of competent jurisdiction, or shall have been or may hereafter be canceled, as provided by law, shall be subject to disposition, sale and redemption for the enforcement and collection of such tax liens in the method and manner provided in this act for the disposition, sale and redemption of lands made subject to the provisions of this act by section 60 thereof: Provided, That nothing in this section contained shall be held to provide for the sale of any lands heretofore sold, if the sale thereof shall have been set aside or canceled for any reason affecting the validity of the taxes for which the land was sold: Provided further, That the court may in its discretion, where equity appears to so demand, enter decree of sale for the taxes for any year prior to 1891, for the amount of the taxes found valid, without including the charge for interest thereon as provided by law: And provided further, That if tender of the amount assessed against any land for taxes of 1890, or any prior year is made to the auditor general, together with the collection fee and the charge for expenses as provided by law, at any time before the first day of the month preceding the month in which sale is ordered to be made, he shall issue receipt therefor, and cancel any state bid under which said land is held for said year, and in such case the state, county and township shall bear the loss of accrued interest in proportion to their several interests therein.

HISTORY: Add. 1899, p. 249, Act 169, Imd. Eff. June 23;—CL 1915, 4136;—CL 1929, 3533;—CL 1948, 211.138.

211.139 Examination of proceedings; collection of taxes.

Sec. 139. The auditor general may cause an examination to be made of the proceedings under which any lands bid to the state, and which have not been deeded by the auditor general, were sold for delinquent taxes and bid to the state under the provisions of any general tax law, and if he shall find that such sales or the decrees under and by virtue of which such sales were made were in contravention of any provision of the laws in force at the time such decrees were entered or sales made, he may cancel such sales and proceed at any time to enforce the collection of such taxes under and in accordance with the provisions of this act, as in the case of lands returned or sold thereunder.

HISTORY: Add. 1899, p. 249, Act 169, Imd. Eff. June 23;—CL 1915, 4137;—CL 1929, 3534;—CL 1948, 211.139.

211.140 Writ of assistance; service of notice; redemption, time and amount; service on corporations; sheriff's return.

Sec. 140. No writ of assistance or other process for the possession of any land the title to which has been obtained under and in pursuance of any tax sale made after the twenty-ninth day of August, in the year of our Lord 1897; or of any sale of state tax lands or state bids made after the said twenty-ninth day of August, 1897, except where

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such title shall be obtained under the provisions of section 131 of this act, shall be issued until 6 months after there shall have been filed with the county clerk of the county where the land is situated, a return by the sheriff of said county showing that he has made personal service of a notice, or proof of substituted service thereof, as hereinafter provided, upon the person or persons appearing by the records in the office of the register of deeds of said county to be the last grantee or grantees in the regular chain of title of such lands, or of any interest therein, at the date of the delivery of such notice to the sheriff for service, and upon the person or persons, if any there be, in the actual open possession of such lands at the date aforesaid, and upon the grantee or grantees under the tax deed issued by the auditor general for the latest year's taxes then appearing of record in said registry of deeds, and upon the mortgagee or mortgagees named in all undischarged recorded mortgages or any assignee or assignees thereof of record at the date aforesaid, and upon the holder of record of all undischarged recorded liens, which shall be substantially in the following form:

To the owner or owners of any and all interests in, or liens upon the land herein described:

Take notice, That sale has been lawfully made of the following described land for unpaid taxes thereon, and that the undersigned has title thereto under tax deed or deeds issued therefor, and that you are entitled to a reconveyance thereof, at any time within 6 months after return of service of this notice, upon payment to the undersigned or to the register in chancery of the county in which the lands lie of all sums paid upon such purchase, together with 50 per centum additional thereto, and the fees of the sheriff for the service or cost of publication of this notice, to be computed as upon personal service of a declaration as commencement of suit, and the further sum of 5 dollars for each description without other additional cost or charges: Provided, That with respect to purchasers at the tax sale held in the years 1938, 1939 and 1940 the sum stated in such notice as a condition of reconveyance shall only be all sums paid as a condition of the tax title purchase, together with 10 per centum additional thereto. If payment as aforesaid is not made, the undersigned will institute proceedings for possession of the land.

Description . . . . . amount paid . . . . . taxes for 1 . . . . .
(Signed) . . . . . .
Place of business . . . . . .

Provided, That if the grantee or grantees, or the person or persons holding the interest in said lands as aforesaid, shall be residents of any county of the state other than the county in which the land is situated, then such return as to such person shall be made by the sheriff of the county where such person or persons reside or may be found: Provided further, That if the person or persons entitled to such notice, or any of them, shall be non-residents of this state, if from the said record aforesaid, or from inquiry, the sheriff can obtain the postoffice address of such person or persons or if said addresses be known to him, he shall either send to such non-resident person or persons a copy of said notice by registered letter, and return the receipt or receipts of the postmaster received for said letter or letters with his return to the county clerk's office, or said sheriff shall cause to be served personally on such person or persons aforesaid a copy of the said notice, and whenever such notice shall be personally served outside of this state, proof of such service shall be made by the affidavit of the person who shall serve the same, made before a justice of the peace or notary public and when such affidavit shall be made outside of this state, it shall have attached thereto the certificate of the clerk of the court of record, certifying to the official character of the justice or notary, and the genuineness of his signature to the jurat of the affidavit, and such sher-

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iff shall return the said proof of personal service with his return to the county clerk's office: Provided further, That if any person entitled to notice as hereinbefore provided is dead, or if his estate shall be under control of a trustee or guardian, then and in such case notice as hereinbefore provided may be served upon the executor or administrator of said deceased person, or upon his heirs, if there be no executor or administrator, or upon the trustee or guardian of any incompetent person, with like effect as if served upon the grantee, mortgagee or assignee: Provided further, That if the sheriff of the county where any such lands are located shall make a return that after careful inquiry he is unable to ascertain the whereabouts or the postoffice address of the persons upon whom notice may be served as aforesaid, or any of them, then such notice as is herein provided for shall be published for 4 successive weeks, which shall be construed to mean 4 publications once each week, in some newspaper published and circulating in the county where such lands are located, if there is one; and if no such paper is published in such county then publication shall be made in some newspaper published and circulated in an adjoining county, and due proof of publication, by affidavit of the printer or publisher of such newspaper, shall be filed with the county clerk and shall be in lieu of personal service upon the person or persons whose whereabouts or postoffice address cannot be ascertained as aforesaid: Provided further, That such service may be made upon any resident of this state by leaving such notice at his usual place of residence with some member of his family of mature age, and upon any nonresident of this state by delivering such notice to him personally in any county of this state where he may be found, and return thereof shall be made by the sheriff of such county. Service in all cases and return thereof may be made by the under sheriff or any deputy sheriff with like effect as if made by the sheriff. Corporations formed under the laws of this state shall be regarded, for the purposes of this act, as residents of the county in this state where their office for the transaction of business therein is, by their articles, located, and service on such corporations may be made on the president, secretary, treasurer or general agent of such corporation, or by leaving such notice at the office of such corporation with some person in charge of such office. If the sheriff of any county in this state in which the office of any such corporation for the transaction of business is, by its articles, fixed, shall return that upon careful inquiry he has been unable to find any such office or any president, secretary, treasurer or general agent of such corporation in such county, service of such notice may be made upon such corporation by publication as hereinbefore provided in case of persons whose whereabouts or postoffice address cannot be ascertained; and this provision shall apply as well to corporations whose term of corporate existence has expired as to those whose term of existence has not expired. Foreign corporations doing business in this state and having an agent therein appointed to accept service of process as required or as may be required by the laws of this state, shall be regarded, for the purposes of this act, as residents of the county where such agent resides, and service on such corporations may be made on such agent, or by registered letter addressed to such corporations at their home office. The sheriff shall, in his return, state the time when such notice was delivered to him for service, and his return shall be prima facie evidence of the facts therein stated.

HISTORY: Add. 1897, p. 294, Act 229, Eff. Aug. 30;—CL 1897, 3959;—Am. 1899, p. 318, Act 204, Eff. Sept. 23;—Am. 1903, p. 386, Act 236, Imd. Eff. June 18;—Am. 1905, p. 195, Act 142, Imd. Eff. May 25;—Am. 1909, p. 468, Act 270, Eff. Sept. 1;—CL 1915, 4138;—CL 1929, 3535;—Am. 1932, 1st Ex. Sess., p. 15, Act 10, Imd. Eff. April 28;—Am. 1939, p. 86, Act 51, Imd. Eff. May 2;—CL 1948, 211.140.

211.141 Redemption; conditions, amount of payment; effect on tax title; notice; release; reimbursement; title; grantee's lien; writ of assistance.

Sec. 141. Any person having any estate in such lands or any interest therein, either in fee, for life or for years, or any mortgagee thereof or assignee of any undischarged mortgage thereon, or the holder of any lien thereon, or any executor, administrator,

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trustee or guardian of such persons, or any of them, or any person in the actual possession of such lands at the time of such tax purchase, shall be entitled to receive from the person so claiming under and by virtue of such tax deed, his heirs or assigns at any time within 6 months after the filing of return of service or the filing of proof of publication of such notice, as hereinbefore provided, a release and quit claim of all right and interest in such land acquired under such tax deed or deeds, upon payment to him or them, or to the register in chancery of the county in which the lands are located, of the amount paid upon such purchase, together with 50 per centum in addition thereto, and the lawful fees of such personal or substituted service, which fee shall be the same as provided by law for service of subpoenas or for orders of publication or the cost of such service by registered mail, and the further sum of $5.00 for each description, without additional cost or charge: Provided, That any person or persons entitled to a release and quit claim under the foregoing provisions of this section, at any time after the issue of tax deeds on such lands, or after the purchaser thereof shall be entitled to such tax deeds, and before service of notice or return thereof as herein provided, shall have the right to redeem such lands from such sale, by paying to the purchaser, or his grantee, or to the register in chancery of the county in which the lands lie, on the certificate of the auditor general or his deputy, all sums paid as a condition of such purchase, together with 50 per centum additional thereto, and the further sum of $5.00 for each description: Provided, That with respect to purchasers at the tax sale to be held in the years 1938, 1939 and 1940, the purchaser, or his grantee, shall be entitled only to all sums paid as a condition of such purchase, together with 10 per centum additional thereto. By such payment the tax title and any and all such certificates of sale shall become void and of no effect against the lands to be redeemed. The register in chancery shall, whenever payment is made to him as provided in this section, at once notify the owner of the tax title, or of any and all such certificates of sale, of the payment so made, and the owner of the tax title, or of any such certificates of sale, shall forthwith deliver to said register a release and quit claim of all rights acquired by him under said tax purchase, running to the person making such payment, and shall also deliver to said register the tax deed, certificates of purchase, tax receipts, and all other conveyances relating to said tax title or tax interest before he shall be entitled to receive the money paid to said register as herein provided. Upon delivery of such release and quit claim, and of such certificates of purchase and tax receipts the register in chancery shall at once pay over to the owner of the tax title all sums received by him for the redemption of the lands therein described: Provided further, That no quit claim or reconveyance made under the provisions of this section shall be construed to vest in the grantee any title or interest in such lands beyond that already owned by him, but such grantee shall be entitled to a lien on such lands, or on such parts thereof or interests therein as are not owned by him, for the amount paid, or such portion thereof as is lawfully chargeable to such parts or interests, in addition to the lien or other interest before held by such grantee; which lien may be enforced in any court of competent jurisdiction as in other cases of liens upon lands, with interest thereon at the rate of 6 per centum per annum from the date of such payment. The circuit courts in chancery shall have jurisdiction to enforce the liens herein provided for without regard to the amount of such liens: Provided further, That any such application for a writ of assistance shall show that such applicant had complied with the provisions of this act as to the giving of notice, as herein directed, and he shall attach to such application a copy of the notice aforesaid, and the return of the sheriff serving the same, or a copy of the proof of publication, or the registry receipt or receipts from the registry department of the postoffice showing that such notice has been served by registered mail.

HISTORY: Add. 1897, p. 141, Act 229, Eff. Aug. 30;—CL 1897, 3960;—Am. 1899, p. 319, Act 204, Eff. Sept. 23;—Am. 1903, p. 388, Act 236, Imd. Eff. June 18;—Am. 1905, p. 327, Act 226, Eff. Sept. 16;—Am. 1909, p. 471, Act 270, Eff. Sept. 1;—CL 1915, 4139.—CL 1929, 3536;

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—Am. 1932, 1st Ex. Ses., p. 17, Act 10, Imd. Eff. April 28;—Am. 1937, p. 526, Act 283, Eff. Oct. 29;—Am. 1939, p. 88, Act 51, Imd. Eff. May 2;—CL 1948, 211.141.

REDEMPTION: See also Compilers' § 211.74.

LIMITATION: On right to recover possession, see Compilers' § 211.73a.

CITED IN OTHER SECTIONS: The above section is cited in § 13.41.

211.142 Notice by tax purchaser to owners; redemption period.

Sec. 142. No purchaser under any tax sale hereafter made or any state bid hereafter sold shall enter into possession of the land so purchased until 6 months after he has given notice to the party or parties in interest as provided for in the preceding sections unless he shall have acquired from said parties their title thereto under conveyance from said party or parties of his or their interest in said lands. Where the land is vacant and unoccupied and no writ of assistance is needed to put the purchaser into possession thereof, the time for redemption herein provided shall expire 6 months after the delivery of such notice to said party or parties in interest, or date of mailing such notice by registered letter, or first publication thereof, and filing proof thereof with the county clerk of the county where said lands are situated as herein provided: Provided, That if suit or other proceeding is commenced before the expiration of the said 6 months by the owner of the land so purchased, or one having a redeemable interest therein, to set aside the sale thereof, the purchaser under tax sale or his grantee shall not enter into possession of the land until the final determination of such suit or other proceeding. This section shall not apply to applications for writs of assistance made upon behalf of the state or grantees thereof.

HISTORY: Add. 1897, p. 298, Act 229, Eff. Aug. 30;—CL 1897, 3961;—Am. 1903, p. 110, Act 83, Eff. Sept. 17;—Am. 1905, p. 197, Act 142, Imd. Eff. May 25;—CL 1915, 4140;—CL 1929, 3537;—Am. 1941, p. 383, Act 234, Imd. Eff. June 16;—CL 1948, 211.142.

211.142a Record, expired notice and service; evidence of ownership; fees.

Sec. 142a. If any such grantee or grantees, mortgagee or mortgagees or person or persons so in possession shall fail and neglect to redeem such land within said 6 months, as provided in the foregoing sections, at any time within 30 days after the expiration thereof the county clerk of the county shall cause to be recorded in the office of the register of deeds for the county in which said land is situate, in a record to be provided for that purpose, a copy of said notice and proof of service thereof, duly certified by the county clerk in whose office the same is filed, and the record thereof shall be prima facie evidence in all courts and tribunals that such purchaser is the owner of said land under said purchase. Such county clerk shall be entitled to a fee of 50 cents for filing such notice and to the fees provided by law for making such copy thereof and certifying thereto, and he shall be entitled to a fee of 50 cents for recording said copy of notice and proof of service thereof and he shall collect from the purchaser under such sale or deed the recording fee of the register of deeds, and such register of deeds shall be entitled to the same fees for recording such copy as is provided by law for recording deeds of conveyance and other instruments.

HISTORY: Add. 1905, p. 197, Act 142, Imd. Eff. May 25;—CL 1915, 4141;—Am. 1917, p. 521, Act 246, Eff. Aug. 10;—CL 1929, 3538;—Am. 1947, p. 231, Act 163, Eff. Oct. 11;—CL 1948, 211.142a.

211.143 Failure to redeem, effective bar.

Sec. 143. Every person personally served with the notice provided for by Act No. 229 of the Public Acts of 1897, and every person lawfully chargeable with such notice by registered mail, as provided for in said act, together with the heirs, executors, administrators or assigns of such persons, who shall refuse or neglect to pay or tender to the purchaser as aforesaid, the sum provided for in said act within the time therein limited, and who shall have neglected within the said 6 months to commence suit to set aside the said tax deed, shall thereafter be barred from questioning the validity of such tax title or tax deed mentioned therein.

HISTORY: Add. 1901, p. 176, Act 128, Eff. Sept. 5;—CL 1915, 4142;—CL 1929, 3539;—CL 1948, 211.143. Sec. 2 of amendatory Act 128 of 1901 repealed a Sec. 143 as added to Act 206 of 1893 by Act 229 of 1897, being CL 1897, 3962.

NOTE: Act 229 of 1897, above referred to, added Secs. 140-142 to this act, being Compilers' §§ 211.140-211.142.

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211.144 Proceedings to set aside sale; auditor general to be made party; service of petition upon municipalities.

Sec. 144. The auditor general shall be made a party defendant to all actions or proceedings instituted for the purpose of setting aside any sale or sales for delinquent taxes on lands which have been sold at annual tax sales, or for purpose of setting aside any taxes returned to him and for which sale has not been made; in all such cases a copy of the petition shall be served upon the auditor general, the prosecuting attorney of the county, and the city, village, township and school district, for the taxes of which such land was sold or returned delinquent at the time of commencing the action, which said service shall be in lieu of the service of other process.

Hearing upon such petition shall not be held until such service has been made and due proof thereof filed. Upon so being made a party, it shall be the duty of the auditor general, whenever he shall, in his discretion deem the same to be expedient, to the end that the state of Michigan may be fully protected, to cause the attorney general to represent him in such proceedings. In any suit or proceedings instituted for the purpose in this section mentioned, no costs shall be taxed against any party to the action.

HISTORY: Add. 1899, p. 140, Act 97, Imd. Eff. June 1;—Am. 1911, p. 12, Act 10, Eff. Aug. 1;—CL 1915, 4143;—CL 1929, 3540;—Am. 1941, p. 384, Act 234, Imd. Eff. June 16;—CL 1948, 211.144.

Sec. 145.

HISTORY: Add. 1899, p. 228, Act 154, Imd. Eff. June 23;—Am. 1901, p. 249, Act 174, Imd. Eff. May 27;—Am. 1905, p. 434, Act 281, Eff. Sept. 16;—CL 1915, 4144.

This section provided for the organization, appointment, etc., of the board of state tax commissioners. That board was abolished and its powers and duties transferred to the state tax department by Act 155 of 1925, see Compilers' § 209.152. The state tax department created by Act 155 of 1925 was abolished and its powers and duties transferred to the state tax commission by Act 360 of 1927, see Compilers' § 209.103.

211.146 Board of tax commissioners; secretary and chief clerk, salaries, duties.

Sec. 146. Said board shall elect a secretary at a salary not to exceed 2,000 dollars per annum, and a chief clerk at a salary not to exceed 1,800 dollars per annum: Provided, That when any person shall have served continuously as secretary for a period of 4 years the salary of said secretary may be increased to an amount not exceeding 3,000 dollars. The persons so elected shall hold their offices during the pleasure of said board. The secretary shall keep a record of all the proceedings of said board, and shall perform such other duties as may be assigned to him by the board. The secretary and chief clerk shall devote all their time to the duties of their offices.

HISTORY: Add. 1899, p. 229, Act 154, Imd. Eff. June 23;—Am. 1901, p. 249, Act 174, Imd. Eff. May 27;—Am. 1905, p. 435, Act 281, Eff. Sept. 16;—Am. 1911, p. 23, Act 17, Eff. Aug. 1;—CL 1915, 4145;—Am. 1917, p. 680, Act 260, Imd. Eff. May 10;—CL 1929, 3541;—CL 1948, 211.146.

BOARD OF STATE TAX COMMISSIONERS: Abolished; powers and duties transferred to the state tax department which in turn has been abolished and superseded by the state tax commission, see Compilers' §§ 209.152 and 209.103 respectively.

ADMINISTRATIVE BOARD: Number and compensation of assistants subject to approval of state administrative board, see Compilers' § 209.102.

211.147 Oath of office; salaries and expenses of board members.

Sec. 147. The members of said board, and the secretary and chief clerk thereof, shall take and subscribe the constitutional oath of office to be filed with the secretary of state. The members of said board shall receive an annual salary of 2,500 dollars; and they shall also receive their necessary expenses in the performance of their duties, both to be audited and allowed by the board of state auditors, and paid monthly by the state treasurer out of the general fund.

HISTORY: Add. 1899, p. 229, Act 154, Imd. Eff. June 23;—Am. 1905, p. 435, Act 281, Eff. Sept. 16;—CL 1915, 4146;—CL 1929, 3542;—CL 1948, 211.147.

BOARD OF STATE TAX COMMISSIONERS: Abolished; powers and duties transferred to the state tax department which in turn has been abolished and superseded by the state tax commission, see Compilers' §§ 209.152 and 209.103 respectively.

OATH OF OFFICE: Form, see Const. XI, 1. As to the oath of office of examiners and appraisers of property, see Act 133 of 1915, being Compilers' § 209.121.

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211.148 State tax commission; meetings, access to records and rolls; subpoena, fees; scope of examination; penalties.

Sec. 148. Regular sessions of the state tax commission shall be held at the office of the commission in the city of Lansing, to be furnished by the department of administration, or at such location as the members of the commission may unanimously agree upon. Special meetings of the commission may be held at any place most convenient. The commission and the members thereof, or any duly authorized representative thereof, shall have access to all books, papers, documents, statements and accounts on file or of record in any of the departments of state, subject to the rules and regulations of the respective departments relative to the care of the public records. The commission and the members thereof, or any duly authorized representatives thereof, shall have like access to all books, papers, documents, statements and accounts on file or of record in counties, townships and municipalities, and shall have authority to take possession of any assessment roll for use in carrying out the provisions of this act upon presenting to the assessing officer having the same in his control a receipt therefor, signed by the person taking such roll in his possession, and the commission shall be responsible for the return of said roll within a reasonable time thereafter; the commission shall have the right to subpoena witnesses upon a subpoena signed by the chairman of the commission, and attested by the secretary thereof directed to such witnesses, and which subpoena may be served by any person authorized to serve subpoenas from courts of record in this state, and the attendance of witnesses may be compelled by attachment to be issued by any circuit court in the state upon proper showing that such witness has been properly subpoenaed and has refused to obey such subpoena. The person serving such subpoena shall receive the same compensation now allowed to sheriffs and other officers for serving subpoenas. The commission shall have power to examine witnesses under oath, said oath to be administered by any member of the commission or by the secretary thereof. The commission or any duly authorized representative thereof shall have the right to examine the property, books, papers or accounts of any corporation, firm or individual owning property liable to assessment for taxes, general or specific under the laws of this state, and to require, upon blanks to be furnished by the commission, a statement under oath of the president, secretary, superintendent or managing officer of a corporation, of a member of a firm, or an individual, containing such information as the commission may require to enable it to arrive at the true cash value of the property of such corporation, firm or individual subject to taxation under the laws of this state, and any assessing officer who shall refuse to deliver his assessment roll upon demand of a member or representative of the commission, or any officer or stockholder of any such corporation, any member of any such firm, or any person or persons who shall refuse to permit said inspection, refuse or fail to make such statement, or neglect or fail to appear before the commission in response to a subpoena, or testify as provided for in this section, shall be deemed guilty of a misdemeanor, and shall be punished by a fine not exceeding $1,000.00 or by imprisonment in the state prison for a period not exceeding 2 years, or by both such fine and imprisonment in the discretion of the court.

HISTORY: Add. 1899, p. 229, Act 154, Imd. Eff. Jun. 23;—Am. 1905, p. 435, Act 281, Eff. Sep. 16;—Am. 1911, p. 23, Act 17, Eff. Aug. 1;—Am. 1913, p. 268, Act 153, Eff. Aug. 14;—Am. 1915, p. 225, Act 138, Eff. Aug. 24;—CL 1915, 4147;—CL 1929, 3543; CL 1948, 211.148;—Am. 1964, p. 489, Act 275, Eff. Aug. 28.

211.149 State tax commission; regular meetings, time; special meetings.

Sec. 149. The commission shall hold regular meetings in each of 6 months in each year, and may hold adjourned sessions as may be deemed necessary by it for the

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proper performance of the duties devolving upon the commission. The chairman may call special sessions of the commission whenever he may deem it advisable so to do, and shall call such special sessions upon the written request of 2 members.

HISTORY: Add. 1899, p. 230, Act 154, Imd. Eff. Jun. 23;—Am. 1905, p. 436, Act 281, Eff. Sep. 16;—CL 1915, 4148;—CL 1929, 3544;—CL 1948, 211.149;—Am. 1964, p. 490, Act 275, Eff. Aug. 28.

211.150 State tax commission; duties.

Sec. 150. It shall be the duty of the commission:

Supervision; assessment rolls.

(1) To have and exercise general supervision over the supervisors and other assessing officers of this state, and to take such measures as will secure the enforcement of the provisions of this act, to the end that all the properties of this state liable to assessment for taxation shall be placed upon the assessment rolls and assessed at that proportion of true cash value which the legislature from time to time shall provide pursuant to the provisions of article 9, section 3 of the constitution.

Assessing officers, supervision; enforcement of penalties.

(2) To confer with and advise assessing officers as to their duties under this act, and to institute proper proceedings to enforce the penalties and liabilities provided by law for public officers, officers of corporations and individuals failing to comply with the provisions of this act; to prefer charges to the governor against assessing and taxation officers who violate the law or fail in the performance of their duties in reference to assessment and taxation, and in the execution of these powers the commission may call upon the attorney general or any prosecuting attorney in the state to assist it.

Complaints; correction of irregularities.

(3) To receive all complaints as to property liable to taxation that has not been assessed or that has been fraudulently or improperly assessed, and to investigate the same, and to take such proceedings as will correct the irregularity complained of, if any is found to exist.

Reports, statistical data, approval of forms.

(4) To require from any officer in this state, on forms prescribed by the commission such annual or other reports as shall enable it to ascertain the assessed value and equalized values of all property listed for taxation throughout the state under this act, the amount of taxes assessed, collected and returned and such other matter as it may require, including a separate listing of the valuations of all personal and real property classifications within the assessing unit, to the end that it may have complete statistical information as to the practical operation of this act, and to approve the forms used by assessing officers in taking the assessment of property.

Statement to state board of equalization; cooperation.

(5) To furnish the state board of equalization at each session thereof an estimate of the actual cash value of the taxable property of each county in the state, and to meet with the state board of equalization when requested by said board to do so.

HISTORY: Add. 1899, p. 230, Act 154, Imd. Eff. Jun. 23;—Am. 1905, p. 436, Act 281, Eff. Sep. 16;—Am. 1913, p. 269, Act 153, Eff. Aug. 14;—CL 1915, 4149;—CL 1929, 3545;—CL 1948, 211.150;—Am. 1964, p. 490, Act 275, Eff. Aug. 28.

211.151 State tax commission; report to governor, contents, time, printed copies.

Sec. 151. The tax commission annually on or before March 15 during each regular session of the legislature shall make a report to the governor of the state, setting forth the workings of said commission during the period covered by said report, and containing the findings, including total state valuations of each real and personal property classification and such information to be available for each county, and recommendations of said commission in relation to all matters of taxation. The department of ad-

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ministration shall cause to be printed as many copies thereof, not exceeding 5,000, as the said department shall deem necessary.

HISTORY: Add. 1899, p. 232, Act 154, Imd. Eff. Jun. 23;—Am. 1913, p. 270, Act 153, Eff. Aug. 14;—CL 1915, 4150;—CL 1929, 3546;—CL 1948, 211.151;—Am. 1964, p. 491, Act 275, Eff. Aug. 28.

211.152 State tax commission; inspection of assessment rolls, time; review procedure; complaints.

Sec. 152. (1) After the various assessment rolls required to be made under this act or under the provisions of any municipal charter have been passed upon by the several boards of review, and prior to the making and delivery of the tax rolls to the proper officer for collection of taxes, and in no case later than the first Monday in May, the several assessment rolls shall be subject to inspection by the state tax commission or by any member or duly authorized representative thereof. If it appears to the commission after such investigation, or is made to appear to the commission by written complaint of any taxpayer, or assessing officer, that property subject to taxation has been omitted from or improperly described upon the roll or individual assessments have not been made in compliance with law, the commission may issue an order directing the assessor whose assessments are to be reviewed to appear with his assessment roll and the sworn statements of the person or persons whose property or whose assessments are to be considered at a time and place to be stated in the order, the time to be not less than 14 days from the date of the issuance of the order, and the place to be at the office of the board of supervisors at the county seat or at such other place in the county in which the roll was made as the commission shall deem most convenient for the hearing herein provided. A written complaint by a taxpayer or assessing officer shall be deemed to have been filed timely if it was deposited in the United States mail on or before the first Monday of May. No written complaint of any taxpayer shall be accepted by the state tax commission unless the taxpayer has protested the assessment from which he appeals to the board of review.

Hearing; notice; publication; report.

(2) A notice of the hearing shall be sent by registered mail, with return receipt requested, to all persons whose assessments are to be considered, at their last known address, except that where the commission shall conduct a general review of all assessments within the taxing district, such notice shall be by publication in a newspaper published in the county, if there be any. If no newspaper is published in the county, then the notice shall be by publication in a newspaper with general circulation in the county, at least 5 days before the date of the hearings. A copy of the order shall also be served upon the supervisor or assessing officer in whose possession the roll shall be at least 14 days before he is required to appear with the roll. The commission, or any member or duly authorized representative thereof, shall appear at the time and place mentioned in the order, and the supervisor or assessing officer upon whom notice shall have been served shall appear also with the assessment roll. The commission or any member or duly authorized representatives thereof shall then and there hold a hearing as to the proper assessment of all property and persons mentioned in the notice, and all persons affected or liable to be affected by review of the assessments thus provided for may appear and be heard at the hearing. In any case where the hearings shall be held by a duly authorized representative of the state tax commission, he shall report the facts brought forth at the hearing to the members of the state tax commission, who will determine the true and lawful assessment or change in the description of property as found necessary.

Correction of roll; contested case; finality.

(3) In case the commission, or member thereof, who shall act in the review, shall determine that the assessments so reviewed are not assessed according to law, he or they shall, in a column provided for that purpose, place opposite the property the true and

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lawful assessment of it. Any increase or decrease of the assessment by such action shall also increase or decrease the state equalized value of the local unit wherein the property is located by the amount that such property's state equalized value has been altered. As to the property not upon the assessment roll, the commission, or member thereof acting in the review, shall place it upon the assessment roll by proper description and shall place thereafter, in the proper column, the true cash value of the property. As to property not properly described upon the assessment roll, the commission, or member thereof acting in the review, shall make such change in the description of the property assessed as is found necessary. The commission shall also spread upon the roll a certificate, signed by the chairman, showing the day and date on which the assessment roll was reviewed. For appearing with the roll as required herein the supervisor or assessing officer shall receive the same per diem as is received by him while in attendance at the meeting of the board of supervisors, to be presented to and paid by the proper officer of the municipality of which he is the assessing officer in the manner as his other compensation is paid. In all of its proceedings the contested case provisions of Act No. 197 of the Public Acts of 1952 as amended, shall not be applicable to the state tax commission, and in its determination, article VI, section 28, of the constitution of the state of Michigan shall apply. If the final action of the commission or member results in a change in the assessment, the commission, on a form provided by the commission, shall notify each affected school district, county, township and city of its action. When the assessment of any property has been reviewed by the commission as herein authorized, such assessment shall not be changed for a period of 3 years without the written consent of the commission. Whenever a local assessing district fails to have an assessment roll prepared as required in this act and it becomes necessary for the commission to assess the properties in the district either by its own staff or the county equalization department under direction of the commission, the local assessing district shall bear the cost of such assessment and shall reimburse the state or county.

HISTORY: Add. 1899, p. 232, Act 154, Imd. Eff. Jun. 23;—Am. 1905, p. 437, Act 281, Eff. Sep. 16;—Am. 1909, p. 12, Act 8, Eff. Sep. 1.—Am. 1911, p. 24, Act 17, Eff. Aug. 1;—Am. 1913, p. 270, Act 153, Eff. Aug. 14;—CL 1915, 4151;—Am. 1921, p. 491, Act 265, Eff. Aug. 18.—CL 1929, 3547;—CL 1948, 211.152;—Am. 1955, p. 333, Act 223, Imd. Eff. Jun. 18;—Am. 1964, p. 491, Act 275, Eff. Aug. 28;—Am. 1967, p. 78, Act 62, Eff. Nov. 2;—Am. 1968, p. 155, Act 101, Imd. Eff. Jun. 7;—Am. 1969, p. 504, Act 270, Imd. Eff. Aug. 11.

CITED IN OTHER SECTIONS: The above section is cited in § 207.278.

Sec. 153.

HISTORY: Add. 1899, p. 233, Act 154, Imd. Eff. June 23;—Am. 1905, p. 438, Act 281, Eff. Sept. 16;—Am. 1911, p. 25, Act 17, Eff. Aug. 1;—CL 1915, 4152;—Rep. 1929, p. 828, Act 309, Imd. Eff. May 24, being CL 1929, 121.

211.154 Taxable property incorrectly reported; notice, hearing, correction, certification of tax due; demand payment notice; penalty; change of ownership.

Sec. 154. If it shall be made to appear to the commission at any time that as a matter of fact any property liable to taxation has been incorrectly reported for any previous year, but not to exceed the current assessment year and 1 year immediately preceding the date of discovery and disclosure of the omission, but not prior to the effective date of the 1969 amendment to this section, the commission shall notify by registered mail the person to whom such property is assessable and give such person an opportunity to appear at a hearing before the commission, which hearing shall be held not later than 30 days from the date of notification by mail. If it appears to the commission that no reason in fact or in law exists which would justify an exemption of such property from taxation for those 2 years, it shall immediately place the total aggregate assessment value for the omitted years on the then current assessment roll in the column provided. The commission shall further certify to the proper township, city or village treasurer the amount of taxes due as computed by the correct annual rate of taxation and include 6% annual interest for the length of time the taxes escape collection. Each treasurer shall be directed to issue a demand payment notice to the person who owns

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or controls the subject property by registered mail or personal service and if the tax remains unpaid for 10 days from the date of the demand, or if it appears that collection of the omitted taxes might be lost, then the treasurer shall proceed as provided in sections 1 and 2 of Act No. 55 of the Public Acts of 1956, being sections 211.691 and 211.692 of the Compiled Laws of 1948. No department involved shall have the power or authority to cancel or diminish any part of the tax imposed. In case of change in ownership of the property omitted, said taxes shall not be spread against said property prior to the last change of ownership. This section shall not apply to any land upon which taxes have been assessed and rejected for any of the reasons in this act. Such rejected taxes shall be reassessed as provided in this act regardless of any change in ownership.

HISTORY: Add. 1899, p. 234, Act 154, Imd. Eff. Jun. 23;—Am. 1905, p. 438, Act 281, Eff. Sep. 16;—CL 1915, 4153;—CL 1929, 3548;—Am. 1941, p. 384, Act 234, Imd. Eff. Jun. 16;—CL 1948, 211.154;—Am. 1964, p. 492, Act 275, Eff. Aug. 28;—Am. 1969, p. 300, Act 151, Eff. Mar. 20, 1970.

211.155 Waste and removal of property from tax delinquent lands.

Sec. 155. It shall be unlawful for any person, copartnership, company or corporation to cut or attempt to cut any standing timber growing upon lands in this state upon which the taxes remain unpaid from and after the tenth day of January succeeding that at which the tax was assessed, and before said lands are bid off to the state for the nonpayment of taxes, or to remove from such lands any timber, wood, logs, buildings, or fixtures therefrom, sand, gravel, minerals or other property reflected in the assessment thereof upon which such unpaid taxes were spread.

HISTORY: Add. 1901, p. 71, Act 46, Eff. Sept. 5;—CL 1915, 4154;—CL 1929, 3549;—Am. 1941, p. 385, Act 234, Imd. Eff. June 16;—CL 1948, 211.155.

MISDEMEANOR: See Compilers' § 750.504.

211.156 Waste and removal of property from tax delinquent lands; warrant to seize and sell property; execution.

Sec. 156. If any person, copartnership, company or corporation shall cut any standing timber growing upon any lands in this state upon which the taxes remain unpaid, after the same have become due and have been returned to the county treasurer, and before said lands are sold for the nonpayment of taxes, or if any person, copartnership, company or corporation shall remove any timber, wood, logs, sand, gravel or minerals or tear down or remove any buildings or fixtures therefrom, from any such lands within the time above mentioned, it shall be the duty of the county treasurer of the county where such lands are situated to issue a warrant under his hand and seal in the name of the people of the state of Michigan, directed to the sheriff of the county in which such lands are situated, giving therein a description of such lands, the amount of such taxes due and remaining unpaid, with interest and charges thereon, as provided by law, commanding such sheriff forthwith to seize such timber, logs, wood, sand, gravel, minerals or buildings or fixtures therefrom, or in case such buildings have been torn down, the lumber and other building material of the same, including fixtures therefrom, wherever the same may be found in any county in this state, and to sell the same or a sufficient quantity thereof to satisfy such taxes, with interest and charges thereon, and the cost of such seizure and sale. The sheriff shall receive such warrant and execute the same as therein directed, as in the case of levy and sale on execution, and make due return thereof with his doings thereon to the county treasurer within 30 days after the receipt of the same, and pay over all moneys collected thereon to the county treasurer, who shall apply the amount so collected to the payment of taxes on the lands described in said warrant, together with the interest and charges thereon, and the costs of such seizure and sale. In case the moneys received from any such sale shall exceed the amount necessary to pay all such taxes due and payable, together with interest and charges thereon, and the costs of such seizure and sale, all sums so received, over and above the amount necessary to pay such taxes, together with the in-

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terest and charges thereon and the costs of such seizure and sale, shall be held by the county treasurer subject to the order of the person, copartnership, company or corporation owning said lands.

HISTORY: Add. 1901, p. 71, Act 46, Eff. Sept. 5;—CL 1915, 4155;—CL 1929, 3550;—Am. 1941, p. 385, Act 234, Imd. Eff. June 16;—CL 1948, 211.156.

211.157 Waste and removal of property from tax delinquent lands; county treasurer entitled to injunction.

Sec. 157. When any person, copartnership, company or corporation shall neglect or refuse to pay any tax assessed on the lands of such person, copartnership, company or corporation after such taxes shall have become due and have been returned to the county treasurer, and before said lands are sold for the nonpayment of taxes, the county treasurer shall make application for and be entitled to an injunction to restrain waste on any of such lands upon which the taxes shall remain unpaid, and to prevent the cutting of any timber standing or growing thereon or the removal of any timber, wood, logs, sand, gravel or mineral or the tearing down or removing of any buildings or fixtures therefrom, whether or not such acts constitute waste. Any circuit judge or circuit court commissioner of the county in which such lands are situated may on application of such county treasurer make an order restraining any person, copartnership, company or corporation from committing such waste on any such lands by the cutting of any timber standing or growing thereon or the removal of any timber, wood, logs, sand, gravel or mineral or the tearing down or removal of any buildings or fixtures therefrom. The right of the county treasurer to a writ of injunction shall not be lost or impaired by reason of any failure or neglect on the part of the township treasurer or other collecting officer to collect the above unpaid taxes.

HISTORY: Add. 1901, p. 72, Act 46, Eff. Sept. 5;—CL 1915, 4156;—CL 1929, 3551;—Am. 1941, p. 385, Act 234, Imd. Eff. June 16;—CL 1948, 211.157.

INJUNCTION: Application by township treasurer, see Compilers' § 211.511.

STATE LANDS: And tax delinquent lands, waste on, see Compilers' § 322.131 et seq.

Act 189, 1953, p. 252; Imd. Eff. Jun. 10.

AN ACT to provide for the taxation of lessees and users of tax-exempt property.

The People of the State of Michigan enact:

211.181 Taxation of lessees or users of tax-exempt property; exceptions; concessions.

Sec. 1. (1) When any real property which for any reason is exempt from taxation is leased, loaned or otherwise made available to and used by a private individual, association or corporation in connection with a business conducted for profit, except where the use is by way of a concession in or relative to the use of a public airport, park, market, fairground or similar property which is available to the use of the general public, the lessees or users thereof shall be subject to taxation in the same amount and to the same extent as though the lessee or user were the owner of such property. The foregoing shall not apply to federal property for which payments are made in lieu of taxes in amounts equivalent to taxes which might otherwise be lawfully assessed or property of any state-supported educational institution, enumerated in section 4 of article 8 of the constitution.

(2) In counties of over 1,000,000 in order to determine whether a lessee or user at an airport is a concessionaire within the provisions of this act, and whether the use of real property used in connection with the concession operation is essential to the concession operation so as to come within the exception contained in this act, it is required that the following basic tests be met:

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(a) It shall have the exclusive right and duty to render a necessary or customary service, based on a contract entered into requiring that it render goods or services either to the grantor or to the general public on behalf of the grantor;

(b) The service rendered must be available to the general public on a nondiscriminatory basis;

(c) Use of real property in connection with a service concession must be a necessary and integral part of the concession operation.

HISTORY: New 1953, p. 252, Act 189, Imd. Eff. Jun. 10;—Am. 1962, p. 492, Act 226, Eff. Mar. 28, 1963;—Am. 1970, p. 527, Act 174, Imd. Eff. Aug. 3.

CITED IN OTHER SECTIONS: The above section is cited in § 388.627.

211.182 Assessment and collection; action of assumpsit.

Sec. 2. Taxes shall be assessed to such lessees or users of real property and collected in the same manner as taxes assessed to owners of real property, except that such taxes shall not become a lien against the property. When due, such taxes shall constitute a debt due from the lessee or user to the township, city, village, county and school district for which the taxes were assessed and shall be recoverable by direct action of assumpsit.

HISTORY: New 1953, p. 252, Act 189, Imd. Eff. Jun. 10.

CITED IN OTHER SECTIONS: The above section is cited in § 388.627.

Act 117, 1970, p. 372; Imd. Eff. Jul 23.

AN ACT to permit assessing officers to place tax exempt real and personal property on the tax rolls; and to establish the criteria to determine the status of real and personal property for taxation or tax exempt status.

The People of the State of Michigan enact:

211.191 Taxation of exempt property when not being used for purpose for which exemption granted.

Sec. 1. When an assessing officer finds that any real property or personal property which for any reason is exempt from taxation under the laws of this state, is not being used for the purposes for which the tax exemption is granted, he shall after approval of the state tax commission place the property on the tax rolls and the property shall be subject to taxation in the same amount and to the same extent as though it had not been exempt from taxation.

HISTORY: New 1970, p. 372, Act 117, Imd. Eff. Jul. 23.

Act 62, 1933, p. 58; Imd. Eff. Apr. 25.

AN ACT to provide limits on the rate of taxation on property, and to provide for a division of the rate of taxation between counties, townships, municipal corporations, school districts and other local units and to earmark funds raised by increasing the total tax limitation; and to repeal all acts and parts of acts and charters and parts of charters of municipal corporations inconsistent with or contravening the provisions of this act. Am. 1947, p. 463, Act 293, Eff. Oct. 11.

The People of the State of Michigan enact:

211.201 Short title; property tax limitation act.

Sec. 1. Short title. This act shall be known and may be cited as the "Property Tax Limitation Act."

HISTORY: CL 1948, 211.201.

CITED IN OTHER SECTIONS: Sections 211.201 to 211.217a are cited in §§ 340.298a, 340.615, 340.643a, and 388.881.

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211.202 Property tax limitation act; definitions.

Sec. 2. Words and phrases used in this act shall be defined as follows:

(a) "Local unit" shall mean counties, townships, villages, cities, school districts, community college districts, intermediate school districts and all other divisions, districts and organizations of government which may now or hereafter be established by law and which have power to levy taxes against property located within their respective areas, except such villages and cities for which there are provisions in their charters or general law fixing maximum limits on the power to levy taxes against property for such purposes as may be authorized by law to be supported under the municipal budget.

(b) "Municipal corporation" shall mean villages and cities.

(c) "Board" shall mean the county tax allocation board created by section 5.

HISTORY: Am. 1934, 1st Ex. Ses., p. 106, Act 30, Imd. Eff. Mar. 28;—CL 1948, 211.202;—Am. 1957, p. 176, Act 155, Eff. Sep. 27;—Am 1964, p. 515, Act 278, Eff. Aug. 28.

211.203 Limit on tax rate; debt service.

Sec. 3. (a) Except as hereinafter provided, the total amount of taxes levied against property for all purposes in any 1 year shall not exceed the limits provided by or fixed pursuant to section 6 of article 9 of the state constitution, except taxes levied for the payment of interest and principal on obligations incurred prior to December 8, 1932. Taxes levied under this exception shall be known and referred to as debt service tax rates.

Charter or general law limitation.

(b) If any municipal corporation is or shall hereafter be limited, by a provision in its charter or general law, in its power to levy taxes against property for such purposes as may be authorized by law to be supported under the municipal budget, such municipal corporation shall levy such taxes pursuant to such provisions and such taxes shall be in addition to such taxes as may be levied under the limitation of subsection (a), and taxes levied under this subsection shall be known and referred to as charter tax rates. If any portion of the net limitation tax rate is allocated to such municipal corporation by the board, such allocated tax rate shall be included within the total tax rate levied by such municipal corporation under this subsection.

Election to raise limits, ballots; declaration of result, filing with county treasurer; notice statement.

(c) If any local unit shall hold an election for the purpose of increasing the total tax rate limitation, as provided for by section 6 of article 9 of the state constitution, the vote at such election shall be taken by ballot and said ballots shall be cast and counted in the manner provided by the general election laws of this state. Said ballots shall state the amount by which it is proposed that the total tax rate limitation on property in the local unit be increased and the number of years for which it is proposed that said increase shall be effective. Said ballot may also state the purpose for which the funds derived from the voted increase over the constitutional tax rate limitation may be used, and such funds shall not be considered by the county allocation board in dividing the net limitation tax rate among the various governmental units entitled thereto under the provisions of this act. Within 5 days after every election held in any local unit to increase the tax rate limitation, a certified copy of the official declaration of the result of the election shall be filed with the treasurer of the county or counties in which such local unit is located. The voted increase in the tax rate limitation shall be effective in such local unit only when such certified copy is filed. The notice of every election in which an increase in the total tax rate limitation is to be voted upon shall contain a statement by the county treasurer of the county or counties in which

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the local unit so voting is located of the total of all voted increases in the total tax rate limitation, in any local units, affecting the taxable property in the local unit so voting, and the years such increases are effective.

HISTORY: Am. 1934, 1st Ex. Ses., p. 106, Act 30, Imd. Eff. Mar. 28;—Am. 1947, p. 463, Act 293, Eff. Oct. 11;—CL 1948, 211.203;—Am. 1964, p. 515, Act 278, Eff. Aug. 28.

CITED IN OTHER SECTIONS: The above section is cited in § 137.1c.

211.204 State tax rate; operating purposes.

Sec. 4. State tax rate. (a) The tax rates in mills which are provided by law for state purposes and are in force and effect on the last day hereinafter specified for the filing of budgets and statements of local units with the board, except tax rates levied for the purpose of payment of interest and principal on state obligations incurred prior to December eighth, 1932, shall be deducted from the maximum tax rates determined in accordance with subsection (a) of section 3 hereof. The remainder of such maximum tax rates, after deducting the total of such tax rates so levied for state purposes, if any, shall be known and referred to as the net limitation tax rate.

Notices; debt service.

(b) If any state tax is levied for any year pursuant to subsection (a), the auditor general shall notify by registered mail the county clerk of each county, on or before the day after the last day hereinafter provided for filing of budgets and statements of local units with the board, stating the total amount of such tax rates. On or before the first day of September in each year the auditor general shall notify by registered mail the county clerk of each county of any change in the amount of the tax rate for state purposes in that county necessitated by state equalization of county assessed valuations. If any state property tax is levied for the payment of interest and principal on state obligations incurred prior to December eighth, 1932, it shall be provided by law prior to the first day of August in each year and shall be apportioned among the several counties in the manner now provided by law.

HISTORY: Am. 1934, 1st Ex. Ses., p. 107, Act 30, Imd. Eff. March 28;—CL 1948, 211.204.

211.205 County tax allocation board, members; selection.

Sec. 5. A county tax allocation board is created for each county and shall be composed of:

(a) The county treasurer.

(b) The chairman of the board of county auditors if there be such a board, and if not, the chairman of the finance or ways and means committee of the board of supervisors of the county.

(c) The intermediate school district superintendent or his representative.

(d) A member of a school board of a school district in the county maintaining 12 grades of school, who shall be selected by the judge or judges of probate of the county, except that in counties containing 1 or more municipal corporations having a population of 10,000 or more, such member shall be a resident of the county and selected by the board of education of the constituent school district, not an intermediate school district, at least ½ of the area of which lies in the county, and which has the largest number of children in the whole district between the ages of 5 and 20 according to the latest annual school census.

(e) A resident of a municipality within the county who shall be selected by the judge or judges of probate of the county, except that in counties containing 1 or more municipal corporations having a population of 10,000 or more, such member shall be a resident of such a municipality, except that in counties in which are located municipalities subject to the provisions of this act, such member shall be an official of 1 of such municipalities, and if there be but 1 such municipality within the county, then

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such member shall be selected by the governing body of such municipality, either from its own members or its municipal officers.

(f) A member not officially connected with any local unit, who shall be selected by the judge or judges of probate of the county.

(g) A member who shall be selected from the members of a township board of 1 of the townships in the county by the county clerk, county treasurer and county sheriff or a majority thereof.

HISTORY: Am. 1934, 1st Ex. Ses., p. 107, Act 30, Imd. Eff. Mar. 28;—Am. 1937, p. 38, Act 30, Imd. Eff. May 4;—Am. 1941, p. 195, Act 150, Imd. Eff. May 29;—CL 1948, 211.205;—Am. 1963, p. 87, Act 71, Eff. Sep. 6;—Am. 1964, p. 10, Act 5, Imd. Eff. Mar. 13;—Am. 1970, p. 605, Act 220, Imd. Eff. Nov. 24.

211.205a Initiatory petition for separate tax limitation; signatures, filing.

Sec. 5a. A vote on adopting separate tax limitations shall be initiated by petition signed by not less than 4% of the registered electors of each township and city within the county. The petition shall be filed with the county clerk not less than 30 days before the convening of the board in regular session, or any special session called for the purpose of considering the petition.

HISTORY: Add. 1964, p. 516, Act 278, Eff. Aug. 28.

211.205b Initiatory petition for separate tax limitation; form, circulators.

Sec. 5b. The petition shall be in substantially the following form:

"PETITION INITIATING PROCEDURES FOR THE ADOPTION OF SEPARATE TAX LIMITATIONS

To the county board of supervisors:

We, the undersigned qualified and registered electors and residents of the city or township of ....., in the county of ....., and state of Michigan, hereby petition the county board of supervisors to place before the voters of this county the question of establishing separate tax limitation millage rates (for a period of ..... years or for an indefinite period), or until altered by the voters of the county, for the county of ..... and the townships and school districts within the county, the aggregate of which shall not exceed ..... mills, as follows:

	Mills
County of	. . . . .
Townships	. . . . .
Intermediate school districts	. . . . .
School districts (a school district located entirely within a city or charter township shall receive in addition millage equal to the township millage.)	. . . . .
Total	. . . . .

WARNING

Whoever knowingly signs this petition more than once, signs a name other than his own, signs when not a qualified and registered elector, or places opposite his signature on a petition a date other than the actual date such signature was affixed, is in violation of the law."

The body of the petition and jurat shall be substantially as provided in section 349a of Act No. 116 of the Public Acts of 1954, as amended, being section 168.349a of the Compiled Laws of 1948.

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The circulator of the petition shall be a qualified and registered elector of the county in which he circulates the petition. Petitions shall be signed and acknowledged by the circulator before a person authorized by law to take acknowledgments.

HISTORY: Add. 1964, p. 517, Act 278, Eff. Aug. 28;—Am. 1965, p. 135, Act 104, Imd. Eff. Jun. 30;—Am. 1966, p. 513, Act 303, Imd. Eff. Sep. 14;—Am. 1966, p. 620, Act 335, Eff. Mar. 10, 1967.

211.205c Petition by tax allocation board for separate tax limitation.

Sec. 5c. A petition to submit separate tax limitations to the electors of the county also may be initiated by a resolution adopted by a majority of the members of a county tax allocation board. The petition shall be in substantially the same form and processed in the same manner as provided in this act for initiatory petitions signed by registered electors of the county. The question shall be submitted to a vote of the registered and qualified electors of the county subject to the same conditions and in the same manner as an initiatory petition signed by registered electors. The ballot shall be in substantially the same form, and subsequent to the vote the same proceedings shall be had, as provided in this act.

HISTORY: Add. 1964, p. 517, Act 278, Eff. Aug. 28.

211.205d Submission of question at general or special election.

Sec. 5d. Upon receipt of a petition, the county clerk shall check it as to its sufficiency as provided by section 552 of Act No. 116 of the Public Acts of 1954, as amended, being section 168.552 of the Compiled Laws of 1948. If the petition substantially complies with the provisions of this act, the board of supervisors shall order by resolution that the question of providing separate tax limitations be submitted to the registered and qualified electors of the county at the next general election occurring in not less than 49 days after adoption of the resolution. In the years 1964, 1965 and 1966 if a general election will not be held within 90 days after adoption of the resolution, the resolution shall fix a date for a special election on the question not less than 49 days after adoption of the resolution.

HISTORY: Add. 1964, p. 517, Act 278, Eff. Aug. 28.

211.205e County tax allocation board; separate tax limitations.

Sec. 5e. Prior to adoption of a resolution submitting to a vote a question proposed by the initiatory petition of electors, the county board of supervisors shall request the county tax allocation board to submit to the county board of supervisors such separate tax limitations for the county and the school districts and townships therein, aggregating not less than the same number of mills as is in the electors' petition, as a majority of the members of the allocation board deems are best calculated to provide for the financial needs of such local units.

HISTORY: Add. 1964, p. 518, Act 278, Eff. Aug. 28.

211.205f County clerk; transmittal to local clerks for submission of question.

Sec. 5f. The county clerk, within 3 days after passage of a resolution to submit the question to the electors of the county, shall transmit a certified copy of the initiatory petition, the suggested tax rate limitations submitted by the county tax allocation board, and the resolution submitting the questions to a vote, to the clerk of each city and township in the county who shall conduct the election on the question in the same manner as provided by law for other county elections.

HISTORY: Add. 1964, p. 518, Act 278, Eff. Aug. 28.

211.205g Separate tax limitations; submission of question, form.

Sec. 5g. The question of adopting separate tax limitations shall be submitted to the registered and qualified electors of the county in substantially the following form:

"Shall separate tax limitations be established (for a period of ..... years or for an indefinite period), or until altered by the voters of the county, for the county of .....

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and the townships and school districts within the county, the aggregate of which shall not exceed ..... mills as follows:

	Mills
County of	.....
Townships	.....
Intermediate school districts	.....
School districts (a school district located entirely within a city or charter township shall receive in addition millage equal to the township millage.)	.....
Total	.....

Yes ( )
No ( )"

HISTORY: Add. 1964, p. 518, Act 278, Eff. Aug. 28;—Am. 1965, p. 135, Act 104, Imd. Eff. Jun. 30;—Am. 1966, p. 513, Act 303, Imd. Eff. Sep. 14;—Am. 1966, p. 620, Act 335, Eff. Mar. 10, 1967.

211.205h Separate tax limitations; adoption of plan.

Sec. 5h. At an election upon the question of adopting separate tax limitations, the tax limitations proposed by electors' initiatory petitions and the tax limitations proposed by the county tax allocation board shall be separately submitted to the voters. If the allocation board has recommended separate tax limitations identical to those proposed by the initiatory petitions, only 1 question shall be submitted to the voters. If more than 1 question receives more "yes" than "no" votes, the set of separate tax limitations which received the greater number of "yes" votes shall be adopted. If more than 1 question receives the same number of "yes" votes being the highest number of "yes" votes, the question adopted shall be the one receiving the greater excess of "yes" votes over "no" votes.

HISTORY: Add. 1964, p. 518, Act 278, Eff. Aug. 28.

211.205i Separate tax limitations; effectiveness.

Sec. 5i. On the filing in the offices of the secretary of state and the county clerk of a copy of the initiatory petition, the separate tax limitations recommended by the county tax allocation board, and of all resolutions thereafter and the certificate of the county board of canvassers showing that a majority of the electors voting on either the separate tax limitations proposed by petition of electors or of the county tax allocation board, or both, has approved thereof, and stating the number of votes cast on the separate questions and the number cast for and against the same, the separate tax limitations for the county and the townships and school districts therein shall be effective and shall thereupon apply to all subsequent tax levies until altered by another vote pursuant to the provisions of this act or expiration of the period for which the separate tax limitations were voted, except that when the election is held after April 1 in any year the adopted limitations shall be first effective in the subsequent calendar year.

HISTORY: Add. 1964, p. 518, Act 278, Eff. Aug. 28.

211.205j Separate tax limitations; adoption, abolition of county tax allocation board, re-establishment.

Sec. 5j. Whenever a majority of the registered and qualified electors of a county voting upon the question adopt separate tax limitations as authorized by section 6 of article 9 of the state constitution, the county tax allocation board created for such county by section 5 is abolished. If a specified period of years for the separate tax limitations

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expires and no limitations have been voted for any additional time, the allocation board shall be re-established.

HISTORY: Add. 1964, p. 519, Act 278, Eff. Aug. 28.

211.205k Separate tax limitations; alteration or extension; county advisory tax limitation committee; election.

Sec. 5k. Whenever an initiatory petition is received by the county board of supervisors to alter or extend within the 18 mill limitation existing separate tax limitations of the county and the townships and school districts therein, the county board of supervisors shall proceed in the same manner as provided in this act in the case of an original initiatory petition. The board of supervisors shall notify such persons and bodies, having appointive powers under section 5, of the receipt of such petition. Such persons and bodies shall select the same persons, provided by section 5, for a county tax allocation board, to serve as members of a county advisory tax limitation committee hereby created. The committee shall meet within 10 days of its selection and shall prepare such separate tax limitations for the county, and the townships and school districts therein, aggregating not more than 18 mills as a majority of the committee deems best to provide for the financial needs of the county, townships and school district. The separate tax limitations shall be promptly transmitted to the county board of supervisors and the functions of the committee shall then cease. The question shall be submitted to a vote of the registered and qualified electors of the county at the same time as the separate tax limitations proposed by initiatory petitions. The election, determination of results and procedure thereafter shall be the same as provided in this act in the case of an election held upon original petitions.

HISTORY: Add. 1964, p. 519, Act 278, Eff. Aug. 28.

211.205l Separate tax limitations; prior voted millage increases; additional millage increases.

Sec. 5l. The establishment and alteration of separate tax limitations shall not affect prior voted millage increases or the power of a local unit to vote additional millage increases, pursuant to section 3 or other law.

HISTORY: Add. 1964, p. 519, Act 278, Eff. Aug. 28.

211.205m Separate millage rates for separate districts.

Sec. 5m. In any county 2 or more separate tax limitation millage rates may be established for separate school districts lying entirely within that county.

HISTORY: Add. 1965, p. 435, Act 257, Imd. Eff. Jul. 21.

211.206 County tax allocation board; term, officers, assistance.

Sec. 6. The members of the board selected by the judge or judges of probate and the board of education shall be selected on or before the second Monday of April in each year, and shall hold office for a term of 1 year. The board shall select 1 of its members as chairman and the county clerks shall act as clerk of the board, and shall keep a full and accurate record of all its proceedings. The board may employ such clerical and other assistance as it deems necessary.

HISTORY: Am. 1934, 1st Ex. Ses., p. 108, Act 30, Imd. Eff. Mar. 28;—CL 1948, 211.206;—Am. 1949, p. 436, Act 288, Eff. Sep. 23;—Am. 1964, p. 11, Act 5, Imd. Eff. Mar. 13.

211.207 County tax allocation board; compensation and expenses.

Sec. 7. The members and clerk of the board shall receive the same per diem compensation and actual and necessary traveling expenses as are allowed to members of the board of supervisors of the county. The per diem and mileage of the board, the county clerk when serving as clerk of said board and its members, when certified by the board to the county treasurer, shall be paid from the general fund of the county, and the board of supervisors of the county is hereby authorized and empowered to raise by taxation amounts necessary for such purposes: Provided, however, That no

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member of the board or the county clerk when serving as clerk of said board shall receive compensation for their services for more than 20 days in any one year unless otherwise authorized by resolution of the board of supervisors.

HISTORY: Am. 1934, 1st Ex. Ses., p. 108, Act 30, Imd. Eff. Mar. 28;—Am. 1941, p. 195, Act 150, Imd. Eff. May 29;—Am. 1943, p. 122, Act 91, Imd. Eff. Apr. 13;—CL 1948, 211.207;—Am. 1958, p. 8, Act 7, Imd. Eff. Mar. 6.

211.208 County tax allocation board; meetings, examination of local records.

Sec. 8. The board shall meet for the purpose of organization on the third Monday in April, 1950, and each year thereafter at the office of the county clerk at 1 p.m. and shall hold meetings thereafter at such times and places as it may deem necessary. The board may act by a majority vote of its members. The board may order any officer or employee of any local unit to appear before it and testify and/or produce books, papers and records of such local unit. The board or its agents shall have the right to examine the books, papers and records of any local unit wherever such documents may be located. It shall be the duty of any officer or employee of any local unit to appear before the board and testify and/or produce books, papers and records of such local unit and/or permit such books, papers and records in his custody to be examined by the board or its agents when so ordered by the board.

HISTORY: Am. 1934, 1st Ex. Ses., p. 108, Act 30, Imd. Eff. Mar. 28;—CL 1948, 211.208;—Am. 1949, p. 436, Act 288, Eff. Sep. 23.

211.209 Budgets and statements of local units; preparation, form.

Sec. 9. Budgets and statements of local units; preparation. Each local unit as defined in this act shall prepare each year a budget containing an itemized statement of its proposed expenditures and estimated revenues, covering all its departments and activities. Such budget shall cover that fiscal year of the local unit, the expenditures of which year are to be met wholly or partly from the next tax levy. Items of proposed capital outlay, items for the payment of interest and principal on obligations incurred prior to December eighth, 1932, and items for the payment of interest and principal on obligations incurred subsequent to December eighth, 1932, shall be listed separately. Each local unit shall also prepare each year a statement of the total assessed valuation of property located within its area. The board may require of any local unit a summary statement of its expenditures and revenues for each of the last 2 fiscal years, and a statement of its tax levies and total assessed valuation for such years. The form of such budgets and statements may be prescribed by the state tax commission.

HISTORY: Am. 1934, 1st Ex. Ses., p. 108, Act 30, Imd. Eff. March 28;—CL 1948, 211.209.

211.210 Budgets and statements of local units; filing with county tax allocation board.

Sec. 10. Such local unit shall file its budget and statements provided for in the preceding section with the board on or before the third Monday in April of each year. Each local unit which has voted to increase the total tax rate limitation as provided in the last sentence of the first paragraph of section 6 of article 9 of the state constitution shall also file with the board a sworn statement showing the date on which the election was held, the number of votes cast for and the number of votes cast against such increase, the total tax rate limitation voted at such election, and the number of years for which such limitation was voted. If any local unit shall fail to file its budget and statements by such date, the board shall proceed with its duties and act on the basis of such information with respect to such local unit as it may derive from other sources.

HISTORY: Am. 1934, 1st Ex. Ses., p. 108, Act 30, Imd. Eff. Mar. 28;—CL 1948, 211.210;—Am. 1949, p. 436, Act 288, Eff. Sep. 23;—Am. 1964, p. 519, Act 278, Eff. Aug. 28.

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211.211 County tax allocation board; powers and duties in establishing tax rates.

Sec. 11. (a) The board shall examine the budgets and statements of local units which have been filed with it, and shall determine the tax rates exclusive of debt service tax rates which would be required according to its proposed budget. The board may request additional statements and examine financial records to verify the tax rate request of a local unit.

(b) If the board shall find that the total of all such tax rates which would be required to be levied on property located within the area of any local unit does not exceed the net limitation tax rate, it shall approve such tax rates as maximum tax rates, except such tax rates as may be required to be determined under the following subsections.

(c) If the board shall find that the total of all such tax rates which would be required to be levied on property located within the area of any local unit exceeds the net limitation tax rate it shall proceed according to the 3 following subsections.

(d) The board shall approve minimum tax rates as follows: For the county, 3 mills; for school districts, 4 mills; for community college districts organized after April 15, 1957, 1/1000 of 1 mill; for intermediate school districts, 1/10 of 1 mill; for townships other than charter townships, 1 mill. If the community college district has voted to increase the total tax limitation as provided in section 6 of article 9 of the state constitution, the board during the period the increase is in effect shall not allocate the 1/1000 of 1 mill minimum tax rate to the community college district, but the community college district shall raise all of its tax revenues from the amount of increase so voted. No local unit shall be allowed a tax rate in excess of what would be required according to its proposed budget.

(e) The board shall divide the balance of the net limitation tax rate between all local units after due consideration of the needs of the several local units, the importance to the public of functions of local units which might have to be curtailed, the need of local units for construction or repair of public works, the proposed or accomplished transfer of functions from 1 local unit to others, and any other facts or matters concerning the operations of local units which the board may deem relevant. A local unit shall not be allowed a tax rate in excess of what would be required according to its proposed budget. The board shall approve a maximum tax rate for each local unit consisting of the minimum tax rate, if any, provided in subsection (d), added to the tax rate determined under this subsection.

(f) The board shall approve a maximum tax rate for each local unit which has voted to increase the total tax rate limitation as provided in the last sentence of the first paragraph of section 6 of article 9 of the state constitution, and as provided for in this act, which tax rate, with other maximum tax rates which may be levied within the area of such local unit, shall not exceed the limitation voted. In approving a maximum tax rate for the various local units, the board shall not take into consideration any increase of the tax rate limitation voted by any local unit.

(g) The board shall not approve a tax rate for any local unit which has not submitted a budget or statements as required.

(h) The approval by the board of a maximum tax rate for any local unit, which will necessitate a reduction in the total proposed expenditures as listed in the budget of such local unit, shall not be construed as a reduction or elimination of any specific items in such list of proposed expenditures, and the board shall not have the power to reduce or eliminate any such specific items. Any local unit in the budget of which a reduction in the total proposed expenditure is necessitated by the action of the board, or the state tax commission in case of appeal, shall have power to revise its budget and amend and alter its tax levy to the extent made necessary by such action, any law or

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charter provisions to the contrary notwithstanding. Budgets heretofore prepared to be met from taxes to be levied pursuant to this act may likewise be revised.

HISTORY: Am. 1934, 1st Ex. Ses., p. 109, Act 30, Imd. Eff. Mar. 28;—Am. 1937, p. 52, Act 40, Imd. Eff. May 13;—Am. 1945, p. 220, Act 158, Imd. Eff. May 16;—Am. 1947, p. 463, Act 293, Eff. Oct. 11;—CL 1948, 211.211;—Am. 1952, p. 95, Act 87, Eff. Sep. 18;—Am. 1957, p. 176, Act 155, Eff. Sep. 27;—Am. 1959, p. 95, Act 88, Imd. Eff. Jun. 29;—Am. 1964, p. 519, Act 278, Eff. Aug. 28.

211.211a Intercounty or intermediate school district; maximum tax rate.

Sec. 11a. Notwithstanding any other provision of this act, the county tax allocation board of a county containing other than the greatest part of the area of an intercounty school district or intermediate school district, shall approve a maximum tax rate for such district, determined in accordance with section 14a. The provisions of this section shall not result in a grant by an allocation board of a tax rate to the intercounty school district or intermediate school district in excess of the rate required according to its proposed budget.

HISTORY: Add. 1964, p. 520, Act 278, Eff. Aug. 28.

211.212 Tax levies, statement in rates, limits; debt service.

Sec. 12. Tax levies to be in rates. In order that the maximum tax rates ordered by the board and tax levies pursuant thereto may not be invalidated by any process of determination or review of assessments subsequent to the allocation of the net limitation tax rate, all tax levies shall hereafter be made by prescribing the rate of taxes and the sums of money to be raised thereby, which shall be imposed upon property. No such levy shall be a rate in excess of the maximum tax rate ordered by the board or by the state tax commission in case of appeal: Provided, That nothing in this act shall be construed to limit or restrict the power of the state or local units to make tax levies separately in excess of such maximum tax rates for the purpose of payment of interest and principal on obligations incurred prior to December eighth, 1932.

HISTORY: Am. 1934, 1st Ex. Ses., p. 110, Act 30, Imd. Eff. March 28;—Am. 1945, p. 225, Act 161, Imd. Eff. May 16;—CL 1948, 211.212.

Sec. 13.

HISTORY: Am. 1934, 1st Ex. Ses., p. 110, Act 30, Imd. Eff. March 28;—Am. 1939, p. 373, Act 196, Eff. Sept. 29;—Rep. 1945, p. 226, Act 161, Imd. Eff. May 16.

NOTE: The section provided for equalization of assessments by state and counties.

211.214 District located in more than 1 county; establishment of rate.

Sec. 14. Whenever a school district, including an intermediate school district, is located in 2 or more counties, the chairman of the allocation board of the county in which the greatest part of the area of such school district is located, immediately upon the making of the final order approving a maximum tax rate for each local unit in the county, shall notify the chairmen of the allocation boards of the counties in which other portions of the school district are located. The notice shall set forth the maximum tax rate approved by the allocation board for the purposes of the school district.

HISTORY: Am. 1934, 1st Ex. Ses., p. 111, Act 30, Imd. Eff. Mar. 28;—CL 1948, 211.214;—Am. 1964, p. 521, Act 278, Eff. Aug. 28.

211.214a District located in more than 1 county; establishment of rates in all counties; proposed budget.

Sec. 14a. The allocation board of a county in which other than the greatest part of the area of an intercounty school district, including an intermediate school district, is located, shall remain in session to receive such notice. If the notice indicates that a higher rate was approved for such school district by the allocation board of the county in which the greatest part of the school district is located the allocation board of any county which has adopted a lower rate shall change it to the rate approved by the allocation board of the county in which the greatest part of the area of the school district is located.

The allocation board of a county containing other than the greatest part of the area of an intercounty school district or intermediate school district shall adopt a maximum rate for such school district which is not less than the separate tax rate for the school

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district adopted by the qualified electors of the county containing the greatest part of the area of such school district, if there has been such a vote. Notwithstanding any other provision of this act, a school district shall not be allowed a tax rate in excess of the rate required according to its proposed budget.

HISTORY: Add. 1964, p. 521, Act 278, Eff. Aug. 28.

211.215 County tax allocation board; maximum tax rate, final hearing, redetermination.

Sec. 15. In each year, on the third Monday of May, the board shall make a preliminary order approving a maximum tax rate for the purposes of each local unit and shall give written notice of such order to each local unit. At the same time the board shall give to each local unit written notice of the time and place for final hearing before the board on the maximum tax rate of such local unit, which shall not be less than 8 nor more than 12 days thereafter. At such final hearing any local unit may object by its duly authorized officers or agents to the maximum tax rate as ordered by the board and request a redetermination thereof.

HISTORY: Am. 1934, 1st Ex. Ses., p. 111, Act 30, Imd. Eff. Mar. 28;—CL 1948, 211.215;—Am. 1949, p. 436, Act 288, Eff. Sep. 23;—Am. 1955, p. 17, Act 17, Imd. Eff. Mar. 29;—Am. 1961, p. 233, Act 159, Eff. Sep. 8;—Am. 1962, p. 140, Act 149, Eff. Mar. 28, 1963.

211.216 Orders of board; maximum tax rate, final order.

Sec. 16. Within 5 days after the final hearing for each local unit, but not later than the first Monday in June, the board shall make a final order approving a maximum tax rate for the purposes of such local unit and shall give written notice of such order to such local unit. Any local unit, required by any provision of law or city charter, to certify its tax levy for apportionment prior to the first Monday in June may, any provision of such law or charter to the contrary notwithstanding, certify its tax levy on or before the Wednesday following the first Monday in June.

HISTORY: Am. 1934, 1st Ex. Ses., p. 111, Act 30, Imd. Eff. Mar. 28;—CL 1948, 211.216;—Am. 1955, p. 17, Act 17, Imd. Eff. Mar. 29.

211.217 Orders of board; appeal to state tax commission; judicial review.

Sec. 17. Within 15 days after the giving of notice of such final order any aggrieved local unit may appeal in writing to the state tax commission. The commission shall give at least 10 days' written notice to all interested parties of the time and place for a hearing on such appeal, and at the hearing shall give all such parties an opportunity to be heard. The commission shall apply the method provided in section 11 for the division of the net limitation tax rate, and if it finds a material mistake of fact, fraud or an error of law in the proceedings under this act, may make an order increasing or decreasing the maximum tax rate of any local unit as ordered by the board, and adjusting the tax rates of other local units affected by such action. The commission shall give written notice of its order to all interested parties within 15 days after such hearing. The order of the commission, or of the board in case of no appeal, shall be final and shall not be reviewable in any court by mandamus, certiorari, appeal or any other method of direct or collateral attack, nor shall any court of this state issue any injunction to prohibit the carrying out of any order made under this act.

HISTORY: Am. 1934, 1st Ex. Ses., p. 111, Act 30, Imd. Eff. Mar. 28;—CL 1948, 211.217;—Am. 1964, p. 521, Act 278, Eff. Aug. 28.

211.217a State tax commission's orders; intercounty or intermediate school district; adjustment of tax rates.

Sec. 17a. If the order of the state tax commission increases or decreases the maximum tax rate of an intercounty school district, including an intermediate school district, and if the greatest part of the area of such district is affected by such an order, the commission shall promptly take such proceedings as will assure that the tax rate available for such district's purposes in counties in which its other areas are located shall be likewise increased or decreased.

HISTORY: Add. 1964, p. 521, Act 278, Eff. Aug. 28.

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Sec. 18.
HISTORY: Rep. 1934, 1st Ex. Ses., p. 112, Act 30, Imd. Eff. March 28.
NOTE: This section provided for procedure for 1933.

Sec. 19. (This was a severing clause section.)
HISTORY: Rep. 1947, p. 169, Act 129, Eff. Oct. 11.

Sec. 20. (This was a repeal section.)
HISTORY: Rep. 1947, p. 169, Act 129, Eff. Oct. 11.

Act 162, 1933, p. 239; Imd. Eff. Jun. 22.

AN ACT to provide for the levy of certain additional taxes in municipal school districts.

The People of the State of Michigan enact:

211.251 Definitions.

Sec. 1. Definitions. As used in this act:

(a) The term "municipal corporation" shall mean a township, county, village or city;

(b) The term "commission" shall mean the county tax commission created by the property tax limitation act, being Act No. 62 of the Public Acts of the regular session of 1933.

(c) The term "net limitation tax rate" shall mean the net limitation tax rate as determined according to the provisions of the aforesaid property tax limitation act.

HISTORY: CL 1948, 211.251.
NOTE: Act 62, 1933, above referred to, is Compilers' § 211.201 et seq.

211.252 Tax rates in certain municipal school districts.

Sec. 2. Tax rates in certain municipal school districts. In the case of any school district lying partly within and partly without the limits of a municipal corporation the following procedure shall be observed: The commission shall find, in accordance with the provisions of the property tax limitation act the maximum tax rate which may be levied against all of the property lying within such school district. Such tax rate is hereinafter referred to as the "regular tax rate". Thereafter the commission shall find the maximum additional tax rate which fairly and reasonably is equivalent to and represents the additional annual value to the property lying within the boundaries of the municipal corporation resulting from the greater proximity of the school buildings and facilities to such property and the greater accessibility thereof, and not already reflected in assessed valuations. In no case shall the additional tax rate be such as to increase beyond the net limitation tax rate the total of all taxes levied against property within the limits of such municipal corporation, exclusive of rates levied for the payment of interest and principal on obligations incurred prior to December 8, 1932, and rates levied pursuant to the provisions of the charter of such municipal corporation. The findings and order of the commission made and entered concerning the maximum tax rates of such school district shall specify both the maximum regular tax rate and the maximum additional tax rate computed as aforesaid.

HISTORY: CL 1948, 211.252.

211.253 Findings of commission; conclusiveness.

Sec. 3. Conclusiveness of findings. The findings of the commission on questions of fact as to the fairness and reasonableness of the additional tax rates shall be conclusive.
HISTORY: CL 1948, 211.253.

211.254 Additional tax rate; levy by board of education.

Sec. 4. Power to levy additional tax rate. The board of education of any school district for which the commission has found and ordered an additional tax rate as herein-

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before provided is hereby empowered to levy such additional tax rate upon the property of the district lying within the municipal corporation, such levy to be in addition to the regular tax rate which is permitted to be levied upon all of the property of such district, both that lying within such municipal corporation, and that lying outside thereof. Such additional rate shall be certified to the proper officers of the municipal corporation at the same time as the regular rate is certified, and such additional rate shall be assessed, levied, collected and returned in the same manner as the taxes of the municipal corporation are assessed, levied, collected and returned.

HISTORY: CL 1948, 211.254.

211.255 Rules and regulations by auditor general.

Sec. 5. Auditor general to make rules and regulations. The auditor general shall issue such rules, regulations and instructions as he may deem necessary to the proper administration and enforcement of this act.

HISTORY: CL 1948, 211.255.

211.256 Supplementary order of commission; retroactive effect.

Sec. 6. Supplementary order, retroactive effect.

(a) If any commission has made its final order for 1933 prior to the effective date of this act such commission is hereby empowered to hold necessary additional meetings, afford necessary additional hearings and enter a supplementary order making findings and authorizing the levy of an additional tax rate in harmony with the provisions of this act. Such supplementary order shall be in addition to and shall in no way invalidate, limit, or otherwise effect the final order previously entered.

(b) If any commission has made its final order of 1933 prior to the effective date of this act and such final order has authorized the levy of an additional tax rate for a school district upon property lying within the boundaries of a municipal corporation, or has authorized the levy of a greater tax rate within the boundaries of the municipal corporation, than outside thereof, such order is hereby validated and rendered as effective as though made subsequent to the effective date of this act, and such order shall authorize the levy of such additional tax rate of any part thereof: Provided, however, That the commission may, if such previously made order is not in harmony with this act, hold necessary additional meetings, afford necessary additional hearings and enter an order amending such previous order to cause it to conform with this act. Such amended order shall stand as the final order of the commission for 1933 and shall be effective as such.

HISTORY: CL 1948, 211.256.

Act 140, 1933, p. 194; Imd. Eff. Jun. 16.

AN ACT to authorize certain municipalities to reopen and revise their budgets to permit deductions from the tax levy of certain debt obligations, and to prescribe certain provisions therefor.

The People of the State of Michigan enact:

211.271 Revision of municipal budgets; definitions.

Sec. 1. The following definitions shall apply to the terms used in this act:

(a) "Municipality" shall mean any county, township, village, city, school district or library district in this state.

(b) "Governing body" shall mean the board of supervisors of a county; the township board of a township; the board of trustees, council or commission of a village; the

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council or commission of a city; the board of education or board of library commissioners of any school or library district.

(c) "Budget" shall mean the budget provided for any such municipality under any law of the state of Michigan or charter or ordinance of any municipality as herein defined.

(d) "Fiscal year" shall mean the fiscal year established by any law, ordinance or charter of any such municipality.

HISTORY: CL 1948, 211.271.

211.272 Revision of municipal budgets for deduction of debt service.

Sec. 2. Any municipality, which by mutual agreement with creditors has provided for the refunding of any part or all of its funded indebtedness, or the interest thereon, or any part thereof pursuant to Act No. 13 of the Public Acts of the first extra session of 1932, as amended, or Act No. 273 of the Public Acts of 1925, as amended, and which has heretofore adopted or may hereafter adopt its budget and provided a tax levy for any fiscal year with serial or sinking fund maturities, interest maturities or other evidences of indebtedness included as required by law, may by a 2/3 vote of the members-elect of its legislative body reopen and revise its budget for the purpose only of deducting from the budget and tax levy all that part of serial, sinking and interest fund maturities or other evidences agreed to be refunded as above provided.

HISTORY: CL 1948, 211.272.

NOTE: Act 13, 1932, 1st Ex. Ses. and Act 273, 1925, referred to in this act have been repealed and superseded by Act 202, 1943, being Compilers' § 131.1 et seq.

211.273 Revision of municipal budgets for deduction of debt service; after approval of refunding by public debt commission.

Sec. 3. Whenever the public debt commission, as created by Act No. 13 of the Public Acts of the first extra session of 1932, shall have approved of the refunding of all or any part of the funded indebtedness of any municipality and agreement with creditors consummated, the governing body may, by a 2/3 vote of its members elect, by resolution, provide for the revision of its budget for the purpose of deducting therefrom the tax levy herein provided for.

HISTORY: CL 1948, 211.273.

211.274 Revision of municipal budgets for deduction of debt service; after suspension of moratorium on municipal debt.

Sec. 4. Whenever debt charges may be suspended or a moratorium upon any part or all of the funded indebtedness, including interest thereon, of any municipality is authorized pursuant to any federal law, statutory provision of the state of Michigan or court, any municipality may revise its budget and tax levy as herein provided: Provided, That if revision is made pursuant to this section, the approval of the public debt commission shall not be a condition precedent to the revision of any such budget and tax levy.

HISTORY: CL 1948, 211.274.

211.275 Effect on existing statutes and charters.

Sec. 5. This act shall not repeal any existing statutory or charter provision for a budget and/or tax levy but shall be construed as an additional grant of power to that now prescribed by other statutory or charter provisions.

HISTORY: CL 1948, 211.275.

Act 126, 1933, p. 179; Imd. Eff. Jun. 15.

AN ACT to provide for the return, payment and collection of delinquent taxes and special assessments for 1935 and prior years, to continue the lien on such taxes and special assessments of indebtedness, principal and interest, and to suspend the provi-

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sions of the general tax law insofar as the publication of the petition and order and the sale of lands delinquent for taxes of 1935 and prior years are concerned, to provide when such returned delinquent taxes and special assessments shall be due; to provide for the payment of such returned taxes prior to and after the specified time of payment, to require notice of such returned delinquent taxes and special assessments in contracts, deeds or other conveyances, and of the publication of notice each year of the collection of such returned delinquent taxes and special assessments; to make it an offense for violating the provisions of this act, to prescribe the penalties therefor, and to repeal and/or suspend all acts and parts of acts in conflict with the provisions of this act. Am. 1934, 1st Ex. Ses., p. 81, Act 11, Imd. Eff. Mar. 19.

The People of the State of Michigan enact:

211.301 Declaration of emergency as to delinquent taxes.

Sec. 1. The governor of this state has declared that a public emergency exists in the banking business. The legislature has declared that such emergency exists. The legislature has also declared that an emergency exists in the matter of loan values and cash surrender values of insurance policies. Any one of these emergencies directly affects the ability of citizens to pay taxes, both current and delinquent. In the year 1931 nearly 1/2 of the acreage assessed for taxes in this state was returned tax delinquent. The sale of lands for delinquent taxes has been cancelled for the year 1933 by an act of the legislature. Penalties and interest on delinquent taxes have been cancelled for a limited time. Many people are unable to pay their current or delinquent taxes. The safety and security of property and home ownership in this state is in grave danger, unless relief is granted by the legislature to citizens whose property is tax delinquent. The legislature acting in the exercise of the police power of the state declares that an emergency exists in the matter of tax delinquency and that legislation being necessary to meet such an emergency, does hereby enact the following:

HISTORY: Am. 1937, p. 33, Act 28, Imd. Eff. April 30;—CL 1948, 211.301.

211.302 Return to county treasurer of delinquent taxes and special assessments for 1932 and prior years; returned delinquent tax roll, contents, cost.

Sec. 2. The auditor general shall return to the county treasurer in a special roll all general and special assessment real estate taxes returned to the state as delinquent for the year 1932 and prior years, and not heretofore paid, sold, redeemed or otherwise disposed of, and such roll shall be retained in the office of the several county treasurers and shall be termed the "returned delinquent tax roll." In the preparation of said "returned delinquent tax roll" the tax shall be spread in separate columns in a manner to correspond with the original levy of said taxes and special assessments, but without the addition of collection fees, interest or penalties: Provided, That any taxes, including special assessments, that had heretofore been cancelled and/or rejected and charged back to the counties by the auditor general for the year 1932 and/or prior years, and correctly reassessed in the year 1932 and/or 1933: Provided, That any taxes, including "special" assessments, that have heretofore been cancelled and charged back to the counties by the auditor general for the year 1931 and prior years and correctly reassessed in 1933 shall be included in such "returned delinquent tax roll" or in a supplemental "returned delinquent tax roll" to the several county treasurers, subject to all of the provisions of this act: Provided, further, That any taxes, including "special" assessments that are cancelled by the auditor general for the year 1932 and prior years and included in the charge back list of June 30, 1934, shall be forwarded by the auditor general to the county treasurer for filing in his office. Upon re-

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ceipt of said charge back list the county treasurers are empowered to require the supervisors of the townships and all other assessing officers in the county to report in the office of the county treasurers to assist in correcting the descriptions on which the taxes may be legally reassessed and remedying any other defects in charge back lists for the year 1934, and/or all descriptions in previous charge back lists (which have not been ordered reassessed by the board of supervisors), and such supervisors and assessing officers shall forthwith render such assistance when so requested by the county treasurer. When such corrections are made, the county treasurer shall prepare in duplicate a list of the descriptions so corrected with the items of tax as originally assessed, and attach 1 copy of said corrected roll to the "returned delinquent roll" provided by the auditor general, and forward a copy of said corrected list to the auditor general to be attached to the list on file in his office. When so corrected said "supplemental roll" shall be a valid assessment of the taxes upon the several parcels described therein, subject to all the provisions of this act. The cost of preparing such "supplemental rolls" and the services of the supervisors and assessing officers shall be paid out of the general fund of the county, when such cost shall have been audited and approved by the board of county auditors in counties having such board, and in all other counties by the ways and means or finance committee of the board of supervisors.

HISTORY: Am. 1934, 1st Ex. Ses., p. 81, Act 11, Imd. Eff. March 19;—CL 1948, 211.302.

211.303 Installment payment of taxes; 1932 and prior years; application for 1933, 1934 and 1935 taxes; return and sale, redemption; abstract of taxes, form; allocation and distribution of payments.

Sec. 3. Such returned delinquent taxes and special assessments may be paid to the county treasurer of the county in which the lands are situated, in 10 equal annual installments before September 1, 1935, and annually thereafter. Such payments shall be made with a collection fee of 2 per cent of total tax paid but without penalties if payment is made before September 1 of the year in which the installment is due: Provided, That when the installment is not paid before September 1 of the year in which such installment becomes due, then payment may be made with interest at 3/4 of 1 per cent per month on such installment from the due date thereof until the date of payment: Provided, however, That installments due September 1, 1935, and September 1, 1936, and unpaid, can be paid without interest or penalties, but with collection fee of 2 per cent on total amount paid, if paid before September 1, 1937. The return of such delinquent taxes and special assessments as herein provided shall not preclude the payment of the whole or any part of said taxes and special assessments to the county treasurer with the collection fee of 2 per cent of total tax paid but without penalties as herein provided at any time prior to the time of payment specified and provided for in this act. If any installment so returned shall not be paid in the current year before the first day of September, the auditor general shall during the following May offer the lands for sale for all unpaid installments due or to become due hereunder in accordance with the provisions of the general tax laws of the state applicable to delinquent taxes: Provided, That the auditor general may, as to said sale, delegate to the county treasurer of any county any of the duties now required of the auditor general by the provisions of the general tax laws of the state applicable to delinquent taxes; and in case such duties are so delegated in any county, the cost incurred by the county in the performance of such duties shall be paid to the county from the funds of the auditor general appropriated for such purposes, which sum shall not exceed the cost which would have been incurred by the state had the auditor general performed said duties. The county treasurers of the several counties of the state shall not be required to make return to the auditor general of the lands described in the returned delinquent tax roll: Provided, however, The lands so delinquent may be redeemed at the office of the county treasurer at any time prior to the date such lands are offered for

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sale by payment of the installment so delinquent plus collection fees together with interest at the rate of 3/4 of 1 per cent per month from the due date thereof.

In addition to the method for payment of taxes and special assessments for 1932 and prior years as hereinbefore set forth delinquent taxes and special assessments for the years 1933, 1934 and 1935, or any of said years or any part or parts thereof, which have been returned as delinquent to the several county treasurers, may be paid to the county treasurer of the county in which the lands are situated in 10 equal annual installments before September 1, 1937, and annually thereafter: Provided, That taxes for 1932 and prior years, or the several matured installments thereof, have been paid: Provided, however, That application is made prior to September 1, 1937, to pay such delinquent taxes and special assessments for the years 1933, 1934 and 1935, or any of said years or any part or parts thereof, which application shall be accompanied by the first installment: Provided further, however, That such application shall also be accompanied by a tax receipt or receipts showing that the entire taxes and special assessments for the year 1936 have been paid in full. Such payments shall be made with collection fee of 2 per cent of total tax paid but without penalties if payment is made before September 1 of the year in which the installment is due: Provided, That when the installment is not paid before September 1 of the year in which such installment becomes due, then payment may be made with interest at 3/4 of 1 per cent per month on such installment from the due date thereof until the date of payment. Such delinquent taxes and special assessments may be paid in whole or in part to the county treasurer, with collection fee of 2 per cent of total tax paid but without penalties as herein provided, at any time prior to the time of payment specified and provided for in this act. Any taxes or special assessments that have heretofore been or shall hereafter be cancelled and charged back to the counties by the auditor general under Act No. 206 of the Public Acts of 1893, as amended, for the years 1933, 1934 or 1935, and correctly reassessed, shall be governed by the provisions of this act, as amended, and shall be payable in the same manner and subject to the same conditions as taxes and special assessments correctly assessed for the years 1933, 1934 and 1935. If any installment shall not be paid in the current year before the due date thereof, the auditor general shall offer the lands for sale for all unpaid installments due or to become due hereunder during the following May in accordance with the provisions of the general tax laws of the state applicable to delinquent taxes: Provided, That the auditor general may, as to said sale, delegate to the county treasurer of any county any of the duties now required of the auditor general by the provisions of the general tax laws of the state applicable to delinquent taxes; and in case such duties are so delegated in any county, the cost incurred by the county in the performance of such duties shall be paid to the county from the funds of the auditor general appropriated for such purposes, which sum shall not exceed the cost which would have been incurred by the state had the auditor general performed said duties: Provided, however, The lands so delinquent may be redeemed at the office of the county treasurer at any time prior to the date such lands are offered for sale by payment of the installment so delinquent plus collection fees together with interest at the rate of 3/4 of 1 per cent per month from the due date thereof. When application is made to pay delinquent taxes and special assessments for the years 1933, 1934 and 1935, or any of said years or any part or parts thereof, in installments as herein provided, accompanied by payment of the first installment, the county treasurer shall make an abstract of all taxes and special assessments due for the years 1933, 1934 and 1935 on the lands covered by the application, which abstract shall be made on such forms as shall be prescribed and furnished or approved by the auditor general. It shall be the duty of the auditor general to prescribe and furnish such forms. The description of land shall be placed at the top of the form, each abstract shall be made on a single form, and each year's taxes and special assess-

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ments shall be listed opposite each of the several years for which the land is delinquent. Space shall be provided for recording payments during the installment periods. The county treasurer shall issue receipts for each installment payment on forms prescribed or approved by the auditor general, and shall on the payment of the final installment issue his receipt showing payment of tax in full and shall make proper notation thereof on the tax rolls in his office.

All installments received under the provisions of this act in payment of delinquent taxes and special assessments shall be distributed and allocated to the several taxing units in accordance with the terms of the general tax law.

HISTORY: Am. 1935, p. 113, Act 73, Imd. Eff. May 18;—Am. 1937, p. 33, Act 28, Imd. Eff. April 30;—CL 1948, 211.303.

NOTE: Act 206, 1893, above referred to, is Compilers' § 211.1 et seq. See in particular Compilers' §§ 211.96 and 211.97.

211.303a Additional interest charge upon each installment.

Sec. 3a. In addition to the interest charge of 3/4 of 1 per cent per month after the due date of any installment and to the collection fee of 2 per cent, all as provided in section 3 above, there shall be collected upon each 1/10 installment of a special assessment, interest upon the principal amount of such installment at the rate of 1/2 of 1 per cent per month from the date as of which the same was returned to the county treasurer, to the maturity date of such installment, or if sooner paid, then to the date of payment: Provided, That such interest on special assessments appearing upon the tax rolls for the year 1932 and prior years shall be computed from September 1, 1935.

HISTORY: Add. 1937, p. 36, Act 28, Imd. Eff. April 30;—CL 1948, 211.303a.

211.303b Interest charges on delinquent special assessments; remission.

Sec. 3b. The board of supervisors of any county or the governing body of any municipality is hereby authorized by resolution by a majority vote of the members elect to remit interest charges on delinquent special assessments.

HISTORY: Add. 1937, p. 119, Act 87, Imd. Eff. June 18;—CL 1948, 211.303b.

211.304 Lien of bonds to attach to returned taxes.

Sec. 4. The lien or interest of any outstanding bonded indebtedness, either principal or interest in such delinquent taxes or special assessments, shall attach to said returned taxes or special assessments the same as in the original levy thereof.

HISTORY: Am. 1937, p. 36, Act 28, Imd. Eff. April 30;—CL 1948, 211.304.

211.305 Taxes not delinquent for certain purposes; certificate of county treasurer or auditor general on land contracts or conveyance with warranty of title.

Sec. 5. Such taxes and special assessments shall not be deemed to be due and payable until the time for payment provided for herein, and shall not be considered a delinquent tax in a certificate issued by the county treasurer or the auditor general as provided for in section 3531 of the Compiled Laws of the state of Michigan for 1929: Provided, That during the period fixed for the payment of such returned taxes and special assessments all contracts for the sale of such lands and all deeds or other conveyances for the transfer of title to said lands, containing any warranty of title thereto, shall contain thereon a certificate of the county treasurer or auditor general setting forth the amount of delinquent taxes and special assessments thereon that have been returned for collection and are payable at the office of the county treasurer or auditor general, and setting forth also the number and amount of installments of such delinquent taxes and/or special assessments that have been returned by the county treasurer to the auditor general as delinquent. The county treasurer or auditor general shall upon request place his certificate by this section required on any deed or contract offered to him for that purpose and when such certificate of the county treasurer or auditor general has been made on any deed or land contract such instrument shall be accepted by the register of deeds for recording, if otherwise in legal form. No such

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certificate regarding taxes and/or special assessments shall be required on any conveyance not containing a warranty of title clause. Any contract, deed, or conveyance of such lands, containing any warranty of title thereto, failing to contain such certificate when there are any such taxes delinquent shall be voidable.

HISTORY: Am. 1934, 1st Ex. Ses., p. 82, Act 11, Imd. Eff. March 19;—Am. 1937, p. 36, Act 28, Imd. Eff. April 30;—CL 1948, 211.305.
NOTE: CL 1929, 3531, above referred to, is Compilers' § 211.135.

211.306 Notice of sale for delinquent taxes; publication in newspaper.

Sec. 6. The county treasurer shall annually in the months of July and August of each year during said installment periods beginning in 1937, publish in at least 3 newspapers published and circulated in that county, a notice calling special attention to the fact that delinquent taxes and special assessments for 1935 and prior years are due and payable at the office of the county treasurer before September 1, following, and that if such taxes and special assessments are not paid they will be sold as delinquent taxes: Provided, however, That in counties with less than three newspapers the aforesaid notice shall be published in all newspapers published and circulated in that county: And provided further, That in counties having no newspaper published and circulated therein the aforesaid notice may be published in any newspaper of general circulation in said county.

HISTORY: Am. 1934, 1st Ex. Ses., p. 82, Act 11, Imd. Eff. March 19;—Am. 1935, p. 114, Act 73, Imd. Eff. May 18;—Am. 1937, p. 36, Act 28, Imd. Eff. April 30;—CL 1948, 211.306.

211.307 Sale for delinquent taxes prohibited; exception.

Sec. 7. The publication of the order and petition for the sale of lands delinquent for taxes for 1935 and prior years and of the description of such lands shall be prohibited from and after the taking effect of this act, so as to prohibit the sale of such lands for delinquent taxes for 1935 and prior years on the first Tuesday of May, 1937, and thereafter except as provided for in section 3 of this act.

HISTORY: Am. 1934, 1st Ex. Ses., p. 83, Act 11, Imd. Eff. March 19;—Am. 1937, p. 37, Act 28, Imd. Eff. April 30;—CL 1948, 211.307.

211.308 Waste or removal of timber from delinquent tax lands; penalty.

Sec. 8. Nothing in this act shall be deemed to waive, repeal or invalidate the provisions of sections 3506, 3549, 3550 and 3551 of the Compiled Laws of the state of Michigan for 1929. Any person cutting or removing timber from any such lands without written consent of the auditor general and county treasurers shall be guilty of a felony and shall be punished by imprisonment in the state prison for not more than 5 years or by a fine not exceeding 2,000 dollars or both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1948, 211.308.
NOTE: CL 1929, 3506, 3549-3551, above referred to, are Compilers' §§ 211.113, 211.155-211.157.

Sec. 9. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 414, Act 287, Imd. Eff. May 25.

211.310 General property tax law; provisions in effect.

Sec. 10. All the provisions of Act No. 206 of the Public Acts of 1893, as amended, and other acts or parts of acts in conflict with the provisions of this act shall, to the extent of such conflict not apply to such delinquent taxes and/or special assessments for the year 1935 and prior years, but otherwise and to the extent that they are not in conflict herewith they shall remain in full force and effect.

HISTORY: Am. 1934, 1st Ex. Ses., p. 83, Act 11, Imd. Eff. March 19;—Am. 1937, p. 37, Act 28, Imd. Eff. April 30;—CL 1948, 211.310.
NOTE: Act 206, 1893, above referred to, is Compilers' § 211.1 et seq.

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211.311 Construction as emergency legislation.

Sec. 11. This act is and shall be construed to be emergency legislation, enacted in the exercise of the police power of the state, and deemed necessary for the preservation of the ownership of property and the protection of the property rights of the citizens of this state and to protect and promote homeownership.

HISTORY: CL 1948, 211.311.

NOTE: Act 28, 1937, contained a section 3 continuing the emergency.

Act 155, 1937, p. 238; Imd. Eff. Jul. 3.

AN ACT to create a state land office board, and to prescribe its powers, duties and limitations; to provide for the control and jurisdiction of said board and the department of conservation over certain state owned lands; to provide for the sale and disposition of certain lands held by the state of Michigan, and for the disposition of the moneys received therefrom; to provide for the forfeiture of its contracts and the repossession of property under its jurisdiction; to specify the jurisdiction of courts in actions against the board; to limit the time within which actions to set aside sales made under this act might be brought; and to repeal all acts and parts of acts inconsistent with the provisions of this act. Am. 1941, p. 639, Act 363, Imd. Eff. Jun. 19.

The People of the State of Michigan enact:

211.351-211.354 Repealed. 1964, p. 393, Act 256, Eff. Aug. 28.

Sections created state land office board; determined membership, terms; vacancies; compensation; office space; employment of assistants; control and jurisdiction of department of conservation of certain land.

211.355 Repealed. 1951, p. 212, Act 167, Eff. Sep. 28.

Section authorized municipalities to apply for withholding from sale of lands lying within its boundaries and provided for redemption deeds and grantees' liens.

211.355a State lands; definitions; validation of previous conveyances and contracts; conveyance to more than 1 as owner.

Sec. 5a. The term "owner" as used in this act shall mean the owner of any estate or enforceable legal interest in the land at the time title thereto vested in the state, or the assignee or grantee thereof by conveyance, assignment or operation of law effective prior to the date of sale under section 6 or 7 hereof or other prior disposition of such land by the board or department, as the case may be.

All executory contracts and conveyances heretofore executed and delivered by the board or department to heirs, devisees, grantees, successors or assignees of persons who at the time of the tax sale had any interest in the land described in such contracts or conveyances are hereby ratified, confirmed and declared to be valid in so far as the assignability of the privileges accorded to former owners is concerned. All devises, conveyances, or assignments of such privileges heretofore made at any time prior to the expiration of the 30-day period during which bids may be met by former owners under the provisions of sections 6 and 7 hereof, if made in compliance with the laws of this state relating to devises, conveyances or transfers of interests in land, are hereby declared to be valid and to have devised, conveyed, assigned and transferred such privileges to the devisees, assignees or grantees therein named, and all exercise of such privileges by such devisees, assignees or grantees is hereby declared valid and to have vested in such devisees, assignees or grantees the right to receive from the board or department, as the case may be, a contract or conveyance of the land therein described, subject to the provisions of this act: Provided, however, That such devisees, assignees or grantees, have not surrendered their certificates of purchase and received or thereby become entitled to receive a refund of their purchase moneys or down payments. No court of this state shall have jurisdiction to entertain any action to set aside

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contracts or conveyances heretofore executed and delivered by the board or department to heirs, devisees, grantees, successors, or assignees of persons who at the time of the tax sale had any interest in the land described therein for the reason that privileges accorded to former owners by this act prior to the effective date of this amendment thereof were exercised by such heirs, devisees, grantees, successors or assignees.

In case the board or department shall determine that each of 2 or more persons, who have taken appropriate action to preserve and protect their rights hereunder by making or meeting the highest bid with respect to the same parcel of land and depositing the required sums within the time limited therefor by section 6 or 7 of this act and the rules and regulations governing sales made thereunder, are entitled to the privileges of an owner with respect to such land, the board or department shall, after the expiration of 20 days from the date of mailing a notice of such determination to such persons, issue its conveyance or executory contract of sale to the owner having the largest financial investment in the premises at the time such parcel was offered for sale by the board or department: Provided, That if all such owners are determined to have been owners of undivided interests in the land in such cases, the board or department may issue an executory contract to neither, but may upon receipt of the required sums issue to all such owners who have exercised the privileges granted to them by this act a conveyance of the premises in proper form as required by section 6 or 7 of this act, as the case may be, which conveyance shall operate to vest in each grantee therein named an undivided interest in the premises in the proportion which his former undivided interest bore to the former undivided interest of such other grantees named therein.

The term "municipality" as used in this act shall mean any county, city, village, township or school district. The term "taxing unit" as used in this act shall include any municipality as herein defined and any other taxing unit in this state.

HISTORY: Add. 1941, p. 641, Act 363, Imd. Eff. June 19;—CL 1948, 211.355a.

211.356 Repealed. 1967, p. 270, Act 196, Eff. Nov. 2.

Section related to disposal of lands by department of conservation and right of owner to meet bid price.

211.357-211.358d Repealed. 1964, p. 393, Act 256, Eff. Aug. 28.

Sections provided for sales of land by state land office board, rehabilitation of lands, forfeiture of land contracts, conveyances to deceased purchaser's heirs, and withholding from sale of homesteads of welfare recipients and property of religious and charitable organizations.

211.358e Limitation of action to set aside sale or conveyance.

Sec. 8e. After the expiration of 6 months from the date of any deed or contract executed under this act, no suit or proceeding shall be instituted by any person to set aside the same or the sale pursuant to which the same was executed by reason of any defect in the procedure therefor: Provided, however, That this limitation shall not apply to any deed or contract executed under this act prior to the effective date of this amendment until after the expiration of 6 months from the date this amendatory act becomes effective.

HISTORY: Add. 1941, p. 648, Act 363, Imd. Eff. June 19;—CL 1948, 211.358e.

211.358f Vacating of plats; exchange of parcels; conveyances.

Sec. 8f. The board or department may institute or become a party to such legal proceedings as it may deem advisable to vacate in whole or in part or to amend or alter the recorded plat of any lands under its jurisdiction and control. Whenever the board or department deems it advisable for the proper rehabilitation of any such lands after they have been offered for sale under the provisions of section 6 or 7 of this act, it may exchange or trade any parcel held under its jurisdiction for privately owned parcels. The conveyance from such private owners shall run to the state of Michigan and the land so conveyed shall be under the jurisdiction of either the board or department, as

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the case may be, and shall be disposed of by the board or department in the manner provided in section 6 or 8 of this act.

HISTORY: Add. 1941, p. 648, Act 363, Imd. Eff. June 19;—CL 1948, 211.358f.

211.358g Condemnation of state lands; procedure; payment of award.

Sec. 8g. Any lands or portions thereof, and any interest therein, held by the state and the board or department of conservation, as the case may be, under the provisions of this act, and not actually used or retained by the state or said board or department for a public use, shall be subject to condemnation for a public purpose by any state agency, municipality or public corporation and may be acquired under the provisions of any of the statutes of this state or any charter provisions of any municipality authorizing such state agencies, municipalities or public corporations to take private property for public use. If such lands or interest therein, held by the state and the board or department, have been sold on land contract under the provisions of this act, the state and the board or department, and the contract purchasers and anyone holding any interest by or through them, shall be joined as parties respondent and the interest of each shall be designated in the petition whenever condemnation proceedings are instituted to acquire such lands under the authority granted in this section. If such lands have not as yet been offered for sale as provided for in this act, then the state and the board or department, as the case may be, shall be joined as owners in fee, and the former owners and the former holders of any other interest therein shall be joined, naming their former interest.

If the lands have been sold on land contract, the award for the taking thereof shall be payable first to the state and the board or department up to the amount of the unpaid balance on said contract, plus interest, and the remainder of said award, if any, shall be payable to the contract purchasers and/or others holding any interest by or through them as their interests may appear. If such lands have not yet been offered for sale as provided for in this act, any award for the taking thereof shall be payable first to the state and the board or department up to the total amount necessary to pay all delinquent taxes, and special assessments which had been assessed or were a lien at the time title vested in the state together with interest and penalties and maintenance costs, as authorized by section 4 of this act, thereon, and the balance of said award, if any, shall be payable to the former owners and the former holders of any other interest therein as their interests may appear. In case such state agency, municipality or public corporation has acquired, under the provisions of this act, less than the whole description held by the state and the board or department, the amount required to pay such taxes and/or special assessments shall be calculated as provided in section 53 of Act No. 206 of the Public Acts of 1893, as amended: Provided, however, That if the former owner of any lands under the jurisdiction of the department of conservation, part or all of which are taken by condemnation as herein provided, fails to make application to purchase such lands within 90 days from the time title to such lands vested in the state as provided in this act, then the entire award shall be paid to the state. Whenever the remainder of any parcel of land, a portion of which has been condemned and an award for the taking thereof paid to the state and the board or department, is offered for sale under the provisions of this act, the minimum bid for such remainder at such sale shall be 25 per cent of a valuation determined by the assessing officer, as provided for by section 53 of Act No. 206 of the Public Acts of 1893, as amended.

Except as provided herein, all proceedings had to condemn such lands shall be the same as proceedings instituted to condemn private property.

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Nothing contained in this section shall be construed as giving the former owner or holder of any interest in lands held by the state and the board or department under the provisions of this act any interest or property rights in said lands.

HISTORY: Add. 1941, p. 648, Act 363, Imd. Eff. June 19;—Am. 1942, 2nd Ex. Ses., p. 55, Act 16, Imd. Eff. Feb. 25;—Am. 1943, p. 288, Act 194, Imd. Eff. April 17;—CL 1948, 211.358g.

NOTE: Sec. 53, Act 206, 1893, above referred to, is Compilers' § 211.53.

211.358h Withholding from sale lands in which persons in military service owned any estate or interest; affidavit, filing.

Sec. 8h. The state land office board or the department of conservation shall withhold from the sale as provided for in section 7 of this act, from year to year, all lands in which persons in the military service owned any estate or enforceable legal interest at the time title thereto vested in the state, and who, because of such service, are financially unable to purchase the same from the state: Provided, That an affidavit is filed with the board or department showing:

(a) That title to such land is vested in the state of Michigan and owned by such person entering the military service at the date of the tax sale, and that such person entered military service subsequent to the date of the tax sale from which title vested in the state;

(b) That such person owned an estate or enforceable legal interest at the time of vesting of title in the state of Michigan;

(c) That by reason of such military service, the ability of such person to purchase such land from the state is materially affected.

Such affidavit need be filed but once and may be made by wife, parents, brother, sister, nephew, niece or next of kin, and shall serve to withhold such property during the period a state of war is declared to be in existence and for 1 year thereafter. No sale of such property shall be made, or any proceedings or action for such purpose commenced, except upon leave of court, granted upon an application made therefor by such board or department: Provided further, however, That the state land office board or the department of conservation, as the case may be, may reconvey such lands to such former owner at any time prior to the opening date of sale under the provisions of section 7 of this act, next succeeding the period of 1 year after the state of war is declared to be terminated, upon payment of all taxes and special assessments which have been assessed, without any interest or penalties, but with a collection fee of 4 per cent.

HISTORY: Add. 1943, p. 292, Act 196, Imd. Eff. April 17;—CL 1948, 211.358h.

211.359 Repealed. 1964, p. 393, Act 256, Eff. Aug. 28.

Section made state land office board a body corporate which could sue and be sued, determined jurisdiction in actions against the board, provided for determination of disputes between purchasers from board, and authorized conveyances by board.

211.360 Receipts; remittance to tax assessing units; basis; operating expenses; certificate of cancelled taxes.

Sec. 10. All moneys received by the state land office board, any county treasurer or the department of conservation, under the provisions of this act, and all moneys received after the expiration of this act by the department of conservation pursuant to any sale by said land office board on time payment plans, shall be credited to the general fund of the state, and, after first deducting such commissions and maintenance costs as are authorized in sections 4 and 8 of this act, shall be paid to the several county treasurers who shall remit the same to the several tax assessing units, including municipalities collecting their own delinquent taxes, in proportion to the delinquent taxes and special assessments of such units cancelled against any description of land sold under the provisions of this act, by the board, any county treasurer or the department of conservation: Provided, however, That at the close of each fiscal year the state land office board shall deduct from interest received on land contracts during

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that year an amount equivalent to the operating expenses of the board for that year, which amount shall be credited to the general fund of the state and the remainder after deducting the expense of the county treasurer in making distribution under this section shall be prorated among the several tax assessing units aforesaid, in proportion to the delinquent taxes and special assessments of such units cancelled, as aforesaid. It shall be the duty of any county treasurer to prepare a certificate of all cancelled taxes upon any such description of land upon request by the state land office board, the department of conservation or the auditor general, which certificate shall be in a form approved by the auditor general and shall be the basis for distribution of moneys between the several tax assessing units. Such cancelled taxes and special assessments shall be deemed to include all taxes and assessments assessed or levied against said lands prior to the vesting of title in the state of Michigan.

HISTORY: Am. 1939, p. 457, Act 244, Imd. Eff. June 15;—Am. 1941, p. 649, Act 363, Imd. Eff. June 19;—Am. 1943, p. 16, Act 16, Imd. Eff. March 13;—CL 1948, 211.360.

211.361 Repealed. 1964, p. 393, Act 256, Eff. Aug. 28.

Section authorized state land office board to promulgate rules.

211.362 Owner; definition.

Sec. 12. The word "owner" as in this act used shall be deemed to include any person, corporation, co-partnership or association.

HISTORY: CL 1948, 211.362.

Sec. 13. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 415, Act 267, Imd. Eff. May 25.

211.364 Termination of act; land under control of department of conservation; certain rights saved.

Sec. 14. This act shall be effective only to and including May 1, 1949, and except as herein provided all provisions of this act shall expire on said day. All acts and parts of acts, insofar as inconsistent with the provisions of this act, are hereby suspended until May 1, 1949: Provided, however, That after May 1, 1949, all land, the title to which shall be vested in the state of Michigan by virtue of any tax sale, whether said land is occupied or unoccupied, shall be under the control and jurisdiction of the department of conservation, and shall be administered as provided in section 6 of this act: And provided further, That after May 1, 1949, the provisions of sections 5, 5a, 8a, 8b, 8c, 8e, 8f, 8g, 8h and 10 of this act, as well as all other provisions relating to the collection of payments upon existing contracts, the foreclosure of delinquent contracts, the resale of lands covered thereby and the distribution of the proceeds from any of such sales or contracts shall remain in force and effect: Provided further, That all rights which may have accrued to any person, as well as all rights which have accrued or become vested in any individual, corporation, municipality or the state under this act shall not be affected, changed or destroyed, but the same shall remain in force subject to review and enforcement in the courts of this state and for the completion of all proceedings pending in such courts.

HISTORY: Am. 1939, p. 50, Act 29, Imd. Eff. April 6;—Am. 1941, p. 650, Act 363, Imd. Eff. June 19;—Am. 1943, p. 10, Act 9, Eff. July 30;—Am. 1945, p. 58, Act 61, Eff. Sept. 6;—Am. 1947, p. 72, Act 62, Imd. Eff. May 1;—CL 1948, 211.364.

Act 92, 1943, p. 123; Imd. Eff. Apr. 13.

AN ACT to protect the interest of the public, acquired other than through taxation, in lands under the jurisdiction and control of the state land office board and department of conservation, and to make an appropriation therefor.

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The People of the State of Michigan enact:

211.371 Certain lands, withholding from sale; notice to auditor general.

Sec. 1. If the state land office board or department of conservation shall discover before the execution and delivery of a deed or the execution of a contract for the sale of any land, apparent title to which vested in the state of Michigan by virtue of a tax sale, that the state of Michigan, or any board, officer, commission, department, public corporation, governmental subdivision, agency, municipal or quasi-municipal corporation thereof owned any parcel of such land or part thereof or interest therein prior to the apparent vesting of title thereto in the state of Michigan by virtue of a tax sale, it shall be the duty of the state land office board or department of conservation, hereinafter called the "board" and "department," having jurisdiction over said land to withhold the same or part thereof so publicly owned, or in which the public had an interest, from public sale, and to notify the auditor general of such withholding and the reason therefor.

HISTORY: CL 1948, 211.371.

211.372 Certain lands, withholding from sale; conveyance to grantees; delinquent taxes and special assessments, payment and certification; liens.

Sec. 2. Such land or part thereof so withheld shall be conveyed by deed by said board or department to such grantee or grantees, including the state of Michigan, as would have had title thereto had not the apparent title thereto vested in the state as a result of tax sale proceedings: Provided, That if any taxes or special assessments are lawfully due upon said land by reason of the public interest therein having been acquired after the tax day, or after such special assessments had become a lien, or for any other reason, such taxes and special assessments shall be paid to the county treasurer and to the city treasurer, in case the land lies within the limits of a city collecting its own delinquent taxes and special assessments, and the fact of such payment of valid taxes and special assessments shall be certified to the board or the department by the auditor general prior to the execution and delivery of such conveyance, which taxes and special assessments shall be distributed and accounted for in the same manner as if paid at the time of the acquisition of the interest of the public in such land: Provided further, That interest and penalties due upon said taxes and special assessments shall not be required to be computed or paid beyond the time when the public acquired an interest in such land: Provided further, That if the public interest in such land was less than a fee simple absolute prior to the apparent vesting of title in the state, the state or any board, officer, commission, department, public corporation, governmental subdivision, agency, municipal or quasi-municipal corporation thereof paying such valid taxes and special assessments shall have a lien on such land or interest therein not publicly owned for such portion of the amount paid as is lawfully chargeable to such interest not owned by the public, as aforesaid, which lien may be foreclosed in the circuit court in chancery for the county wherein such land or any part thereof is situated, and which lien shall bear interest at the rate of 6 per centum per annum from the date of such payment.

HISTORY: CL 1948, 211.372.

211.373 Certain lands, withholding from sale; taxes and special assessments subsequently assessed rejected by auditor general and reassessed.

Sec. 3. Taxes and special assessments subsequently assessed upon property acquired by the public prior to the tax day shall be rejected by the auditor general and shall be reassessed in the same manner as if said land or part thereof had not been sold at tax sale. In case a geographical part only of such land was owned by the public prior to the apparent vesting of title in the state as the result of tax sale proceedings, the remaining part of such land shall be disposed of by the board or department in the usual

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manner, and a division of the taxes and special assessments shall be made in the same manner as though said taxes had not yet become delinquent.

HISTORY: CL 1948, 211.373.

211.374 Certain lands, withholding from sale; payment of valid taxes and special assessments when interest acquired by state; approval.

Sec. 4. Payment of valid taxes and special assessments due on lands in which an interest was acquired by the state of Michigan, or any board, officer, commission, department, public corporation, governmental subdivision or agency thereof, except lands under the jurisdiction and control of the state highway department, shall be made by the auditor general by warrant drawn on the state treasurer in the usual manner: Provided, That in the case of lands in which an interest was acquired by any governmental subdivision or agency of the state, the functions of which are local and for the support of which real property taxes are required or permitted to be raised locally, the valid taxes and special assessments on such land shall be paid by such governmental subdivision or agency of the state: Provided further, That in all cases where payment is required to be made out of the state treasury, it shall be made only upon the written approval of the auditor general and the attorney general, such approval to be filed and kept in the office of the auditor general. Payment shall be made by the interested municipal or quasi-municipal corporation or the state highway department in all other cases.

HISTORY: CL 1948, 211.374.

211.375 Appropriation.

Sec. 5. There is hereby appropriated from the general fund of the state from moneys not otherwise appropriated not to exceed the sum of $10,000.00 for the purpose of making the aforesaid payments.

HISTORY: CL 1948, 211.375.

Act 218, 1931, p. 381; Eff. Sep. 18.

AN ACT to provide a civil remedy in the case of the payment of taxes and/or special assessments on real property erroneously assessed.

The People of the State of Michigan enact:

211.381 Payment of taxes and/or special assessments erroneously assessed; assumpsit against owner.

Sec. 1. Any person, partnership or corporation, who, in good faith, shall pay the taxes and/or special assessments on real property erroneously assessed, shall have a right of action in assumpsit against the owner or owners of such property for the taxes and/or special assessments thereon so paid, and shall be entitled to interest from the date of such payment, at the rate of 5 per centum per annum.

HISTORY: CL 1948, 211.381.

Act 292, 1931, p. 482; Imd. Eff. Jun. 8.

AN ACT to authorize counties to extend the time of payment of certain drain taxes and highway assessments.

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The People of the State of Michigan enact:

211.391 Drain taxes; extension of time of payment.

Sec. 1. In any county in which there are situated any lands assessed for special drain taxes, or any townships, cities or villages assessed at large for the construction of county or inter-county drains, and where bonds have been issued on behalf of the drainage district in anticipation of the collection of such drain taxes, under Act No. 316 of the Public Acts of 1923, as amended, being sections 4838 to 4979, inclusive, of the Compiled Laws of 1929, the board of supervisors may extend the time of payment of such drain taxes in the manner and on the conditions hereinafter set forth.

HISTORY: CL 1948, 211.391.

NOTE: Act 316, 1923, above referred to, is Compilers' repealed § 261.1 et seq. See § 280.1 et seq.

211.392 Repealed. 1958, p. 84, Act 77, Eff. Sep. 13.

Section permitted boards of supervisors to extend time of payment for highway assessments.

211.393 Delinquent drain taxes or highway assessments; installments, remission of accrued interest and penalties, interest.

Sec. 3. If any part or parts of such drain taxes or highway assessments shall have become delinquent, and if the county shall have advanced money for the payment of such bonds by reason of such delinquency, or if refunding bonds shall have been issued to extend the time of payment of such bonds, the board of supervisors may, by resolution, at any time before the sale of land for such drain taxes or highway assessments only, or, if such lands shall have been bid off to the state at such tax sale for such drain taxes and/or highway assessments only, at any time before such lands shall have been deeded by the auditor general, extend the time of payment of such delinquent taxes or assessments and divide the same into any number of installments not exceeding the number of the original instalments thereof, and may remit all or any part of the accrued interest and penalties thereon. One of such instalments shall be levied and collected on the general tax roll for each year following the last instalment of the original drain tax or highway assessment of the same district, and interest thereon at 6 per cent from the date of such extension shall be included each year in the amount of the original or extended instalment of such tax or assessment to be collected.

HISTORY: Am. 1932, 1st Ex. Ses., p. 43, Act 27, Imd. Eff. May 10;—CL 1948, 211.393.

211.394 Extended taxes or assessments deemed lien on property.

Sec. 4. The taxes or assessments so extended shall be and remain a lien on the property taxed or assessed to the same extent as if no such extension had been made.

HISTORY: CL 1948, 211.394.

211.395 Effect of act on existing rights and liabilities.

Sec. 5. Nothing in this act shall impair the validity or lien of any special drain taxes or highway assessments not extended hereunder, or the right of any county to collect the same, or the obligation of any county to pay any drain or highway bonds not assumed hereunder out of the respective drain or highway funds or out of the appropriate funds of the county as now or hereafter provided by law.

HISTORY: CL 1948, 211.395.

Act 133, 1933, p. 187; Imd. Eff. Jun. 15.

AN ACT to authorize the acceptance of bonds and coupons and other obligations of municipalities and special assessment districts and bonds and coupons of the Home Owners Loan Corporation in payment of certain taxes and special assessments under certain conditions, and to prescribe the effect thereof; and to prescribe the powers

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and duties of certain officials and bodies with respect thereto. Am. 1934, 1st Ex. Ses., p. 77, Act 9, Imd. Eff. Mar. 16.

The People of the State of Michigan enact:

211.401 Definitions.

Sec. 1. The following definitions shall apply for the purposes of this act:

(a) "Municipality": Any county, township, city, village or school district.

(b) "Governing body": The board of supervisors of a county; the township board of a township; the council, common council or commission of a city; the council, commission or board of trustees of a village; the board of education or district board of a school district.

HISTORY: CL 1948, 211.401.

211.402 Municipal bonds and obligations, Home Owners Loan bonds and coupons; acceptance in payment of taxes.

Sec. 2. On and after the effective date of this act, the governing body of any municipality, by resolution, is hereby authorized to provide that general obligation bonds and coupons and other obligations of the municipality, either due or to become due, may be accepted at par in full or partial payment of taxes levied by such municipality which were delinquent prior to March tenth, 1935, and to provide that bonds and coupons issued by the Home Owners Loan Corporation in the refinancing of a mortgage by such corporation may be accepted on such basis as the resolution shall provide in full or partial payment of taxes levied by such municipality which were delinquent prior to March 10, 1935, against the property encumbered by said mortgage.

HISTORY: Am. 1934, 1st Ex. Ses., p. 77, Act 9, Imd. Eff. March 16;—Am. 1935, p. 292, Act 186, Imd. Eff. June 6;—CL 1948, 211.402.

211.403 Assessment district bonds and obligations, Home Owners Loan bonds and coupons; acceptance in payment of special assessments.

Sec. 3. On and after the effective date of this act, the governing body of any special assessment district, by resolution, is hereby authorized to provide that bonds and coupons and other obligations of the special assessment district, either due or to become due, may be accepted at par in full or partial payment of delinquent, current or future special assessments, against the special assessment district by which the particular bond or other obligation was issued, and to provide that bonds and coupons issued by the Home Owners Loan Corporation in the refinancing of a mortgage by such corporation may be accepted on such basis as the resolution shall provide in full or partial payment of assessments, assessed against the property encumbered by said mortgage.

HISTORY: Am. 1934, 1st Ex. Ses., p. 77, Act 9, Imd. Eff. March 16;—CL 1948, 211.403.

211.403a Resolution authorizing acceptance; terms.

Sec. 3a. The resolution authorizing the receipt of such bonds and coupons and other obligations in payment of taxes and/or special assessments may provide the terms, restrictions and conditions upon which the same shall be so receivable and may provide that the same shall be receivable in payment of taxes and/or special assessments payable to the local tax-collecting official, the county treasurer and/or the auditor general.

HISTORY: CL 1948, 211.403a.

211.404 Resolution authorizing acceptance; filing of certified copies.

Sec. 4. The governing body of any municipality or special assessment district passing any such resolution shall file a certified copy thereof with the auditor general, with the county treasurer of the county in which such municipality or special assessment dis-

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trict is located, and with the tax collector of the respective municipalities and special assessment districts.

HISTORY: CL 1948, 211.404.

211.405 State bids and tax lands included in act.

Sec. 5. The provisions of this act shall include all state bids and state tax lands subject to redemption by the owner or other person having an interest in any such lands, or undivided share thereof.

HISTORY: CL 1948, 211.405.

211.406 Tax collecting officers; duties; cancellation of bonds and obligations; Home Owners Loan bonds and coupons, acceptance.

Sec. 6. It shall be the duty of the auditor general, county treasurer or other tax collecting officer to accept the bonds and coupons and other obligations of any municipality or special assessment district in full or partial payment of taxes and special assessments, as the case may be, including penalties, interest and other charges, when the governing body of any such municipality or special assessment district has authorized such acceptance, in accordance with the provisions of this act, and the turning over to such municipality or special assessment district of any such bonds and coupons and other obligations shall be deemed full accounting for the collection of the tax or special assessment so paid. The municipality or special assessment district shall cancel any such bonds and coupons and other obligations and mark "paid in full" thereon.

It shall be the duty of the auditor general, county treasurer or other tax collecting officer to accept the bonds and coupons issued by the Home Owners Loan Corporation in the refinancing of a mortgage by such corporation in full or partial payment of taxes and special assessments, as the case may be, including penalties, interest and other charges, when the governing body of any such municipality or special assessment district has authorized such acceptance, in accordance with the provisions of this act, and in accounting for the tax or assessment so paid with bonds or coupons of the Home Owners Loan Corporation may deliver to such municipality or special assessment district the bonds and coupons so received.

HISTORY: Am. 1934, 1st Ex. Ses., p. 78, Act 9, Imd. Eff. March 16;—CL 1948, 211.406.

Act 260, 1931, p. 445; Eff. Sep. 18.

AN ACT to authorize counties, cities, villages, townships, school districts and drainage districts to purchase land sold for delinquent taxes and drain assessments. Am. 1965, p. 132, Act 99, Imd. Eff. Jun. 28.

The People of the State of Michigan enact:

211.421 Lands sold for delinquent taxes and drain assessments; purchase by governmental units.

Sec. 1. The governing body of a county, city, village, township, school district or drainage district may appropriate money and purchase lands at the statutory sale of lands for delinquent drain assessments. In case of the purchase of such lands such governing body may also appropriate money and purchase the same lands, if they are tax delinquent, at the statutory sale of lands by county treasurers for delinquent general property taxes, it being the intent of this act to afford protection to the investment that any such local governmental unit may have in drains.

HISTORY: CL 1948, 211.421;—Am. 1965, p. 132, Act 99, Imd. Eff. Jun. 28.

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Act 84, 1903, p. 110; Eff. Sep. 17.

AN ACT to define and perfect the title to certain state tax homestead lands and to limit the time for bringing actions in regard thereto.

The People of the State of Michigan enact:

211.431 Deeds to state; title absolute; executed deeds.

Sec. 1. After the expiration of 6 months from and after the time when any deed made to the state under the provisions of section 127 or section 67a of Act 206 of the Public Acts of 1893, being the general tax law, and acts amendatory thereto, shall have been recorded in the office of the register of deeds for the county in which the land so deeded shall be situated, the title of the state in and to the same shall be deemed to be absolute and complete, and no suit or proceeding shall thereafter be instituted by any person claiming through the original or government title to set aside, vacate or annul the said deed or the title derived thereunder: Provided, That as to all lands heretofore deeded to the state under the provisions of said section 67a of said Act 206 of the Public Acts of 1893, the title of the state thereto shall be deemed to be absolute and complete after a period of 6 months from the taking effect of this act, and no suit or proceeding shall thereafter be instituted by any person claiming through the original or government title to set aside, vacate or annul said deed or deeds or the title derived thereunder.

HISTORY: CL 1915, 4161;—CL 1929, 3724;—Am. 1943, p. 9, Act 8, Imd. Eff. Feb. 25;—CL 1948, 211.431.

NOTE: Section 127, Act 206, 1893, above referred to, has been repealed. Sec. 67a, Act 206, 1893, is Compilers' § 211.67a.

Act 211, 1905, p. 308, Eff. Sep. 16.

AN ACT to make deeds heretofore or hereafter made upon sale of land reserved and withheld from homestead entry under the provisions of section 131 of Act 206 of the Public Acts of 1893, and acts amendatory thereto, prima facie evidence of title in fee in the purchaser.

The People of the State of Michigan enact:

211.441 Certain deeds; prima facie evidence.

Sec. 1. All deeds heretofore or hereafter made by the commissioner of the state land office upon sales of land reserved and withheld from entry under the homestead right in pursuance of section 131 of Act 206 of the Public Acts of 1893, and acts amendatory thereto shall be prima facie evidence of title in fee in the grantee named in such deeds of the lands described therein.

HISTORY: CL 1915, 4160;—CL 1929, 3725;—CL 1948, 211.441.

NOTE: Sec. 131 of Act 206 of 1893, above referred to, is Compilers' § 211.131.

COMMISSIONER OF STATE LAND OFFICE: Office abolished; powers and duties transferred to the public domain commission, which in turn has been abolished and superseded by the department of conservation, see Compilers' §§ 322.221 and 299.2 respectively.

Act 130, 1907, p. 165; Imd. Eff. Jun. 12.

AN ACT to provide for refunding to purchasers the price paid to the state on sale of land by the commissioner of the state land office, under section 131 of Act 206 of Public Acts of 1893, as amended by Act 141 of Public Acts of 1901, in cases where the land sold did not belong to the class of lands liable to sale thereunder; for cancelling the conveyance of such lands to the state and restoring the tax liens thereon in favor of the state, which were erroneously cancelled.

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The People of the State of Michigan enact:

211.451 Purchase price refund; conditions.

Sec. 1. Any purchaser of land from the state of Michigan at any sale heretofore made, or that may be hereafter made by the commissioner of the state land office under section 131 of Act 206 of Public Acts of 1893, as amended by Act 141 of Public Acts of 1901, may petition the auditor general for a refund of the purchase price paid by him for such land in cases where the land so purchased did not belong to the class of lands liable to sale by such commissioner under said acts.

HISTORY: CL 1915, 4162;—CL 1929, 3726;—CL 1948, 211.451.

NOTE: For Sec. 131 of Act 206, above referred to, see Compilers' § 211.131.

COMMISSIONER OF STATE LAND OFFICE: Abolished; powers and duties transferred to the public domain commission, which in turn has been abolished and superseded by the department of conservation, see Compilers' §§ 322.221 and 299.2 respectively.

211.452 Purchase price refund; circumstances authorizing.

Sec. 2. In any case where it shall be shown by due proof, satisfactory to the auditor general, that land purchased by the petitioner in manner set forth in paragraph 1 of this act was in fact actually occupied by the person having the record title thereto at the time of making and recording the determination relating thereto by the auditor general and commissioner of the state land office under the provisions of Act No. 107 of the Public Acts of 1899, and at the time such sale was in fact made to the petitioning purchaser, and that such purchaser never obtained possession or any beneficial use of such land and that he acquired no title thereto by such purchase for the reason that, at the date of such determination and such sale, the same was in fact occupied land, within the meaning of the statutes under which said sale was assumed to be made to such purchaser, or, in any case where the tax homestead deed issued by the auditor general to the state of Michigan has been held invalid by a decree of any court of competent jurisdiction of this state made and entered in a case which was pending at the time of purchase of said land from the state land commissioner by the petitioner, the auditor general shall cause the money paid therefor to the state of Michigan to be refunded to the purchaser, or his assignee, with interest thereon at 6 per centum per annum.

HISTORY: Am. 1909, p. 425, Act 242, Eff. Sept. 1;—CL 1915, 4163;—CL 1929, 3727;—CL 1948, 211.452.

211.453 Unrecorded deed; cancellation; release of recorded deed, recording.

Sec. 3. In case the deed executed and delivered to the petitioning purchaser by the commissioner of the state land office on such sale shall not have been recorded, the same shall be delivered to the auditor general for cancellation. If such deed has been recorded, such petitioning purchaser shall execute and deliver to the auditor general a release of said land to the state of Michigan and shall pay to the auditor general the cost of recording the same in the office of the register of deeds of the proper county, and it shall be the duty of the auditor general to cause such release to be so recorded.

HISTORY: CL 1915, 4164;—CL 1929, 3728;—CL 1948, 211.453.

211.454 Cancellation deed to state; certificate of error, recording; tax liens and state bids restored.

Sec. 4. The auditor general shall thereupon cancel the conveyance of said land made by the auditor general to the state of Michigan by issuing a certificate of error in such proper legal form as may be required by the recording laws of the state of Michigan, and shall cause such certificate of error to be recorded in the office of the register of deeds of the proper county; and shall thereupon restore the tax liens in favor of the state of Michigan upon said land, which were erroneously cancelled at the time of the conveyance of the same to the state by the auditor general, and said tax liens and the

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state bids thereon shall continue and shall have the same force and validity in every respect as if such erroneous cancellation had not been made.

HISTORY: CL 1915, 4165;—CL 1929, 3729;—CL 1948, 211.454.

211.455 Refund; allocation of burden.

Sec. 5. The state and county and all municipal bodies within such county shall respectively bear and be charged with their share of such refund in the same proportion that the proceeds of any sale cancelled under the provisions of this act was divided among or apportioned to said several bodies.

HISTORY: CL 1915, 4166;—CL 1929, 3730;—CL 1948, 211.455.

Act 223, 1909, p. 408; Eff. Sep. 1.

AN ACT authorizing the department of natural resources to sell sites to school districts and churches and to sell lands to public educational institutions, to the United States, to governmental units and agencies thereof; and to transfer jurisdiction to departments, boards and commissions of the state from tax reverted state lands under the control of the department. Am. 1935, p. 47, Act 33, Imd. Eff. Apr. 27;—Am. 1970, p. 561, Act 196, Imd. Eff. Aug. 6.

The People of the State of Michigan enact:

211.461 State lands; sale or transfer for public purpose; transfer of jurisdiction to other state agencies; reverter clause.

Sec. 1. The department of natural resources may sell sites to school districts and churches and to sell lands for public purposes to public educational institutions; to the United States; and to governmental units of the state and to agencies thereof from tax reverted state lands under the control of the department, at such price as shall be fixed by a formula as determined by the state tax commission. The department may transfer jurisdiction of tax reverted state lands for public purposes to any department, board or commission of the state. The application for the purchase or transfer of such lands shall be made by the proper officers of a school district, church, public educational institution, the United States, governmental unit, agency, department, board or commission upon blanks prepared and furnished by the department for that purpose.

The department may sell tax reverted lands to any agency described above, and the transfer of such lands shall not be subject to any reverter clause. If a conveyance or transfer of lands is made to a governmental unit without any reverter clause the department may convey or transfer such lands at an appraisal value as determined by the state tax commission or at a nominal fee which shall include any amount paid by the department of natural resources for maintaining said lands in condition to protect the public health and safety. If lands are conveyed or transferred for a nominal fee and are subsequently sold by the governmental unit for a valuable consideration, the proceeds from any such sale after deducting said fee and any amount paid by the local governmental units for maintaining said lands in condition to protect the public health and safety shall be accounted for to the state, county, township and school district in which the lands are situated pro rata according to their several interests therein arising from the nonpayment of taxes and special assessments thereon as such interest shall appear in the offices of the state treasurer, county, city or village treasurers.

HISTORY: CL 1915, 4167;—CL 1929, 3731;—Am. 1935, p. 47, Act 33, Imd. Eff. Apr. 27;—Am. 1941, p. 201, Act 154, Eff. Jan. 10, 1942;—CL 1948, 211.461;—Am. 1968, p. 648, Act 340, Imd. Eff. Jul. 19;—Am. 1970, p. 561, Act 196, Imd. Eff. Aug. 6.

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Act 137, 1913, p. 238; Eff. Aug. 14.

AN ACT to require the commissioner of the state land office to make a record of all deeds issued by him for tax homestead lands; to make such record a legal record; to authorize him to make certified copies of such records, and to give to such certified copies the same force and effect as the original deed.

The People of the State of Michigan enact:

211.471 Tax homestead lands; state land office record, certified copies as evidence.

Sec. 1. It shall be the duty of the commissioner of the state land office to record in a suitable book or books kept for that purpose, true copies of all deeds issued by him for tax homestead lands, under the laws of this state providing for the disposal of such lands, and such copies of deeds heretofore issued, or which may hereafter be issued, are hereby declared to be legal records, and such record or a transcript thereof, duly certified by the commissioner of the state land office, or other officer having custody of such records, may be read in evidence in all courts of this state, with the same force and effect as the original tax homestead deed.

HISTORY: CL 1915, 4168;—CL 1929, 3732;—CL 1948, 211.471.

NOTE: See Sec. 131 of the general tax law, Compilers' § 211.131.

COMMISSIONER OF STATE LAND OFFICE: Abolished; powers and duties transferred to the public domain commission, which in turn has been abolished and superseded by the department of conservation, see Compilers' §§ 322.221 and 299.2 respectively.

211.472 Tax homestead lands; record of copy of deed.

Sec. 2. It shall be the duty of registers of deeds in the several counties of this state, to receive for record, and record all such copies of tax homestead deeds, duly certified to by the commissioner of the state land office, or other officer having the custody of the records of the state land office, and the record of such certified copy shall have the same force and effect as the record of the original deed.

HISTORY: CL 1915, 4169;—CL 1929, 3733;—CL 1948, 211.472.

211.473 Records in state land office; certified copy; fee; recording conditions; perjury.

Sec. 3. The commissioner of the state land office, or other officer having charge of such records, shall, upon application from any person, make a certified copy of any tax homestead deed, as herein provided, upon the payment by applicants of $1.50 for each certified copy: Provided, That as a condition precedent to the recording of a copy of the deed, there shall be attached to such certified copy a sworn statement of the grantee named in the said deed or his assign, heir, trustee, or grantee, that the original deed has been lost or is not available for record, and any person swearing falsely under the provisions of this act shall be subject to all the pains and penalties of perjury.

HISTORY: CL 1915, 4170;—CL 1929, 3734;—CL 1948, 211.473.

PERJURY: See Compilers' § 750.422 et seq.

Act 44, 1883, p. 37; Imd. Eff. Apr. 24.

AN ACT to provide for the assessment of delinquent taxes assessed on part-paid lands in certain cases.

The People of the State of Michigan enact:

211.481 Unpaid tax list; lands patented after assessment; preparation.

Sec. 1. That it shall be the duty of the commissioner of the state land office, on the first day of October of each year, to prepare lists showing the descriptions of lands

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upon which taxes have been assessed for the current year while the lands were part-paid, but which had been patented by the state, and upon which taxes have not been paid, and forward the same to the supervisor of the township where the lands lie.

HISTORY: How. 1204-a;—CL 1897, 3974;—CL 1915, 4183;—CL 1929, 3735;—CL 1948, 211.481.

COMMISSIONER OF STATE LAND OFFICE: Abolished; powers and duties transferred to the public domain commission, which in turn has been abolished and superseded by the department of conservation, see Compilers' §§ 290.145 and 299.2 respectively.

211.482 Supervisors to Re-assess.

Sec. 2. It shall be the duty of the supervisor of the township receiving such list to reassess the taxes therein reported upon the same land.

HISTORY: How. 1204-b;—CL 1897, 3975;—CL 1915, 4184;—CL 1929, 3736;—CL 1948, 211.482.

211.483 Collection and return.

Sec. 3. It shall be the duty of the township treasurer to collect and return the same in the same manner as provided for the collection and return of other taxes.

HISTORY: How. 1204-c;—CL 1897, 3976;—CL 1915, 4185;—CL 1929, 3737;—CL 1948, 211.483.

COLLECTION AND RETURN OF TAXES: See Compilers' § 211.44 et seq.

Act 91, 1925, p. 123; Eff. Aug. 27.

AN ACT to provide for a payment in lieu of taxes to local units of government on certain lands owned by the state of Michigan and controlled by the department of conservation and to provide for the collection thereof. Am. 1954, p. 430, Act 182, Eff. Aug. 13;—Am. 1956, p. 47, Act 39, Imd. Eff. Mar. 28.

The People of the State of Michigan enact:

211.491 Conservation department lands north and south of township 16 north and in Huron county; list furnished state tax commission; annual report of revenues received.

Sec. 1. For the purpose of this act the director of conservation shall furnish the state tax commission with a list of all real property north and south of the north line of township 16 north and all of Huron county owned by the state and controlled by the department of conservation, which shall have been or shall be acquired on and after January 1, 1933, by purchase from the owner or owners thereof and the Mason game farm, showing all locations and descriptions. The list shall contain an annual report of all revenues received from the sale of timber or the sale or lease of any mineral rights, including rights to remove sand and gravel from such lands.

HISTORY: CL 1929, 3738;—CL 1948, 211.491;—Am. 1954, p. 430, Act 182, Eff. Aug. 13;—Am. 1956, p. 47, Act 39, Imd. Eff. Mar. 28;—Am. 1968, p. 254, Act 164, Eff. Dec. 31.

211.492 Conservation department lands south of town 16 and in Huron county; tax evaluation, time; report to assessing districts; spread of tax.

Sec. 2. The valuation of such lands for the purposes of this act shall be fixed by the state tax commission on or before February 1 of each year and the state tax commission shall on or before February 15 of each year make a report to the several assessing districts of the state in which such lands are located, giving a description of the land in such assessing district so held by the state with the valuation thereof as fixed by the state tax commission. The state tax commission shall furnish a value to the assessing officers which shall be at the same value as other property is assessed in the assessment district. In fixing such valuation, the state tax commission shall not include improvements made to or placed upon such lands. Upon receipt of the report by the assessing officer, he shall enter upon the assessment rolls of each township, city, village or assessing district the respective descriptions of such lands with the value so fixed, and assess such lands for the purposes of this act at the same rate as other real property in such assessing district, except that adjustment to the value certified by the state tax

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commission may be made by the assessing officer to reflect any general adjustment of assessed valuation from the prior year not included in the state tax commission computation. If an adjustment to the value certified by the state tax commission is made, the assessing officer shall certify to the department of conservation, not later than the first Wednesday after the first Monday in March, the amount and percentage of any general adjustment of assessed valuation and of any change in the assessment roll; the relation of the total valuation to that reported by the state tax commission and the adjusted total of conservation land. No assessment for special improvements shall be included.

HISTORY: CL 1929, 3739;—CL 1948, 211.492;—Am. 1949, p. 434, Act 286, Eff. Sep. 23;—Am. 1954, p. 430, Act 182, Eff. Aug. 13;—Am. 1956, p. 47, Act 39, Imd. Eff. Mar. 28;—Am. 1961, p. 115, Act 105, Eff. Sep. 8.

211.493 Conservation department lands south of town 16 and in Huron county; tax statement of assessing district, payment.

Sec. 3. The treasurer or other officer charged with the collection of taxes for such assessing district shall forward a statement of such assessment to the Lansing office of the department of conservation, which shall review said statement and if the amount of such assessment has been determined according to the provisions of this act, authorize the auditor general to pay the same by his warrant on the state treasurer. As to such lands purchased out of appropriations from the game and fish protection fund, the assessment thereon shall be paid out of appropriations from said fund. As to such lands purchased out of appropriations from the general fund, the assessment thereon shall be paid out of appropriations from the general fund. As to such lands purchased pro rata from each of said funds, the assessment thereon shall be paid out of appropriations from each of said funds proportionately to the contributions from each in the original purchase price.

HISTORY: CL 1929, 3740;—CL 1948, 211.493;—Am. 1954, p. 430, Act 182, Eff. Aug. 13;—Am. 1956, p. 47, Act 39, Imd. Eff. Mar. 28.

211.494, 211.495 Repealed. 1964, p. 393, Act 256, Eff. Aug. 28.

Sections provided for payment of 1955-56 taxes on state lands in certain counties.

Act 234, 1929, p. 577; Eff. Aug. 28.

AN ACT making the sums of money levied upon any parcel of real estate, as an assessment for benefits derived from the construction of any public improvement, a personal obligation on the part of the owner of such parcel, and to provide for the collection thereof.

The People of the State of Michigan enact:

211.501 Public improvement assessment, personal obligation; recovery.

Sec. 1. Whenever any parcel of real estate shall have been assessed by the proper body for the construction of any public improvement, and such assessment has not been paid and cannot be lawfully made a lien on the real estate, the amount of such assessment shall constitute a personal obligation against the owner of such real estate, and may be recovered in a suit in assumpsit against said owner, before any court of competent jurisdiction, maintained by the officer in whose hands the assessment roll shall have been placed for collection.

HISTORY: CL 1929, 3741;—CL 1948, 211.501.

SPECIAL ASSESSMENTS: Villages, see Compilers' § 68.1 et seq.; cities, Compilers' § 104.1 et seq.

211.502 Public improvement assessment, personal obligation; installments.

Sec. 2. In case any such assessment set forth in section 1 hereof shall be payable in installments, each installment shall constitute a personal obligation of the owner of

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such parcel of land at the time such assessment roll shall be delivered to such collecting officer.

HISTORY: CL 1929, 3742;—CL 1948, 211.502.

Act 223, 1889, p. 330; Imd. Eff. Jul. 1.

AN ACT to authorize the issuance of injunctions to restrain waste upon certain lands when the taxes upon the same shall be due and unpaid.

The People of the State of Michigan enact:

211.511 Waste injunction; township treasurer, duties; order of authorized tribunal.

Sec. 1. That when any person, co-partnership, company or corporation shall neglect or refuse to pay any tax assessed on the lands of such person, co-partnership, company, or corporation after such tax shall have become a lien upon said lands and before the expiration of the warrant attached to his tax roll, the township treasurer shall make application for and be entitled to an injunction to restrain waste on any of such lands upon which the taxes shall remain unpaid, and to prevent the cutting of any timber standing or growing thereon, or the removal of any timber, wood or logs, or the tearing down or removing of any buildings therefrom. Any circuit judge or circuit court commissioner of the county in which such lands are situated may on application of such township treasurer make an order restraining any person, co-partnership, company or corporation from committing waste on any such lands by the cutting of any timber standing or growing thereon or the removal of any timber, wood or logs, or the tearing down or removal of any buildings therefrom.

HISTORY: How. 1170-n-1;—CL 1897, 3979;—Am. 1901, p. 55, Act 34, Eff. Sept. 5;—CL 1915, 4190;—CL 1929, 3745;—CL 1948, 211.511.

INJUNCTION: Application by county treasurer, see Compilers' § 211.157.

STATE LANDS: And tax delinquent lands, waste on, see Compilers' § 322.131 et seq.

211.521, 211.522 Repealed. 1956, p. 214, Act 107, Eff. Aug. 11;—1957, p. 134, Act 118, Eff. Sep. 27.

Sections provided for filing of federal tax liens and statements of satisfaction of such liens.

Act 6, 1873, p. 5; Eff. Jul. 31.

AN ACT regarding the payment of irregular or illegal taxes.

The People of the State of Michigan enact:

211.531 Collection process, irregularities; voluntary tax payment; officers not liable.

Sec. 1. That in all cases where any person, company, association or corporation shall voluntarily and without protest pay to the officer demanding the same, and having a tax warrant or other process for the collection thereof, any sum or sums of money purporting by such warrant or process to be payable by such person, company, association or corporation for taxes or assessments, assessed levied, or imposed by virtue of any law of this state, neither the officer so collecting the same, nor the officer who issued such warrant or process, nor the officer who made the assessment or levy, shall in consequence of such payment be liable in any form of action for or on account of any defect or invalidity in the law under which the proceedings are had, or of any defect or irregularities in the said proceedings or in such warrant or process.

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HISTORY: How. 1206;—CL 1897, 3982;—CL 1915, 4196;—CL 1929, 3748;—CL 1948, 211.531.
PROTEST AND VOLUNTARY PAYMENT: See notes to Compilers' § 211.53.

211.532 Collection process, irregularities; voluntary payment; officer to account.

Sec. 2. That whenever moneys shall have been thus voluntarily paid as taxes or assessments to any officer assuming to act under any law of this state, and he shall fail to pay the same over according to the requirements of such law, or of his warrant or other process, any defect, irregularity or illegality in the proceedings, or any want of authority to assess or levy such taxes or assessment, shall not be set up as a defense to any suit or proceeding brought or instituted to compel such payment by him, or to hold him or his sureties responsible for his neglect to make the same, but he shall make payment the same as if no such defect, irregularity, illegality or want of authority had occurred or existed.

HISTORY: How. 1207;—CL 1897, 3983;—CL 1915, 4197;—CL 1929, 3749;—CL 1948, 211.532.

Act 263, 1897, p. 395; Eff. Aug. 30.

AN ACT to authorize the auditor general to accept payment of taxes and charges from the owner of any description of land held by the state as state tax lands.

The People of the State of Michigan enact:

211.541 Land held as state tax land with other land; tax application; proportionate payment; deed.

Sec. 1. Whenever any person, firm or corporation, owning or claiming to own 1 or more government subdivisions of land or 1 or more lots or blocks included within the limits of any township, village or city plat included in the assessment with other government subdivisions of land or with other lots or blocks upon the tax roll, shall make an affidavit, or cause said affidavit to be made by any person having knowledge of the facts, to the auditor general, setting forth that the said person, firm or corporation owns at the time of making said affidavit the said government subdivision of land or said lot, lots or blocks and that the same has been included upon the assessment roll and has been sold and is held as state tax land with other government subdivisions of land or with other lots or blocks and that the said affiant is desirous of paying all the taxes assessed against said land, and upon tender by such person, firm or corporation to the auditor general, the proportionate amount of taxes, interest and charges accrued against said description of land as appearing by the tax lists and records at the time said tender or payment and affidavit is made, it shall be the duty of the auditor general upon payment, to issue to such person, firm or corporation, as aforesaid, a deed of the description or descriptions of land described in such affidavit.

HISTORY: CL 1897, 3984;—Am. 1913, p. 442, Act 225, Eff. Aug. 14;—CL 1915, 4198;—CL 1929, 3750;—CL 1948, 211.541.

Act 143, 1891, p. 179; Imd. Eff. Jun. 19.

AN ACT to exempt from taxation the property of the [Women's] Woman's auxiliary association of the university of Michigan.

The People of the State of Michigan enact:

211.551 Women's auxiliary association, U. of M.; tax exemption.

Sec. 1. That all property of the said women's auxiliary association of the university of Michigan, or held by any trustee for such association, while held and used solely for the purposes of the association, to wit: For maintaining at the university of Michigan

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women as professors and instructors in the university whose services shall be at the disposal of the faculty and regents of the university, as teachers and lecturers, without charge to the university or the state of Michigan, shall be forever free and exempt from taxation in any form, under the laws of the state of Michigan.

HISTORY: CL 1897, 3980;—CL 1915, 4191;—CL 1929, 3751;—CL 1948, 211.551.

Act 208, 1913, p. 420; Eff. Aug. 14.

AN ACT to exempt certain cut-over and wild lands from taxation in certain cases.

The People of the State of Michigan enact:

211.561 Cut-over lands defined; homestead limit; 5-year tax exemption period.

Sec. 1. Hereafter any cut-over or wild lands, as defined herein, which shall be actually purchased by any person for the purpose of making a home, shall be exempt from the payment of all taxes for a period of 5 years thereafter. Cut-over and wild lands shall be construed to mean any swamp land or land from which timber has been removed and no part of which description claimed to be exempted has ever been cultivated. The exemption herein provided for shall not be operative in any case, unless the purchaser, either upon contract or otherwise, actually resides upon and improves at least 2 acres thereof each and every year of the said 5 years in a manner to subject the same to cultivation: Provided, That the exemption herein provided for shall not extend to more than 80 acres purchased by any 1 person.

HISTORY: CL 1915, 4192;—CL 1929, 3752;—CL 1948, 211.561.

211.562 Exemption application; treatment on tax roll.

Sec. 2. Any person claiming exemption under this act shall make application to the supervisor for exemption at the time assessment of the township is made, and the supervisor shall enter the person's name upon the assessment roll and the description of the land the same as though taxes were to be spread upon the land, and refer the application to the board of review of the township, who shall if the conditions entitling exemption have been complied with, order to be written after the description "Exempt under the cut-over and wild land act, first year," and each subsequent year thereafter if the conditions have been complied with, but using second year, third year, fourth year, fifth year successively, after which the land shall no longer be exempt under this act.

HISTORY: CL 1915, 4193;—CL 1929, 3753;—CL 1948, 211.562.

Act 88, 1909, p. 167; Eff. Sep. 1.

AN ACT to exempt from taxation bonds hereafter issued by any county, township, city, village or school district within the state of Michigan.

The People of the State of Michigan enact:

211.571 Bonds exempted from taxation.

Sec. 1. All bonds hereafter issued by any county, township, city, village, school district or community college district within the state pursuant to statute are exempted from all taxation.

HISTORY: CL 1915, 4194;—CL 1929, 3754;—CL 1948, 211.571;—Am. 1963, p. 398, Act 234, Imd. Eff. May 23.

Sec. 2. (This was a repeal section.)

HISTORY: CL 1915, 4195;—CL 1929, 3755;—Rep. 1945, p. 404, Act 267, Imd. Eff. May 25.

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Act 116, 1917, p. 193; Eff. Aug. 10.

AN ACT to provide a tax on state tax homestead and state swamp lands under control and supervision of the department of conservation, and any and all other lands held by the department of conservation except state game farms and certain state park acreage, for county, township and school purposes; to provide for the payment of such tax; and to repeal section 55 of Act No. 59 of the Public Acts of 1915. Am. 1927, p. 72, Act 59, Eff. Sep. 5;—Am. 1931, p. 497, Act 305, Eff. Sep. 18.

The People of the State of Michigan enact:

211.581 Tax on state homestead, swamp and department of conservation lands; exceptions, payment, apportionment.

Sec. 1. On December 1 of each year, there shall be paid into the treasury of each county in this state in which may be located any state tax homestead or state swamp lands under the control and supervision of the department of conservation, and any and all other lands held by the department of conservation, except that any state game farm, and any state park, for which a caretaker is provided, shall be exempt from the provisions of this act up to 1,000 acres, a tax of 20 cents per acre, or major portion thereof, of all such lands as shall belong to the state on December 1 in each year, which tax shall be in lieu of all other taxes now levied against such state land under any existing law. The auditor general shall make a detailed statement of account between the state and each county in which such lands are situated, which shall include the descriptions of such lands, and render the same to the county treasurer of each such county; and draw a warrant on the state treasurer payable for such amount as is shown to be due such county. The county treasurer of each county shall forthwith make up a detailed statement of the account between the county and each township and school district, prorating said amount received by the county among the different townships and school districts, according to the number of acres of such lands located in each township and school district. The amount shall be further prorated in each township and school district, according to the amount of township and school taxes levied in such township and school district during the preceding year not including, however, taxes levied for state and county purposes. The county treasurer shall forthwith issue his warrant to each of said townships and school districts according to said statement.

All of the tax on state homestead and state swamplands under the control of the department of conservation and 5 cents of the tax on all other lands held by the department of conservation, except any state park, for which a caretaker is provided which shall be exempt up to 1,000 acres, shall be paid from the general fund.

HISTORY: Am. 1927, p. 72, Act 59, Eff. Sep. 5;—CL 1929, 3756;—Am. 1931, p. 498, Act 305, Eff. Sep. 18;—CL 1948, 211.581;—Am. 1956, p. 284, Act 151, Eff. Aug. 11;—Am. 1965, p. 683, Act 347, Imd. Eff. Jul. 23.

211.582 Tax on state homestead, swamp and department of conservation lands; duty of department of conservation, records, source of payment.

Sec. 2. The department of conservation shall enter upon their records against each description of said lands the amounts provided by this act and shall certify the same to the auditor general, who shall draw his warrant on the state treasurer therefor, the tax on state homestead and state swamp lands under the control of the department of conservation to be paid out of any moneys in the general fund not otherwise appropriated; and the tax on any and all other lands held by the department of conservation,

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except any state park, for which a caretaker is provided, shall be exempt from the provisions of this act up to 1,000 acres, to be paid from moneys in the game protection fund. Such amounts shall be forwarded by the department of conservation to the county treasurers.

HISTORY: Am. 1927, p. 73, Act 59, Eff. Sept. 5;—CL 1929, 3757;—Am. 1931, p. 498, Act 305, Eff. Sept. 18;—CL 1948, 211.582.

Sec. 3. (This was a repeal section.)

HISTORY: CL 1929, 3758;—Rep. 1945, p. 405, Act 267, Imd. Eff. May 25.
ACT REPEALED: Sec. 55, Act 59, 1915. See footnote to said section following Compilers' § 247.54.

Act 59, 1933, p. 56; Imd. Eff. Apr. 14.

AN ACT to authorize and direct the state treasurer to pay certain claims against the state.

The People of the State of Michigan enact:

211.591 Claims for advertising sale of delinquent tax lands.

Sec. 1. It shall be the duty of the state treasurer to hear and determine any and all existing claims or claims hereafter arising against the state for any work or labor performed or materials furnished by any newspaper publisher or printer under the provisions of sections 65 and 66 of Act No. 206 of the Public Acts of 1893, being sections 3457 and 3458 of the Compiled Laws of 1929, as amended, and to pay all proper claims from the appropriation made therefor by the legislature to the department of the auditor general.

HISTORY: CL 1948, 211.591.

211.601 Repealed. 1958, p. 97, Act 90, Eff. Sep. 13.

Section authorized destruction of obsolete tax records.

Act 77, 1951, p. 99; Imd. Eff. May 28.

AN ACT providing for the specific taxation of low grade iron ore, of low grade iron ore mining property, and of rights to minerals in lands containing low grade iron ores; to provide for the collection and distribution of the specific tax; and to prescribe the powers and duties of the state geologist and township supervisors and treasurers with respect thereto. Am. 1959, p. 208, Act 147, Eff. Mar. 19, 1960.

The People of the State of Michigan enact:

211.621 Low grade iron ore; definitions.

Sec. 1. As used in this act:

(a) "Low grade iron ore" means iron-bearing rock (sometimes called iron formation, jasper, ferruginous chert or ferruginous slate) which is not merchantable as ore in its natural state and from which a merchantable product can be produced only by beneficiation or treatment involving fine grinding.

(b) "Low grade iron ore mining property" means an area of mineral bearing lands estimated to contain sufficient tonnage of available low grade iron ore to maintain capacity operation of beneficiation or treatment plants for a period not exceeding 10 years, together with the beneficiation or treatment plants, other necessary buildings and facilities, equipment, tools and supplies used in connection with the mining, quarrying, transportation and beneficiation or treatment of the low grade iron ore in producing a merchantable concentrate or other product therefrom.

HISTORY: New 1951, p. 99, Act 77, Imd. Eff. May 28;—Am. 1959, p. 208, Act 147, Eff. Mar. 19, 1960.
CITED IN OTHER SECTIONS: Sections 211.621 to 211.625 are cited in §§ 207.273 and 425.171.

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211.622 Taxation; preproduction assessment formula.

Sec. 2. Prior to the first calendar year in which production of merchantable ore from a low grade iron ore mining property has been established on a commercial basis, that is, during the period of construction of the plants for the beneficiation or treatment of low grade iron ore and the period of experimental operation thereof, the property shall be subject to a specific tax equal to the rated annual capacity of the plant in gross tons multiplied by 1% of the value per gross ton, f.o.b. the mining property, of Old Range non-Bessemer ore of base grade (51.5% natural iron), multiplied by the percent completion of the mining property.

HISTORY: New 1951, p. 99, Act 77, Imd. Eff. May 28;—Am. 1959, p. 209, Act 147, Eff. Mar. 19, 1960.

211.623 Taxation; assessment formula after commencement of production.

Sec. 3. Beginning with the first calendar year after production of merchantable ore from a low grade iron ore mining property has been established on a commercial basis, the property shall be subject to a specific tax equal to the average annual production in gross tons during the preceding 5-year period, multiplied by 2% of the value per gross ton, f.o.b. the mining property, of Old Range non-Bessemer ore of base grade (51.5% natural iron). Years of no production shall be excluded in computing such average production but only until the property has a 5-year record of commercial production. Mine value is defined as the published lake Erie price of said base grade ore, as of the date of the assessment, less the total of all transportation and handling costs, including any tax therefrom, from the mining property to lake Erie ports.

HISTORY: New 1951, p. 99, Act 77, Imd. Eff. May 28;—Am. 1959, p. 209, Act 147, Eff. Mar. 19, 1960.

211.624 Low grade iron ore mining property; minimum specific tax.

Sec. 4. If at any time the specific tax as determined under the provisions of section 3 is less than the specific tax as determined under the provisions of section 2, then the provisions of section 2 shall be controlling.

Removal of property from general property tax assessment; delinquent taxes; distribution of revenues.

The township supervisor shall remove from the list of land descriptions assessed and taxed under the general property tax law the land descriptions of property taxed under the provisions of this act, and shall enter such land descriptions on a separate roll. The supervisor shall spread the specific tax against the lands and the township treasurer shall collect the specific tax at the same time, in the same manner and subject to the same collection charges as general property taxes. Lands listed and taxed under the provisions of this act shall be subject to return and sale for nonpayment of taxes in the same manner, at the same time and under the same penalties as lands returned and sold for nonpayment of taxes levied under the general property tax laws. No valuation shall be determined for descriptions listed under this act and such lands shall not be considered by the county board of supervisors or by the state board of equalization in connection with county or state equalization for taxation purposes. If any low grade iron ore mining property is located in more than 1 township, the state geologist shall determine the portion attributable to each township. All sums collected under the provisions of this act shall be distributed by the township treasurer to school districts and to governmental units in the same proportion as the general property taxes are distributed. The amounts so distributed may be used by the school districts and governmental units for operating expenses, for capital improvements, and for the accumulation of reserves in a building and site fund or for the payment of interest or principal on bonds.

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Specific tax in lieu of ad valorem tax on ore, mining property, concentrate and other products.

The tax provided in this act shall be in lieu of ad valorem taxes upon the low grade iron ore, or upon the low grade iron ore property or upon the mining thereof, or the production of concentrate or other merchantable product therefrom, or upon the concentrate or other merchantable product produced, or upon the lands occupied by or used in connection with the mining, quarrying, transportation and beneficiation of the ore and shipping of a merchantable concentrate or other product therefrom.

HISTORY: New 1951, p. 100, Act 77, Imd. Eff. May 28;—Am. 1959, p. 209, Act 147, Eff. Mar. 19, 1960;—Am. 1961, p. 23, Act 21, Imd. Eff. May 10.

211.625 Purpose of act.

Sec. 5. The purpose of this act is to encourage commercial development of and uniform production from low grade mineral resources in the state of Michigan.

HISTORY: New 1951, p. 100, Act 77, Imd. Eff. May 28;—Am. 1959, p. 210, Act 147, Eff. Mar. 19, 1960.

Act 107, 1951, p. 137; Eff. Sep. 28.

AN ACT to authorize the sale and conveyance of certain tax lands, the title to which has revested in the state by reason of abandonment of the public use of said lands.

The People of the State of Michigan enact:

211.641 Sale and conveyance of certain tax lands; deposit of funds.

Sec. 1. Whenever the title to any land, heretofore conveyed, under section 7 or section 8 of Act No. 155 of the Public Acts of 1937, as amended, being sections 211.357 and 211.358 of the Compiled Laws of 1948, to a municipality for public use, revests in the state of Michigan for the reason that the proposed public use has been abandoned or terminated and such land constitutes highway frontage or impairs the right of ingress and egress to land sold and deeded by the state of Michigan through the state land office board or the department of conservation as having such frontage or ingress and egress, the director of conservation on behalf of the state of Michigan shall be empowered to issue a deed on such land, which deed shall convey all rights revested in the state of Michigan to the original purchaser of the land affected or to his grantee or successor in the regular chain of title for a consideration to be determined and approved by the conservation commission. All moneys received by the director of conservation upon the sale of said lands shall be deposited in the state treasury to the credit of the several assessing units in proportion to the delinquent taxes and special assessments of such units cancelled against any description of land sold under the provisions of this act.

HISTORY: New 1951, p. 137, Act 107, Eff. Sep. 28.

Act 188, 1952, p. 248; Imd. Eff. Apr. 29.

AN ACT to authorize the sale of certain property or properties acquired and held by municipalities for public uses.

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The People of the State of Michigan enact:

211.651 Authorizing sale of certain property located in slum area acquired and held by municipalities; certain limitations, removal.

Sec. 1. Any municipality having acquired any property or properties for public use under the provisions of sections 7 and 8 of Act No. 155 of the Public Acts of 1937, as amended, being sections 211.357 and 211.358, respectively, of the Compiled Laws of 1948, which said property or properties are located in a slum or blighted area, planned for clearance and redevelopment, in accordance with the redevelopment plan adopted by the legislative body of the municipality, may sell such property or properties singly, in groups or together with other properties in the area in such a manner and under such conditions of sale and use thereof as the legislative body of said municipality shall provide, without any other restriction or limitation thereof: Provided further, That as to all conveyances heretofore made by any municipality of property or properties acquired for public uses under the provisions of sections 7 and 8 of Act No. 155 of the Public Acts of 1937, as amended, being sections 211.357 and 211.358, respectively, of the Compiled Laws of 1948, the municipality, whenever the property shall have been sold at public auction or shall have been held for public purposes for a period of 10 years prior to conveyance, shall not be deemed to have been bound by the limitations on the sale thereof contained therein, and the director of conservation, on behalf of the state, shall execute the necessary corrective conveyance or conveyances to carry out the provisions of this proviso.

HISTORY: New 1952, p. 248, Act 188, Imd. Eff. Apr. 29;—Am. 1954, p. 304, Act 123, Imd. Eff. Apr. 19.

211.661-211.664 Repealed. 1967, p. 227, Act 162, Eff. Jan. 1, 1968.

Sections provided for uniform federal tax lien registration act.

211.665 Repealed. 1960, p. 76, Act 83, Eff. Aug. 17;—1967, p. 227, Act 162, Eff. Jan. 1, 1968.

Section stated fee for filing notice or discharge of federal tax lien.

211.666-211.669 Repealed. 1967, p. 227, Act 162, Eff. Jan. 1, 1968.

Sections related to uniform federal tax lien registration act.

Act 162, 1967, p. 226; Eff. Jan. 1, 1968.

AN ACT to provide for the recording and filing of notices of federal tax liens and discharges thereof; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

211.671 Short title; uniform federal tax lien registration act.

Sec. 1. This act shall be known and may be cited as the "uniform federal tax lien registration act".

HISTORY: New 1967, p. 226, Act 162, Eff. Jan. 1, 1968.

211.672 Lien notices and certificates; filing.

Sec. 2. (a) Notices of liens upon real property for taxes payable to the United States, and certificates and notices affecting the liens shall be recorded in the office of the register of deeds of the county or counties in this state in which the real property subject to a federal tax lien is situated.

(b) Notices of liens upon personal property, whether tangible or intangible, for taxes payable to the United States and certificates and notices affecting the liens shall be filed as follows:

(1) If the person against whose interest the tax lien applies is a corporation or a part-

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nership whose principal executive office is in this state, as these entities are defined in the internal revenue laws of the United States, in the office of the secretary of state.

(2) In all other cases in the office of the register of deeds of the county where the taxpayer resides at the time of filing of the notice of lien.

HISTORY: New 1967, p. 226, Act 162, Eff. Jan. 1, 1968.

211.673 Certification by secretary of the treasury.

Sec. 3. Certification by the secretary of the treasury of the United States or his delegate of notices of liens, certificates, or other notices affecting tax liens entitles them to be filed and no other attestation, certification or acknowledgment is necessary.

HISTORY: New 1967, p. 226, Act 162, Eff. Jan. 1, 1968.

211.674 Duties of filing officers; fees.

Sec. 4. (a) If a notice of federal tax lien, a refiling of a notice of tax lien, or a notice of revocation of any certificate described in subsection (b) is presented to the filing officer and

(1) He is the secretary of state, he shall cause the notice to be marked, held and indexed in accordance with the provisions of subsection (4) of section 9403 of Act No. 174 of the Public Acts of 1962, as amended, known as the uniform commercial code and being section 440.9403 of the Compiled Laws of 1948, as if the notice were a financing statement within the meaning of that code; or

(2) He is any other officer described in section 2 of this act, he shall indorse thereon his identification and the date and time of receipt and forthwith file it alphabetically or enter it in an alphabetical index showing the name and address of the person named in the notice, the date and time of receipt, the serial number of the district director and the total unpaid balance of the assessment appearing on the notice of lien.

(b) If a certificate of release, nonattachment, discharge or subordination of any tax lien is presented to the secretary of state for filing he shall

(1) Cause a certificate of release or nonattachment to be marked, held and indexed as if the certificate were a termination statement within the meaning of the uniform commercial code, except that the notice of lien to which the certificate relates shall not be removed from the files, and

(2) Cause a certificate of discharge or subordination to be held, marked and indexed as if the certificate were a release of collateral within the meaning of the uniform commercial code.

(c) If a refiled notice of federal tax lien referred to in subsection (a) or any of the certificates or notices referred to in subsection (b) is presented for filing with any other filing officer specified in section 2, he shall permanently attach the refiled notice or the certificate to the original notice of lien and shall enter the refiled notice or the certificate with the date of filing in any alphabetical federal tax lien index on the line where the original notice of lien is entered.

(d) Upon request of any person, the filing officer shall issue his certificate showing whether there is on file, on the date and hour stated therein, any notice of federal tax lien or certificate or notice affecting the lien, filed or after the effective date of this act, naming a particular person, and if a notice or certificate is on file, giving the date and hour of filing of each notice or certificate. The fee for a certificate is $1.00. Upon request the filing officer shall furnish a copy of any notice of federal tax lien or notice or certificate affecting a federal tax lien for a fee of $1.00 per page.

HISTORY: New 1967, p. 226, Act 162, Eff. Jan. 1, 1968.

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211.675 Maintenance of files for notices, liens, or certificates recorded prior to January 1, 1968.

Sec. 5. Officers with whom notices of federal tax liens, certificates and notices affecting such liens have been recorded on or before January 1, 1968 shall, after that date, continue to maintain a file labeled "federal tax lien notices recorded prior to January 1, 1968" containing notices and certificates recorded in numerical order of receipt. If a notice of lien was recorded on or before January 1, 1968, any certificate or notice affecting the lien shall be filed in the same office.

HISTORY: New 1967, p. 227, Act 162, Eff. Jan. 1, 1968.

211.676 Recording, filing, and indexing fees.

Sec. 6. The fee for recording or filing and indexing each notice of lien or certificate or notice affecting the tax lien is:

(1) For a tax lien on real estate, the same fee provided by law for recording a real estate mortgage.

(2) For a tax lien on tangible and intangible personal property, $1.00.

(3) For a certificate of discharge or subordination, the same fee provided by law for recording a discharge of a real estate mortgage.

(4) For all other notices, including a certificate of release or nonattachment, $1.00.

The officer shall bill the district directors of internal revenue on a monthly basis for fees for documents filed by them.

HISTORY: New 1967, p. 227, Act 162, Eff. Jan. 1, 1968.

211.677 Construction of act.

Sec. 7. This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

HISTORY: New 1967, p. 227, Act 162, Eff. Jan. 1, 1968.

211.678 Repeal.

Sec. 8. Act No. 107 of the Public Acts of 1956, as amended, being sections 211.661 to 211.669 of the Compiled Laws of 1948, is repealed.

HISTORY: New 1967, p. 227, Act 162, Eff. Jan. 1, 1968.

211.679 Effective date.

Sec. 9. This act shall take effect on January 1, 1968.

HISTORY: New 1967, p. 227, Act 162, Eff. Jan. 1, 1968.

Act 203, 1968, p. 298; Eff. Jul. 1.

AN ACT to provide for the recording and filing of notices of state tax liens and discharges of tax liens.

The People of the State of Michigan enact:

211.681 Short title; state tax lien registration act.

Sec. 1. This act shall be known and may be cited as the "state tax lien registration act".

HISTORY: New 1968, p. 298, Act 203, Eff. Jul. 1.

211.682 Certificates and notices of liens upon real or personal property; filing.

Sec. 2. (a) Notices of liens upon real property for taxes payable to the state, and certificates and notices affecting the liens shall be recorded in the office of the register of deeds of the county or counties in which the real property subject to a state tax lien is situated.

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(b) Notices of liens upon personal property, whether tangible or intangible, for taxes payable to the state and certificates and notices affecting the liens shall be filed as follows:

(1) If the person against whose interest the tax lien applies is a corporation or a partnership whose principal executive office is in this state, as these entities are defined in the applicable tax laws of the state, in the office of the secretary of state.

(2) In all other cases in the office of the register of deeds of the county where the taxpayer resides at the time of filing of the notice of lien.

HISTORY: New 1968, p. 298, Act 203, Eff. Jul. 1.

211.683 Certification by collecting agency.

Sec. 3. Certification by the state collecting agency of notices of liens, certificates or other notices affecting tax liens entitles them to be filed and no other attestation, certification or acknowledgment is necessary.

HISTORY: New 1968, p. 299, Act 203, Eff. Jul. 1.

211.684 Duties of filing officers; fees.

Sec. 4. (a) If a notice of state tax lien, a refiling of a notice of tax lien, or a notice of revocation of any certificate described in subsection (b) is presented to the filing officer and

(1) He is the secretary of state, he shall cause the notice to be marked, held and indexed in accordance with the provisions of subsection (4) of section 9403 of Act No. 174 of the Public Acts of 1962, as amended, being section 440.9403 of the Compiled Laws of 1948, as if the notice were a financing statement within the meaning of that act; or

(2) He is any other officer described in section 2, he shall indorse thereon his identification and the date and time of receipt and forthwith file it alphabetically or enter it in an alphabetical index showing the name and address of the person named in the notice, the date and time of receipt, the serial number of the state collecting agency and the total unpaid balance of the assessment appearing on the notice of lien.

(b) If a certificate of release, nonattachment, discharge or subordination of any tax lien is presented to the secretary of state for filing he shall

(1) Cause a certificate of release or nonattachment to be marked, held and indexed as if the certificate were a termination statement within the meaning of Act No. 174 of the Public Acts of 1962, as amended, except that the notice of lien to which the certificate relates shall not be removed from the files, and

(2) Cause a certificate of discharge or subordination to be held, marked and indexed as if the certificate were a release of collateral within the meaning of Act No. 174 of the Public Acts of 1962, as amended.

(c) If a refiled notice of state tax lien referred to in subsection (a) or any of the certificates or notice referred to in subsection (b) is presented for filing with any other filing officer specified in section 2, he shall permanently attach the refiled notice or the certificate to the original notice of lien and shall enter the refiled notice or the certificate with the date of filing in any alphabetical state tax lien index on the line where the original notice of lien is entered.

(d) Upon request of any person, the filing officer shall issue his certificate showing whether there is on file, on the date and hour stated therein, any notice of state tax lien or certificate or notice affecting the lien, filed or after the effective date of this act, naming a particular person, and if a notice or certificate is on file, giving the date

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and hour of filing of each notice or certificate. The fee for a certificate is $1.00. Upon request the filing officer shall furnish a copy of any notice of state tax lien or notice or certificate affecting a state tax lien for a fee of $1.00 per page.

HISTORY: New 1968, p. 299, Act 203, Eff. Jul. 1.

211.685 Fees; monthly billing; exception.

Sec. 5. (a) The fee for recording or filing and indexing each notice of lien or certificate or notice affecting the tax lien is:

(1) For a tax lien on real estate, the same fee provided by law for recording a real estate mortgage.

(2) For a tax lien on tangible and intangible personal property, $1.00.

(3) For a certificate of discharge or subordination, the same fee provided by law for recording a discharge of a real estate mortgage.

(4) For all other notices, including a certificate of release or nonattachment, $1.00.

(b) A register of deeds shall bill the state collecting agencies on a monthly basis for fees for documents filed by them.

(c) No fee shall apply or be collected for an instrument presented for filing and recording to the secretary of state by a state collecting agency.

HISTORY: New 1968, p. 299, Act 203, Eff. Jul. 1;—Am. 1969, p. 64, Act 34, Imd. Eff. Jul. 10.

211.686 Failure to file or record state tax lien.

Sec. 6. A state tax lien not filed or recorded pursuant to this act shall be void against any mortgagee, pledgee, purchaser (including land contract purchaser) or judgment creditor who secured any interest in the property subject to the lien prior to the time such notice of lien was filed or recorded, as provided for in this act.

HISTORY: New 1968, p. 299, Act 203, Eff. Jul. 1.

211.687 Effective date.

Sec. 7. This act shall take effect July 1, 1968.

HISTORY: New 1968, p. 300, Act 203, Eff. Jul. 1.

Act 55, 1956, p. 139; Imd. Eff. Apr. 2.

AN ACT to authorize the jeopardy assessment of personal property taxes; to establish the terms, limitations and conditions upon which the date for payment of personal property taxes may be accelerated; to provide for the collection of such taxes, and to establish a lien therefor; and to establish the liability of the purchaser of personal property for personal property taxes.

The People of the State of Michigan enact:

211.691 Personal property taxes; jeopardy assessment.

Sec. 1. The treasurer of any township, city or village is authorized to accelerate the date on which any personal property tax collectible by him would otherwise be due upon the terms, limitations and conditions set forth in this act. Proceedings hereunder shall be known as jeopardy assessment of personal property taxes.

HISTORY: New 1956, p. 139, Act 55, Imd. Eff. Apr. 2.

CITED IN OTHER SECTIONS: The above section is cited in § 211.154.

211.692 Personal property taxes; jeopardy assessment affidavit, contents.

Sec. 2. Before the due date of any such tax shall be accelerated, the treasurer shall make a jeopardy tax assessment affidavit stating that the taxpayer named therein owned certain personal property, describing it, on the tax day; that said property had its situs within his tax collection district on the tax day; the assessed value thereof, the amount of the jeopardy rate and the tax due; the name of the taxing unit or units on

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whose behalf such jeopardy assessment is made; and shall further state that the deponent knows, or has good reason to believe, either:

(a) That the taxpayer has absconded, or is about to abscond from the state, or that he is concealed therein, thereby tending to jeopardize the collectibility of any personal property tax, assessed and levied by the regular assessment and collection procedure; or

(b) That the taxpayer has assigned, disposed of or concealed, or is about to assign, dispose of or conceal any of this property, thereby tending to jeopardize the collectibility of any personal property tax, assessed and levied by the regular assessment and collection procedure; or

(c) That the taxpayer has removed or is about to remove any of his property out of this state thereby tending to jeopardize the collectibility of any personal property tax, assessed and levied by the regular assessment and collection procedure; or

(d) That other facts exist, specifying them, which tend to jeopardize the collectibility of any personal property tax assessed and levied by the regular assessment and collection procedure.

HISTORY: New 1956, p. 140, Act 55, Imd. Eff. Apr. 2.

CITED IN OTHER SECTIONS: The above section is cited in § 211.154.

211.693 Affidavit; filing, notice to taxpayer.

Sec. 3. Upon making such affidavit, the treasurer shall not later than the next business day after the date of the jurat on said affidavit, file the same, or a true copy thereof, with the register of deeds of the county in which the property was located on the tax day, in the same manner as is provided by law in the case of chattel mortgages. The treasurer shall at the same time notify the taxpayer so assessed of the filing of such affidavit by mailing notice thereof to him at the address at which the personal property so taxed is then located, or if such location is unknown, then to the address where the same was located on the tax day, to which notice shall be attached a copy of the affidavit filed with the register of deeds: Provided, That failure to mail such notice shall not affect the validity of the jeopardy tax nor impair the lien thereof.

HISTORY: New 1956, p. 140, Act 55, Imd. Eff. Apr. 2.

211.694 Acceleration of due date of tax; lien, collection of tax.

Sec. 4. Upon the filing of such affidavit with the register of deeds, a personal property tax in the amount specified therein shall be immediately due and payable from the taxpayer therein named and shall be a lien against the property therein described to the same extent and of the same character as the lien provided in section 40 of Act No. 206 of the Public Acts of 1893, as amended, being section 211.40 of the Compiled Laws of 1948. The treasurer shall have the same powers and duties in the collection of the tax so assessed as in the collection of personal property taxes regularly assessed under the general laws of this state.

HISTORY: New 1956, p. 140, Act 55, Imd. Eff. Apr. 2.

211.695 Jeopardy assessment tax rate; collection of tax; discharge of affidavit.

Sec. 5. The assessor of any tax collection district shall, upon request of the treasurer thereof, furnish his estimate of the assessed value of any personal property upon which the treasurer proposes to make a jeopardy assessment. Such estimates shall be of the assessed value such property will bear upon completion of the regular personal property assessment procedure for the current year, and such estimate shall be set forth in the treasurer's affidavit as the assessed value of the property described therein. The treasurer shall estimate the tax rate which he believes will be authorized by the taxing unit on whose behalf the jeopardy assessment is made for the current year, which rate shall not be more than 10% in excess of the rate authorized by such unit for the previ-

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ous year, and the rate so estimated shall be set forth in the affidavit of the treasurer as the jeopardy tax rate. The amount of the jeopardy personal property tax shall be determined therefrom. Upon collection of the amount of the jeopardy tax, the treasurer shall forthwith discharge the jeopardy tax assessment affidavit from the records of the register of deeds. All money received in collection of jeopardy taxes shall be retained by the treasurer in a special account entitled "jeopardy tax account" until receipt of the next regular tax roll of the taxing unit or units on whose behalf the jeopardy assessment was made.

HISTORY: New 1956, p. 140, Act 55, Imd. Eff. Apr. 2.

211.696 Personal property tax; repayment of excess; collection of unpaid regular tax.

Sec. 6. Any personal property which is the subject of a jeopardy assessment hereunder shall remain on the regular tax roll, and no taxpayer or personal property shall be relieved from the tax thereafter assessed thereon, but the treasurer upon receiving the regular tax roll of 1 or more of the units on whose behalf such a jeopardy assessment was made shall credit any amount collected in satisfaction of the jeopardy tax against the regular tax and shall thereupon transfer such sums from the jeopardy tax account to the tax funds of the unit or units for which the jeopardy assessment was made. If the entire jeopardy tax is collected, then each taxing unit on whose behalf the jeopardy tax was assessed shall first receive an amount equal to the jeopardy tax assessed for it or its regular personal property tax, whichever is less, and the balance, if any, shall be divided among those units whose regular personal property tax was not thereby fully paid, in the same proportion as the jeopardy tax of each bears to the total jeopardy tax of all the units sharing the balance. If less than the full amount of the jeopardy tax was collected, each unit on whose behalf the jeopardy tax was assessed shall be paid in the proportion that its jeopardy tax bears to the entire jeopardy tax assessment, but no unit shall be paid a sum in excess of its regular personal property tax. Upon payment of all regular personal property taxes owed to all units in whose behalf a jeopardy assessment was made, the balance collected in satisfaction of such jeopardy tax remaining in the treasurer's hands shall be paid over to the taxpayer. The balance of any regular personal property tax remaining unpaid shall be collected in the same manner as are other personal taxes.

HISTORY: New 1956, p. 141, Act 55, Imd. Eff. Apr. 2.

211.697 Treasurer; diligence, liability for uncollected taxes.

Sec. 7. Action taken by the treasurer in accordance with the provisions of this section shall constitute diligent inquiry and the exercise of due diligence in an effort to collect the taxes with respect to which the action was taken as required by sections 55 and 56a and elsewhere in the Michigan general property tax act, being Act No. 206 of the Public Acts of 1893. The treasurer or his bondsman shall not be liable for any taxes which remain uncollected because the treasurer, in his estimate made in good faith, has underestimated the taxes to be paid on any property with respect to which such action is taken.

HISTORY: New 1956, p. 141, Act 55, Imd. Eff. Apr. 2.

Act 129, 1961, p. 161; Eff. Sep. 8.

AN ACT to permit reconveyance of property of charitable and religious organizations which have been sold to the state for taxes.

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The People of the State of Michigan enact:

211.711 Charitable or religious organizations; reconveyance of property sold for taxes, effect.

Sec. 1. Upon application of any religious or charitable organization, the property of which is exempt from general taxation under the provisions of Act No. 206 of the Public Acts of 1893, as amended, being sections 211.1 to 211.157 of the Compiled Laws of 1948, the department of conservation may withhold from sale any land owned by the religious or charitable organization at the time of vesting of title in the state, and may reconvey the same to the organization upon payment of the amount of all taxes and special assessments together with penalties and interest thereon for which the lands were sold. No deed issued under the provisions of this section shall be construed to vest in the grantee therein named any title or interest in such lands beyond that which he would have owned, had not title become vested in the state. Such deed shall operate to revive all titles, liens and encumbrances, with their respective priorities, as the same would have existed had not the title become vested in the state.

HISTORY: New 1961, p. 161, Act 129, Eff. Sep. 8.

Act 122, 1962, p. 111; Eff. Mar. 28, 1963.

AN ACT requiring assessing officials to use manuals prepared by the state tax commission.

The People of the State of Michigan enact:

211.721 Assessment of real and personal property; state tax commission manuals.

Sec. 1. Beginning with the tax assessing year 1963, all assessing officials, whose duty it is to assess real or personal property on which real or personal property taxes are levied by any taxing unit of the state, shall use only the official manual or manuals, with their latest supplements, as prepared or approved by the state tax commission as a guide in preparing assessments.

HISTORY: New 1962, p. 111, Act 122, Eff. Mar. 28, 1963.

Act 162, 1962, p. 164; Imd. Eff. May 10.

AN ACT to prescribe the method of giving notice of special assessment hearings; to prescribe duties of persons and certain public officials in connection with the keeping and maintaining of tax assessment records; to prescribe the effects of failure to give such notice; and to validate certain special assessment hearings.

The People of the State of Michigan enact:

211.741 Special assessments; notice of hearing, service; local tax assessment records.

Sec. 1. In all cases where special assessments are made against property, notice of all hearings in the special assessment proceedings shall be given as provided in this act in addition to any notice of such hearings to be given by publication or posting as required by statute, charter or ordinance. The provisions of this act in respect to service of notice by mail shall supersede any existing statutory, charter or ordinance requirements for mailing notice. Notice of hearings in special assessment proceedings shall be given to each owner of or party in interest in property to be assessed, whose name appears upon the last local tax assessment records, by mailing by first class mail ad-

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dressed to such owner or party at the address shown on the tax records, at least 10 days before the date of such hearing. The last local tax assessment records means the last assessment roll for ad valorem tax purposes which has been reviewed by the local board of review, as supplemented by any subsequent changes in the names or the addresses of such owners or parties listed thereon.

HISTORY: New 1962, p. 164, Act 162, Imd. Eff. May 10.

CITED IN OTHER SECTIONS: Sections 211.741 to 211.745 are cited in §§ 213.27, 279.217, and 281.914.

211.742 Tax assessment records; filing of names; changes of names and addresses.

Sec. 2. Where any person claims an interest in real property whose name and correct address do not appear upon the last local tax assessment records, he shall be obligated to file immediately his name and address with the local tax assessing officer. This requirement shall be deemed effective only for the purpose of establishing a record of the names and addresses of those persons entitled to notice of hearings in special assessment proceedings. It shall be the duty of each tax assessing officer to immediately enter on the local tax assessment records any changes in the names and addresses of owners or parties in interest filed with him and at all times to keep such tax assessment records current and complete and available for public inspection.

HISTORY: New 1962, p. 164, Act 162, Imd. Eff. May 10.

211.743 Notice of hearings; mailing.

Sec. 3. On and after 30 days following the effective date of this act, any officer whose duty it is to give notice of hearings in special assessment proceedings may rely upon the last local tax assessment records in giving notice of hearing by mail. The method of giving notice by mail as provided in this act is declared to be the method that is reasonably certain to inform those to be assessed of the special assessment proceedings.

HISTORY: New 1962, p. 165, Act 162, Imd. Eff. May 10.

211.744 Notice of hearings; invalidation of assessment; reassessment.

Sec. 4. Any failure to give notice as required in this act shall not invalidate an entire assessment roll but only the assessments on property affected by the lack of notice. In no case shall any special assessment be declared invalid as to any property if the owner or said party in interest thereof has actually received notice, has waived notice, or has paid any part of the assessment. If any assessment is declared void by court decree or judgment, a reassessment against the property may be made.

HISTORY: New 1962, p. 165, Act 162, Imd. Eff. May 10.

211.745 Notice of hearings; validation of previously held hearings.

Sec. 5. Notwithstanding the lack of a statute, charter or ordinance provision for the mailing of notice of hearings, each special assessment hearing heretofore held is validated insofar as any notice of hearing is concerned, if notice was given by mail to the owners or parties in interest whose names appeared at the time of mailing on the last local tax assessment records. Any such special assessment hearing is also validated as to any owner or party in interest who has actually received notice of hearing, has waived such notice, or has paid any part of the special assessment.

HISTORY: New 1962, p. 165, Act 162, Imd. Eff. May 10.

Act 168, 1966, p. 187; Imd. Eff. Jul. 1.

AN ACT to provide for reimbursement to local units of government for taxes lost due to the establishment of Sleeping Bear dunes national lakeshore.

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The People of the State of Michigan enact:

211.751 Sleeping Bear dunes national lakeshore; payments to counties from revenues derived by sale of state lands to United States; distribution of funds to local units.

Sec. 1. The department of treasury shall pay to the treasurer of each county within which land is acquired by the United States after January 1, 1966 for use as Sleeping Bear dunes national lakeshore a sum equal to 1% of the price at which the property was purchased by the United States. The payments shall be made from revenues derived from the sale of state lands to the United States which lie within the boundaries of the Sleeping Bear dunes national lakeshore which sale shall be made in lieu of a gift of the state land to the federal government. Payments shall be made at the close of each fiscal year of the state beginning with the close of the fiscal year following the tax year during which the property was acquired by the United States. The county treasurer shall distribute the payments to the units of government within the county in which the lands are located in the same proportion as are general property taxes in each unit for the fiscal year in which the payment is made.

HISTORY: New 1966, p. 187, Act 168, Imd. Eff. Jul. 1.

211.752 Review of impact of acquisitions upon tax revenues; report to legislature, recommendations.

Sec. 2. After the close of the fifth fiscal year in which payments are made in accordance with section 1 and before the end of the seventh year of such payments the conservation commission and the state tax commission in consultation with the governing officials of the counties to which payments have been made shall review the impact upon the tax revenue of the counties, townships and school districts as a result of the acquisition of lands for Sleeping Bear dunes national lakeshore and also the tax needs. After the review the conservation commission shall report to the legislature and make appropriate recommendations before the end of the eighth fiscal year.

HISTORY: New 1966, p. 188, Act 168, Imd. Eff. Jul. 1.

211.753 Maximum payments under act.

Sec. 3. No more than 8 annual payments shall be made under this act.

HISTORY: New 1966, p. 188, Act 168, Imd. Eff. Jul. 1.

211.754 Local units not eligible for payments; conditions.

Sec. 4. Payments under this act shall not be made to any local unit of government eligible to receive payments from the federal government in lieu of taxes for property taken for Sleeping Bear dunes national lakeshore after January 1, 1966.

HISTORY: New 1966, p. 188, Act 168, Imd. Eff. Jul. 1.

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CHAPTER 213. CONDEMNATION

STATE

Act 236 of 1911

213.1 Condemnation of private property for state use; authority delegated; jurisdiction.
213.2 Attorney general; duty; petition; contents; summons; issuance and return; incompetents; non-residents; service; notice by publication.
213.3 Petition; hearing on necessity and compensation; commissioners procedure; jury, procedure.
213.4 Objections to report filed; confirmation; deposit; vesting of title; payment of compensation; dismissal; expenses; record.

STATE AGENCIES AND PUBLIC CORPORATIONS

Act 149 of 1911

213.21 Public corporation and state agency; definition.
213.22 Private property; definition.
213.23 Authority to take private property; acquisition of property.
213.23a Scope of act; rights conferred by act.
213.24 Condemnation proceedings; necessity declared; authorization; jurisdiction.
213.25 Condemnation proceedings; resolution; petition; contents; jury to determine necessity; compensation.
213.26 Order for hearing on petition; guardian ad litem.
213.27 Order for hearing on petition; publication and service; mailing notice; proof of publication; mailing and service; filing.
213.28 Order for impanelling jury; method of selecting; peremptory challenges.
213.29 Order of impanelling jury; oath; view of property; instructions; written verdict.
213.30 Order of impanelling jury; verdict; necessity, compensation, apportionment of award.
213.31 Order of impanelling jury; use of exhibits; blank verdict, entry of descriptions.
213.32 Court action; verdict may be set aside; allowance of amendments.
213.33 Court action; motion for new trial; confirmation of verdict; appeal, bond, manner of perfecting.
213.34 Court action; appeal; duty of clerk, procedure.
213.35 Court action; hearing and reversal of appeals; costs; frivolous appeals.
213.36 Court action; verdict and confirmance certified; petitioner, compensation for owner, possession.
213.37 Court action; fees; officers; juror, witness, attorney.
213.38 Court action; condemnation proceedings; discontinuance; expenses and attorney fees.
213.39 Property; ownership, prima facie evidence.
213.40 Petition to condemn land; recording of notice; constructive notice to purchaser.
213.41 Petition; constructive notice to purchaser of personalty; record of notice.

CITIES, VILLAGES AND COUNTIES

Act 124 of 1883

213.71-213.94 Repealed.

WATER, LIGHT, HEAT, POWER OR TRANSPORTATION IN CITIES

Act 119 of 1919

213.111 Cities, authority to take over public utilities.
213.112 Institution of proceedings; council's resolution of necessity, contents; circuit court, jurisdiction.
213.113 Institution of proceedings; petition, contents; separate juries on request to determine necessity, damages.
213.114 Summons; issuance, contents.
213.115 Summons; service; guardian ad litem; alias, pluries summons; return, evidence.
213.116 Jury to be empaneled.
213.117 Jury; oath; duties; instruction; written verdict.
213.118 Jury; determination and award; title vested in petitioner.
213.119 Jury; use of petition, map, blank verdict, form.
213.120 Jury to determine necessity; oath; duties; instruction; written verdict.
213.121 Finding of no necessity to take absolute fee; further proceedings.
213.122 Finding of necessity; right to possession on giving security; writ of assistance.
213.123 Finding of necessity; determination of compensation; oath of jurors; duties; instruction; award.
213.124 Setting aside verdict; new trial; amendments.
213.125 Motions for new trial; proceedings arrested; confirmation, judgment, finality.
213.126 Appeal; procedure.
213.127 Appeal; records transmitted, fees; settlement of case by judge.
213.128 Appeal; hearing; determination; expenses, compensation, damage.
213.129 Verdict; copy transmitted to council; collection of award.
213.130 Verdict; collection resolution; treasurer, duties; borrowing power; right to possession; writ of assistance.
213.131 Jury fees; compensation.
213.132 Attorney fees; expenses, costs; payment by municipality.
213.133 Discontinuance prohibited after verdict; further proceedings.
213.134 Property ownership; prima facie evidence.

RAILROAD RIGHT OF WAY FOR HIGHWAY PURPOSES

Act 215 of 1925

213.151 Public utility right-of-way; acquisition by state highway commissioner; acquisition and exchange of other property.
213.152 Public utility property; condemnation procedure.
213.153 Public utility property; payment.

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PRIVATE PROPERTY FOR HIGHWAY PURPOSES
Act 352 of 1925

213.171 Property; acquisition by county road or state highway commissioners; approval of required officials.
213.172 Property for county and trunk line; conveyances, name, fluid mineral and gas rights, recording.
213.173 Payment of purchase price for property.
213.174 Determination of necessity by board or commissioner; hearing.
213.174a Determination of necessity by circuit court commissioner if board or commissioner is disqualified.
213.175 Determination of necessity; filing and recording; compensation for property.
213.176 Possession notice; vesting of title; removal of obstructions on property.
213.177 Petition; circuit court to appoint commissioners to determine damages.
213.178 Petition; order for hearing, service.
213.179 Petition; service upon guardians; guardian ad litem.
213.180 Petition; constructive service; order for appearance.
213.181 Order for appearance; publication; mailing and service of order.
213.182 Order for appearance; proof of publication and service; filing.
213.183 Default of persons not appearing; court-appointed commissioners; discontinuance.
213.184 Commissioners; meetings, adjournments; witnesses.
213.185 Commissioners; view of premises; hearing; evidence of ownership.
213.186 Commissioners; appraisal of damages; reports.
213.187 Commissioners; not necessary to include all parcels of property in same petition.
213.188 Benefits to owners; deduction from damage costs.
213.189 Orders of court upon determination and in regarding commissioners.
213.190 Confirmation of commissioner's report; witness, attorney, damage fees.
213.191 Compensation of highway condemnation commissioners; expenses.
213.192 Prima facie evidence; certificate, report, or determination.
213.193 Right to acquire property of municipalities and cemetery associations; exchange.
213.194 Sale of excess land; conveyance; record.
213.195 Repealed.
213.197 Review by certiorari; procedure; time limitations.
213.198 State highway commissioner or deputy may conduct proceedings.
213.199 All notices and orders; service.

BOULEVARD, STREET OR ALLEY
Act 190 of 1929

213.221 Boulevard, street and alley; fee of adjacent property, acquisition.
213.222 Boulevard, street and alley; condemnation proceedings.
213.223 Boulevard, street and alley; sale of unused portion.

OVERHEAD AND UNDERGROUND RIGHTS
Act 140 of 1945

213.251 Overhead and underground rights; acquisition; purposes.

SERVICE ON UNKNOWN OWNERS OR CLAIMANTS
Act 379 of 1927

213.261 Condemnation; service of process on unknown claimants.

DAMAGES IN CONDEMNATION PROCEEDINGS
Act 323 of 1931

213.271, 213.272 Repealed.

CONDEMNATION AWARDS, DELINQUENT TAXES
Act 270 of 1931

213.291 Condemnation awards; application to payment of taxes and special assessments.

PROPERTY OF PUBLIC HOSPITAL, COLLEGE OR UNIVERSITY
Act 288 of 1957

213.301 Property of public college, university or hospital; condemnation, definitions.
213.302 Property of public college, university or hospital; determination of relative necessity.
213.303 Property of public college, university or hospital; judicial determination of necessity.
213.304 Judicial determination; abatement of pending proceedings.

PRORATION OF TAXES ON PROPERTY ACQUIRED FOR PUBLIC PURPOSES
Act 207 of 1965

213.311 Property taxes; proration on real property acquired for public purposes.
213.312 Property taxes; proration, taxes included.

ALLOWANCES FOR EXPENSES OF MOVING PERSONAL PROPERTY FROM CONDEMNED REAL PROPERTY
Act 40 of 1965

213.351 Property acquired for public purposes; definitions.
213.352 Property; public purposes, moving expenses; maximum payments, allowances in lieu of expenses.
213.353 Payments allowed by federal regulation; payments, number.
213.354 Moving allowances; paid for highway projects.
213.355 Moving allowances; additional to compensation; not considered in condemnation proceedings.

ACQUISITION OF PROPERTY FOR PUBLIC HIGHWAY PURPOSES
Act 295 of 1966

213.361 Property; kinds, acquisition for public highways.
213.362 Property in city or village; designation and consent prior to acquisition for street or highway.
213.363 Property; conveyances; name in which taken, instruments, mineral and gas rights, recording.
213.364 Property; payments; source, warrants.
213.365 Property; adjacent land, cemeteries, exchanges, parcels of property.

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213.366 Petition; condemnation of property in circuit courts; filing, contents, notice.
213.367 Petition; declaration of taking; time for filing, contents.
213.368 Petition; motion for review of necessity of taking; notice of hearing; hearing time; determination; appeal.
213.369 Petition; declaration of taking; filing; deposit with city, village, county or state treasurer; vesting of title.
213.370 Property; application for payment of money deposited.
213.371 Property; surrender of possession of same to petitioner; writ of assistance.
213.372 Respondents; guardian ad litem for.
213.373 Condemnation; order fixing day of hearing; contents, publication; service; proof.
213.374 Hearing; default judgments; entry; payment of compensation.
213.375 Hearing; jury trial; number; summoning; waiver.
213.376 Hearing; peremptory challenges; procedure for impaneling, summoning and excusing jury.
213.377 Jury; oath or affirmation; duties.
213.378 Jury or court; award of compensation by.
213.379 Jury; use of maps, plans, exhibits and blank verdicts.
213.380 Amendments, when allowed.
213.381 Judgment; verdict confirmed; motion for new trial; appeals; interest on judgment.
213.382 Payment of award; procedure; writ of assistance.
213.383 Payment of witnesses; attorney fees.
213.384 Property; prima facie evidence of ownership or interest in; use of abstracts of title as evidence.
213.385 Notice of filing petition; record; constructive notice to purchaser of realty.
213.386 Constructive notice to purchaser of personalty.
213.387 Property; lease, sale or conveyance of excess.
213.388 Property; enhancement in value of remainder of parcel to be considered in determining compensation; duty to claim benefits.
213.389 Property; date of valuation, determination, civil action in court of claims.
213.390 Proceedings; discontinuance of.
213.391 Effect on other condemnation acts.

Act 236, 1911, p. 407; Eff. Aug. 1.

AN ACT to authorize proceedings by the state to condemn private property for public use.

The People of the State of Michigan enact:

213.1 Condemnation of private property for state use; authority delegated; jurisdiction.

Sec. 1. It shall be lawful for the governor or any other person or persons, or any board of regents, board of control or other governing body of any state educational, penal or reformatory institution, when by law authorized to secure for the state or such institution, land as a site for any state building or buildings, state institution or public use, and for the board of regents, board of control or other governing body of any state institution desirous of obtaining the right of way over lands for the benefit of such state institution, when such persons, board of regents, board of control or other governing body, or a majority thereof shall have by resolution declared the taking thereof necessary for the public use of such state institution, to institute or cause to be instituted proceedings in the name and behalf of the state of Michigan against the land sought to be acquired, and against the owners and persons interested therein, in the circuit court of the county where the land is situated, for the purpose of acquiring by the state title to such land by judicial condemnation. And the said court in which such proceeding may be instituted, shall have and possess full jurisdiction of the subject matter of such proceedings, and power to hear, adjudge, and determine all matters touching the proceedings, and the rights and interests of all concerned.

HISTORY: CL 1915, 349;—CL 1929, 3759;—CL 1948, 213.1. This act undoubtedly supersedes Sections 1-4 of Act 3 of 1874, being How. 5196-5199, as Am. 1897, p. 149, Act 128, Eff. Aug. 30;—CL 1897, 1253-1256, which act was expressly repealed 1915, p. 406, Act 240, Eff. Aug. 24. See CL 1929, 120.

CONSTITUTION: See Const. X § 2, and U.S. Const., 5th and 14th amendments.

CONDEMNATION CROSS REFERENCES: Service of process on unknown claimants, see Compilers' § 213.261.

State, land owned by (state land office board act) see Compilers' § 211.358g.

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Township burying grounds, see Compilers' § 128.151 et seq. Township parks, see Compilers' §§ 41.441-41.446.
Villages, see Compilers' §§ 73.1-73.36; sewers and water supply, see Compilers' § 78.26.
Fourth class cities, see Compilers' §§ 105.1-105.29.
Cities and villages, sewage disposal plants, see Compilers' §§ 123.201 et seq., and 123.241.
County parks or airports, see Compilers' § 123.61 et seq. County hospital, see Compilers' §§ 331.1-331.11.
Metropolitan districts, see Compilers' § 119.4. Huron Clinton metropolitan authority, see Compilers' §§ 119.51-119.61.
Port districts, see Compilers' §§ 120.13, 120.14.
Intermunicipality improvements, see Compilers' § 123.71 et seq.
Employment bureaus, for, see Compilers' §§ 123.451-123.455.
Water works, see Compilers' § 123.117.
Aeronautics code, see Compilers' § 259.104 and 259.126.
Probation recovery camps, see Compilers' §§ 798.1-798.6.
State parks, see Compilers' § 318.5.
Highways, see Compilers' §§ 224.12 to 224.16 and 213.171 et seq. State highway department, computation of award, see Compilers' §§ 213.271-213.272. Highway, city of Monroe to boundaries of State of Ohio, see Compilers' § 250.181. Trunk line highways, see Compilers' §§ 213.151-213.153. Limited access highways, see Compilers' § 252.53. Private roads, see Compilers' §§ 229.1-229.6. Logging roads, see Compilers' §§ 229.7-229.11. Separate grade crossings, see Compilers' §§ 253.10-253.20. Grade separations, see Compilers' §§ 253.51-253.58.
Boulevard, street or alley, see Compilers' §§ 213.221-213.223.
Drains, see Compilers' § 235.1.
Railroads, see Compilers' §§ 464.15-464.28. Union depot companies, see Compilers' §§ 471.6-471.14. Street railway companies, see Compilers' § 472.13. Street railway, plank and toll roads, see Compilers' §§ 472.101, 472.102. Telephone companies, see Compilers' §§ 484.4, 484.10. Canal and harbor companies, see Compilers' § 485.10. River improvement companies, see Compilers' § 485.210. Water power companies, see Compilers' §§ 486.109, 486.252. Water supplying companies, see Compilers' § 486.308.
Urban redevelopment corporations law, see Compilers' § 125.917.
Rehabilitation of blighted areas, see Compilers' § 125.73.
Municipal housing act, see Compilers' § 125.651 et seq.

213.2 Attorney general; duty; petition; contents; summons; issuance and return; incompetents; non-residents; service; notice by publication.

Sec. 2. Upon request of the governor, board of regents, board of control or other governing body of any state institution, or other person or persons authorized as aforesaid, it shall be the duty of the attorney general of the state, or when directed by the attorney general, the prosecuting attorney of the county where the land is situated, on behalf of the board of regents, board of control or other governing body, if a body corporate under the law of its creation, and in behalf of the people of the state of Michigan if such governing body is not a body corporate, of any state institution, to cause a petition to be made in the name of the people of the state of Michigan and filed in the proper court, signed by the attorney general, or prosecuting attorney of the county, and by the secretary of such governing board, if a body corporate, and if not a majority of such trustees, board of control or other governing body, or other properly authorized person, as the case may be, addressed to the court setting forth, with reasonable certainty a description of the land sought to be acquired, the names of all persons owning or having an interest therein, so far as disclosed by the records of titles of the county in which the land is situated, or can be ascertained from actual occupants; that the petition is made and presented for the purpose of acquiring the title and ownership of the land described in the petition, to and for the use of the state of Michigan, and specifying generally the purpose for which it is to be used. And the petition shall ask that all persons interested in the premises, or any part thereof, be summoned to appear and answer the petition, and show cause, if any they have, against the same. Upon filing the petition, summons shall issue in accordance with the prayer thereof, against the persons named therein, returnable on a day to be named, which shall not be less than 5 days from the issuing and test thereof, and shall be served at least 3 days before the return day, by the sheriff or other officer authorized to serve process of summons according to the rules and practice of the circuit court in other cases at law. If there are minors or persons of unsound mind interested in the premises, service may be made upon the guardian of any such person or the court may appoint a guardian ad litem for any such person, who may appear and defend for the person he represents. If there are non-resident or absent persons upon whom service cannot be obtained within the county, the court may order service upon any such person wherever he may be found, and in such manner as may be directed. The person serving any such process on such non-resident or absent person shall make proof of service by affidavit, stating

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the place, time, and manner of service. Or the court may order and cause notice to be given to such absent or non-resident person, by publication in such newspaper printed and published in the county as the court shall designate, and for such length of time as the court may think proper, not less than 3 weeks, once in each week; and any such service out of the county, or notice by publication, shall be as effectual for all the purposes of such proceeding and in the condemnation of the land as though the persons had been personally served within the county.

HISTORY: CL 1915, 350;—CL 1929, 3760;—CL 1948, 213.2.

SERVICE OF PROCESS: On unknown claimants, see Compilers' § 213.261.

213.3 Petition; hearing on necessity and compensation; commissioners procedure; jury, procedure.

Sec. 3. When all the parties named in the petition have been summoned or notified, in the manner provided, and the time for their appearance shall have expired, the court shall hear any and all persons who shall have appeared and interposed objections to the petition or proceedings, and proceed to decide the questions raised, and may vacate the petition, or any part of the proceedings for cause, and may allow amendments of the petition, in form or substance, as the right of the matter shall demand. If any person having an interest in the land has been overlooked, or not summoned or notified, the court may continue the proceedings and cause such person to be served or notified. If the petition and proceedings are sustained, the court shall appoint 3 commissioners, residents and freeholders within the county, not interested or of kin to any of the persons interested in the land to ascertain and determine the necessity of the proposed public use, the necessity for using such property and the just compensation to be paid therefor by the state, which ought to be paid by the state to each of the owners and persons interested in the premises, as and for his, her or their just compensation for the land sought to be taken. Such commissioners before entering upon their duties as such shall take an oath in substantially the following form: "We do each of us solemnly swear that we will faithfully and justly determine the public necessity of the proposed use, the necessity of taking the property described in the petition filed in this cause and the amount of compensation which ought to be paid to each of the owners and persons interested in the premises described in said petition according to our best ability." They shall visit the land sought to be acquired, shall ascertain the separate interest of each person owning or interested in any part of the premises, and the description of his or her separate interest in the parcel; shall hear, in the presence and under direction of the court, evidence touching the matters they are to find, brought forward by any person having an interest, and shall find all necessary facts to possess the court with the truth and right of the matter, but shall not be required to find what evidence was offered or given, and shall report to the court, in writing, their findings. Instead of commissioners, the court, with or without the request of any person interested in any portion of the premises described in the petition, may, and upon the request of any such person shall, order a venire to issue to the sheriff, to summon 12 jurors who shall be residents and freeholders of the county where the land is situated, to attend at a time to be named, before the court, to serve as a jury. Any person interested in any part of the premises may object for cause to any of the jurors, but there shall be no peremptory challenge allowed. In case any juror fails to appear, is excused, or set aside from the panel, the court may order the sheriff, or other proper officer in attendance, to summon forthwith the requisite number of talesmen to form the jury. The jury shall be sworn, as is required of commissioners, and they shall view the premises, hear evi-

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dence if offered, determine the necessity of the public use, the necessity for taking such property and the amount of compensation to be paid therefor and the same proceedings be had as near as may be, as hereinbefore required in reference to commissioners.

HISTORY: CL 1915, 351;—CL 1929, 3761;—CL 1948, 213.3.

213.4 Objections to report filed; confirmation; deposit; vesting of title; payment of compensation; dismissal; expenses; record.

Sec. 4. The court shall hear objections, if any, to the report of the commissioners or jury, as the case may be, and may set aside the report and finding, or confirm the same, and if confirmed, shall enter a judgment of confirmation, and that all right, title and interest of, in, and to the land and premises, vest in the state of Michigan: Provided, That the state, within such time as shall be therein prescribed, shall deposit in the court the amount found by the report of the commissioners or jury, as the just compensation and damages to be paid to the owners and persons interested. If, within the time so prescribed, the state shall cause to be deposited the sum so found, the court shall thereupon enter an order and judgment that the title of the state in and to said land and every part thereof is perfect, and has become absolute, and may issue the necessary writ of assistance, commanding the sheriff to deliver the possession of such land to the state; and thereupon the title and right of the state to such land shall be absolute and binding against all persons whomsoever. The persons owning and interested in said land according to the report and finding aforesaid, shall be entitled, on applying to the court, to be paid on the order of the court the amount or sum to which they are respectively entitled, according to such report or finding; for the sum received they shall respectively give to the clerk their receipt, in writing, to be by the clerk forwarded to the state treasurer. In case the state does not, within the time so prescribed, deposit in court the amount of compensation and damages awarded, the court shall order the proceedings dismissed, and the state take nothing thereby. In the proceedings authorized by this act the court shall, as to the practice and mode of proceedings, be governed by the rules applicable in cases at law, except as is in this act otherwise expressly provided. The expense of the proceedings shall be paid by the state, and a certified copy of the record of the proceedings and judgment of the court shall, together with the record thereof in the office of the register of deeds of the county, be evidence in all courts and places.

HISTORY: CL 1915, 352;—CL 1929, 3762;—CL 1948, 213.4.

Act 149, 1911, p. 237; Eff. Aug. 1.

AN ACT to provide for the acquisition by purchase, condemnation and otherwise by state agencies and public corporations of private property for the use or benefit of the public, and to define the terms "public corporations," "state agencies" and "private property" as used herein. Am. 1966, p. 667, Act 351, Imd. Eff. Dec. 21.

The People of the State of Michigan enact:

213.21 Public corporation and state agency; definition.

Sec. 1. The term "public corporations" as herein used shall include all counties, cities, villages, boards, commissions and agencies made corporations for the management and control of public business and property; and the term "state agencies" shall

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include all unincorporated boards, commissions and agencies of the state given by law the management and control of public business and property, and the office of governor or a division thereof.

HISTORY: CL 1915, 353;—Am. 1925, p. 46, Act 37, Eff. Aug. 27;—CL 1929, 3763;—CL 1948, 213.21;—Am. 1966, p. 667, Act 351, Imd. Eff. Dec. 21.

CITED IN OTHER SECTIONS: Sections 213.21 to 213.41 are cited in §§ 41.411, 46.359, 117.4f, 121.22, 123.241, 123.959, 124.255, 124.285, 125.917a, 254.224, 259.630, 279.204, 280.470, 280.522, 280.564, 281.924, 323.158, 331.9, 331.57, 340.113, 340.192, 390.648, and 830.414.

213.22 Private property; definition.

Sec. 2. The term "private property" as herein used shall include lands, tenements, hereditaments and tangible and intangible property whether real, personal or mixed.

HISTORY: CL 1915, 354;—CL 1929, 3764;—CL 1948, 213.22.

213.23 Authority to take private property; acquisition of property.

Sec. 3. Any public corporation or state agency is authorized to take private property necessary for a public improvement or for the purposes of its incorporation or for public purposes within the scope of its powers for the use or benefit of the public and to institute and prosecute proceedings for that purpose. When funds have been appropriated by the legislature to a state agency or division thereof or the office of the governor or a division thereof for the purpose of acquiring lands or property for a designated public purpose, such unit to which the appropriation has been made is authorized on behalf of the people of the state of Michigan to acquire the lands or property either by purchase, condemnation or otherwise. For the purpose of condemnation the unit may proceed under the provisions of this act.

HISTORY: CL 1915, 355;—Am. 1925, p. 46, Act 37, Eff. Aug. 27;—CL 1929, 3765;—CL 1948, 213.23;—Am. 1966, p. 668, Act 351, Imd. Eff. Dec. 21.

213.23a Scope of act; rights conferred by act.

Sec. 3a. The provisions of this act shall be deemed to extend to and include the right to acquire and take the fee to property; to acquire property adjacent to that required for public highway purposes for the purpose of exchanging it for the property required or for the purpose of replatting or re-arranging the property abutting on the highway after the taking so as to conform with the plan or arrangement in effect before the taking; and to acquire and to take the fee to a whole of a particular parcel of land whenever the acquisition of the portion thereof actually needed would destroy the practical value or utility of the remainder of such parcel, and the question as to whether or not such land is so taken shall be determined by the jury and incorporated in its findings: Provided, however, That before any proceedings are taken under this act involving the taking of any property or property rights in any city or village for the changing, altering, opening or widening of any street or highway, the consent of the village or city council by resolution shall be first obtained.

HISTORY: Add. 1945, p. 489, Act 288, Imd. Eff. May 25;—CL 1948, 213.23a.

213.24 Condemnation proceedings; necessity declared; authorization; jurisdiction.

Sec. 4. Proceedings may be commenced and prosecuted under this act whenever a public corporation or state agency shall have declared a public improvement or the purposes of its incorporation or public purposes within the scope of its powers make it necessary, and shall declare that it deems it necessary to take private property for such public improvement or for the purposes of its incorporation or for the public purposes within the scope of its powers, designating the same, and that the improvement is for the use or benefit of the public. It shall by resolution direct its attorney to institute the

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necessary proceedings in its behalf in the circuit court of the county where the private property sought to be taken is located, or if said property is in a city, the proceeding may be instituted in the court in said city having general jurisdiction of condemnation proceedings for the opening of streets and highways.

HISTORY: CL 1915, 356;—CL 1929, 3766;—CL 1948, 213.24.

213.25 Condemnation proceedings; resolution; petition; contents; jury to determine necessity; compensation.

Sec. 5. The public corporation or state agency shall make and deliver to its attorney a copy of such resolution certified under seal, and it shall be the duty of such attorney to prepare and file in the name of the corporation or state agency in the court having jurisdiction of the proceedings a petition signed by him in his official character and duly verified by him, to which petition a certified copy of the resolution of the corporation or state agency shall be annexed, which certified copy shall be prima facie evidence of the action taken by the corporation or state agency and of the passage of said resolution. The petition shall state among other things that it is made and filed as commencement of judicial proceedings by the corporation or state agency in pursuance of this act to acquire the right to take private property for the use or benefit of the public, without the consent of the owners, for a public improvement or for the purposes of its incorporation or for public purposes within the scope of its power, designating the same, for a just compensation to be made. A description of the property to be taken shall be given, and also the names of the owners and others interested in the property so far as can be ascertained. The petition shall also state that the corporation or state agency has declared such improvement or purpose to be necessary, and that it deems it necessary to take the private property described for such improvement or purpose, for the use or benefit of the public. The petition shall ask that a jury be summoned and impanelled to ascertain and determine whether it is necessary to make such public improvement or fulfill such purpose and whether it is necessary to take such property as it is proposed to do for the use or benefit of the public, and to ascertain and determine the just compensation to be made therefor. The petition may state any other pertinent matter or things, and may pray for any other or further relief to which the public corporation or state agency may be entitled within the objects of this act.

HISTORY: CL 1915, 357;—CL 1929, 3767;—CL 1948, 213.25.

213.26 Order for hearing on petition; guardian ad litem.

Sec. 6. Upon filing of such petition the court shall appoint a guardian ad litem for any minor, insane or incompetent person named as a respondent therein, which guardian shall be a resident of the county, and shall make an order fixing a day for hearing on such petition which shall be not less than 3 weeks thereafter. Such order shall recite the names of the persons mentioned in the petition as parties in interest and state the purpose of the petition, and shall order such persons to appear before said court at the time fixed in said order for the hearing on the petition to show cause if any they have why the prayer in said petition should not be granted.

HISTORY: CL 1915, 358;—CL 1929, 3768;—Am. 1941, p. 510, Act 296, Eff. Jan. 10, 1942;—CL 1948, 213.26.

213.27 Order for hearing on petition; publication and service; mailing notice; proof of publication; mailing and service; filing.

Sec. 7. (1) Such order shall be published once in each week for 3 weeks consecutively in some newspaper published and circulated in the county to be designated by the court, and a copy of said order shall be served on each person named in the petition interested in the land described therein who resides within the county and upon each such guardian at least 6 days before the day of hearing. Such service may be made personally or by leaving at the place of residence of the person to be served.

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(2) A copy of the order shall be mailed to every other person named in the petition whose name appears on the last local tax assessment records in the manner prescribed for giving notice of special assessment hearings by Act No. 162 of the Public Acts of 1962, being sections 211.741 to 211.745 of the Compiled Laws of 1948, which notice shall in all respects be subject to the provisions of such act. Like notice shall also be given to every other person named in the petition at his address which the attorney for the petitioner knows or should by diligent inquiry be expected to know. If the address of any person named in the petition is not known and cannot be ascertained upon diligent inquiry, a copy of the order shall be mailed to his last known address. If his present or last known address cannot be ascertained upon diligent inquiry, a copy of the order need not be mailed to him.

(3) The publication and mailing constitute service of such order upon all nonresidents of the county and all persons absent from the jurisdiction or unknown or who are evading service or who for any other reason cannot be found. Proof of publication, mailing and service may be made by affidavit of any person or persons having knowledge of the facts. Such proof shall be filed with the court on or before the day of hearing and thereupon the court shall have jurisdiction of the subject matter involved in the proceedings and of the parties interested therein. Service of such order in either mode prescribed shall be sufficient notice of the proceeding to bind the parties in interest named therein and the property represented by them as described in the petition.

HISTORY: CL 1915, 359;—CL 1929, 3769;—Am. 1941, p. 510, Act 296, Eff. Jan. 10, 1942;—CL 1948, 213.27;—Am. 1966, p. 668, Act 351, Imd. Eff. Dec. 21.

213.28 Order for impanelling jury; method of selecting; peremptory challenges.

Sec. 8. On the day fixed in said order for hearing on the petition or on some subsequent day to which the proceedings are adjourned, if no sufficient cause to the contrary has been shown, the court shall make an order that a jury be impanelled in the cause. Such jury shall be composed of 12 freeholders of the county and shall be selected and impanelled pursuant to the prayer of the petition either from the petit jurors summoned to serve at that term of court or as follows:

The sheriff, under sheriff or a deputy sheriff of the county shall on the same day or at an adjourned day make a list of 24 resident freeholders of said county, and the petitioner and the respondents collectively shall each have the right to strike alternately 6 names from the list as aforesaid and, subject to objection for cause and peremptory challenges, the 12 persons whose names are left on the list shall compose the jury for the trial of the cause, and shall be summoned to attend at such time as the court shall direct by venire issued by the clerk of the court and to be served by 1 of the officers aforesaid. If the respondents neglect or refuse to strike 6 names from said list it shall be done by the judge of the court. In case any of the persons to be summoned cannot be found in the county or otherwise, the talesmen possessing the necessary qualification may be summoned as jurors in the case by such sheriff or deputy or authorized person.

The petitioner shall have 6 peremptory challenges and each respondent shall have 1 peremptory challenge: Provided, however, That the respondent or respondents shall in all cases have at least 6 peremptory challenges: Provided further, That, when tenants by the entirety, joint tenants or tenants in common are joined as party respondents, they shall be deemed as singular respondents and entitled to only 1 peremptory challenge as provided herein. The practice and proceedings under this act, except as herein provided, relative to the impanelling, summoning and excusing jurors and talesmen and imposing penalties or fines upon them for nonattendance, shall be the same

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as the practice and proceedings of the circuit courts of the state relative to petit jurors in civil cases.

HISTORY: CL 1915, 360;—CL 1929, 3770;—Am. 1941, p. 511, Act 296, Eff. Jan. 10, 1942;—Am. 1945, p. 489, Act 288, Imd. Eff. May 25;—CL 1948, 213.28.

213.29 Order of impanelling jury; oath; view of property; instructions; written verdict.

Sec. 9. The jurors so impanelled shall be sworn or shall affirm in substance as follows:

"You do solemnly swear (or affirm) that you will well and truly ascertain and determine whether there is a public necessity for making the proposed improvement or for accomplishing the proposed purpose and for taking for the use or benefit of the public the private property which the petition describes and prays may be taken, and if you shall determine that it is necessary to make such improvement or accomplish such purpose and to take said property, that then you ascertain, determine and award a just compensation to be made therefor and faithfully and impartially discharge all other duties which devolve upon you in this case, and unless discharged by the court, a true verdict give according to law and evidence, so help you God (or under the pains of perjury)."

The jury shall hear the proofs and allegations of the parties, and if so ordered by the court shall whenever practicable visit the property proposed to be taken and examine it. It shall be instructed as to its duties and the law of the case by the judge of the court, and shall retire under charge of an officer and render its verdict in the same manner as on the trial of an ordinary civil case, but the same shall be in writing and shall be signed by the foreman or by all the jurors.

HISTORY: CL 1915, 361;—CL 1929, 3771;—CL 1948, 213.29.

213.30 Order of impanelling jury; verdict; necessity, compensation, apportionment of award.

Sec. 10. The jury shall determine in its verdict the necessity for the proposed improvement or for the accomplishment of the proposed purpose, and for taking such private property for the use or benefit of the public for the proposed improvement or for the accomplishment of the proposed purpose, and in case it find such necessity exists, it shall award to the owners of such property and others interested therein such compensation therefor as it shall deem just. If any such private property shall be subject to mortgage, lease, agreement or other lien, estate or interest, it shall apportion and award to the parties in interest such portion of the compensation as it shall deem just.

HISTORY: CL 1915, 362;—CL 1929, 3772;—CL 1948, 213.30.

213.31 Order of impanelling jury; use of exhibits; blank verdict, entry of descriptions.

Sec. 11. To assist the jury in arriving at its verdict the court may allow the jury when it retires to take with it the petition filed in the case and any map, plan or exhibit introduced in the case, and may also submit to it a blank verdict, which may be as follows:

PART 1.

We find that it is ..... necessary to make the proposed improvement, or to accomplish the proposed purpose, and that it is ..... necessary to take the private property described in the petition in this cause for the use or benefit of the public for the proposed improvement, or for the accomplishment of the proposed purpose.

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PART 2.

The just compensation to be paid for such private property we have ascertained and determined and hereby award as follows:

Description of each of the several parcels of private property to be taken.	Owners, occupants and others interested in each parcel	Compensation.	To whom payable.

The different descriptions of the property as the names of the occupants, owners and others interested therein may be inserted in said blank verdict under the direction of the court before it is submitted to the jury, or it may be done by the jury.

HISTORY: CL 1915, 363;—CL 1929, 3773;—CL 1948, 213.31.

213.32 Court action; verdict may be set aside; allowance of amendments.

Sec. 12. The verdict of the jury may be set aside by the court and a new trial ordered as in civil suits at law in the circuit courts of the state. Amendments either in form or substance may be allowed in any paper, petition, process, record or proceedings or in the description of the property proposed to be taken, or the name of any person whether contained in the resolution passed by the public corporation or state agency or otherwise, whenever the amendment will not interfere with the substantial rights of the parties. Any such amendment may be made after as well as before judgment confirming the verdict of the jury.

HISTORY: CL 1915, 364;—CL 1929, 3774;—CL 1948, 213.32.

213.33 Court action; motion for new trial; confirmation of verdict; appeal, bond, manner of perfecting.

Sec. 13. Motions for a new trial or to arrest the proceedings shall be made within 6 days after the rendition of the verdict, unless further time is allowed by the court, and if no such motion is made, or being made is overruled, the court shall enter an order or judgment confirming the verdict of the jury, and such judgment or confirmation, unless reversed by the supreme court, shall be final and conclusive as to all persons interested therein. Any party to the proceedings considering himself aggrieved may appeal from the judgment of the court confirming the verdict of the jury by filing in writing with the clerk of said court a notice of such appeal within 10 days after the confirmation and within 30 days thereafter serving a copy thereof on the attorney or attorneys who appeared in said cause, and if such appeal be taken by a respondent filing a bond in said court to be approved by the judge thereof, conditioned for the prosecution of said appeal to judgment and the payment of all costs, damages and expenses that may be awarded against the party in case the judgment or confirmation shall be affirmed. Such appeal shall be perfected within the same time and prosecuted as an appeal in chancery cases as near as may be, subject to the provisions of this act.

HISTORY: CL 1915, 365;—CL 1929, 3775;—CL 1948, 213.33.

213.34 Court action; appeal; duty of clerk, procedure.

Sec. 14. In case of such an appeal, the clerk of the court on payment of his legal fees and charges shall transmit to the supreme court a certified copy of the necessary files, records and proceedings in the case, and the judge of the court shall at the request of the appellant settle a case according to the usual practice of said court, showing the material evidence and instructions given to the jury bearing upon any disputed points

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to which exception was taken, and the objections, rulings and exceptions in the case, all of which shall be returned by said clerk as a part of the records to the clerk of the supreme court.

HISTORY: CL 1915, 366;—CL 1929, 3776;—CL 1948, 213.34.

213.35 Court action; hearing and reversal of appeals; costs; frivolous appeals.

Sec. 15. The said appeal may be brought on for hearing at any term of the supreme court and said court may affirm, or for any substantial error reverse the judgment and may grant a new trial. The said court shall allow the prevailing party his reasonable costs and expenses, to be taxed, and give judgment as in other chancery appeals, and all costs, damages and expenses awarded to the petitioner, if it so elect, may be applied on or deducted from the compensation if any to be paid, or execution may issue on the judgment. Damages may be awarded against a party appealing without reasonable cause.

HISTORY: CL 1915, 367;—CL 1929, 3777;—CL 1948, 213.35.

213.36 Court action; verdict and confirmance certified; petitioner, compensation for owner, possession.

Sec. 16. When a verdict of the jury shall have been finally confirmed by the court, and the time within which to take an appeal has expired, or if an appeal is taken, on the filing in the court below of a certified copy of the order of the supreme court affirming the judgment of confirmation, it shall be the duty of the clerk of the court to transmit to the petitioner a certified copy of the verdict of the jury and of the judgment of confirmance, and of the judgment if any of affirmance, and thereupon, or within 1 year thereafter, said petitioner shall set apart and cause to be provided the amount required to make compensation to the owners of and persons interested in the private property taken as awarded by the jury, and shall by resolution direct payment to the persons respectively entitled to the money so set apart and awarded; and it shall be the duty of the treasurer of the petitioner to hold said money so set apart, to securely keep said money for the purpose of paying for the property taken and to pay the same to the persons entitled thereto according to the verdict of the jury on demand, and not pay out the money for any other purpose whatever. Whenever the necessary sum is actually set apart in the hands of said treasurer, said treasurer shall, giving the title of the cause and describing the property taken, make and sign duplicate certificates verified by his oath, showing that the amount of compensation awarded is in his hands, and shall cause 1 of the certificates to be filed in the office of the clerk of the court in which the proceedings were had, and the other to be filed with the register of deeds of the county, which certificate shall be prima facie evidence of the matters therein stated. Whenever the amount of compensation is thus set aside and thus secured to be paid, the petitioner may enter upon and take possession of and use such private property for the purpose for which it was taken. In case of the resistance or refusal on the part of any one to the petitioner entering upon and taking possession of such private property, for the use and purpose for which it was taken, at any time after the amount of the compensation aforesaid is actually set aside and ready to be paid to those entitled thereto, the petitioner may apply to the court and shall be entitled on making a sufficient showing to a writ of assistance to put it in possession of the property.

HISTORY: CL 1915, 368;—CL 1929, 3778;—CL 1948, 213.36.

213.37 Court action; fees; officers; juror, witness, attorney.

Sec. 17. Officers, jurors and witnesses in any proceeding under this act shall be entitled to receive from the petitioner the same fees and compensation as are provided by law for similar services in an ordinary action at law in the circuit courts, and it shall be

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lawful for the judge in any case to order the payment by the petitioner to any respondent of such reasonable attorney fee as he may deem just, not exceeding 25 dollars, which may be taxed with the costs.

HISTORY: CL 1915, 369;—CL 1929, 3779;—CL 1948, 213.37.

213.38 Court action; condemnation proceedings; discontinuance; expenses and attorney fees.

Sec. 18. The petitioning corporation or state agency shall not have power to discontinue the proceedings under this act after the confirmation of the verdict of the jury: Provided, That in the case of the discontinuance of proceedings after a jury has been impaneled, the petitioning corporation or state agency, as the case may be, shall as a condition to the right to discontinue such proceedings pay the actual expenses and reasonable attorneys fees of all parties in interest who have appeared in said proceedings, under the order of the court.

HISTORY: CL 1915, 370;—CL 1929, 3780;—Am. 1937, p. 366, Act 235, Eff. Oct. 29;—CL 1948, 213.38.

213.39 Property; ownership, prima facie evidence.

Sec. 19. It shall be prima facie evidence as to who are owners of and persons interested in any property proposed to be taken under this act if the register or deputy register of deeds of the county shall testify in open court that he had examined the records in his office, and state who such records show are the owners of and persons interested in such property, and the nature and extent of such ownership and interest. An abstract of the title of such property or any parcel thereof certified by the register or deputy shall also be prima facie evidence of ownership and persons having an interest in any such property and the extent and nature of such interest.

HISTORY: CL 1915, 371;—CL 1929, 3781;—CL 1948, 213.39.

213.40 Petition to condemn land; recording of notice; constructive notice to purchaser.

Sec. 20. To render the filing of a petition in court under this act constructive notice to a purchaser of real estate, the attorney of any petitioning corporation or state agency shall record with the register of deeds of the county a notice of the filing of the petition, setting forth the title of the cause and the general object thereof, together with a description of the land to be affected thereby, and the register of deeds shall record the notice in a book kept for that purpose upon the payment of such fee as is provided by law for recording deeds. A copy of the record, authenticated by the register of deeds, shall be evidence of the notice and of the filing of same in all courts and places. The register of deeds shall enter in an indexed book kept in his office such references to the notice as will enable all persons interested to search his office for the notice without inconvenience.

HISTORY: CL 1915, 372;—CL 1929, 3782;—CL 1948, 213.40;—Am. 1958, p. 80, Act 71, Eff. Sep. 13.

213.41 Petition; constructive notice to purchaser of personalty; record of notice.

Sec. 21. To render the filing of a petition in court under this act constructive notice to a purchaser of any personal property, it shall be sufficient if said attorney shall file with the city, village or township clerk a similar notice as near as may be to the 1 provided for in section 20 hereof.

HISTORY: CL 1915, 373;—CL 1929, 3783;—CL 1948, 213.41.

213.71-213.94 Repealed. 1967, p. 149, Act 120, Imd. Eff. Jun. 27.

Sections authorized cities, villages, and counties to take private property for public use; procedure.

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Act 119, 1919, p. 217; Eff. Aug. 14.

AN ACT to authorize any city having a population of 25,000 or more to take for public use the absolute title in fee to any public utility for supplying water, light, heat, power or transportation to the municipality and the inhabitants thereof within or without its corporate limits.

The People of the State of Michigan enact:

213.111 Cities, authority to take over public utilities.

Sec. 1. Any city in this state having a population of 25,000 or more is hereby authorized to take for public use the absolute title in fee to any public utility for supplying water, light, heat, power or transportation to the municipality and the inhabitants thereof within or without its corporate limits, the same being then and there the private property of any person or of any corporation, within the limits of the state constitution, and to institute and prosecute proceedings for that purpose.

HISTORY: CL 1929, 3811;—CL 1948, 213.111.

CONDEMNATION CROSS REFERENCES: See note to Compilers' § 213.1.

213.112 Institution of proceedings; council's resolution of necessity, contents; circuit court, jurisdiction.

Sec. 2. Such proceedings may be begun and prosecuted under this act whenever the common council of such city shall have declared by resolution that it deems it necessary that such city take for public use the absolute title in fee to any such public utility. Such resolution shall describe the property sought to be taken for public use and direct the city attorney, corporation counsel or other law officer of the city by whatsoever name or title designated, to institute the necessary proceedings on behalf of such city to carry out the object of such resolution to take the absolute title in fee to private property by such city. Jurisdiction is hereby conferred upon the circuit court for the county in which such city is situated.

HISTORY: CL 1929, 3812;—CL 1948, 213.112.

213.113 Institution of proceedings; petition, contents; separate juries on request to determine necessity, damages.

Sec. 3. The city clerk shall make and deliver to such attorney or other law officer of the city, as may be, a copy of such resolution certified under the seal of the city and it shall be the duty of such attorney, corporation counsel or other law officer of the city to prepare and file in the name of the city, in such circuit court a petition signed by him in his official character and duly verified by him, to which petition a certified copy of the resolution of the common council shall be annexed. Said certified copy shall be prima facie evidence of the action taken by the common council and of the passage of said resolution. The petition shall state, among other things, that it is made and filed as commencement of judicial proceedings by the city in pursuance of this act to acquire the right to take, for public use, either within or without its corporate limits, the absolute title in fee to public utilities for supplying water, light, heat, power or transportation to the municipality and the inhabitants thereof, the same being then and there the private property of any person or of any corporation, without the consent of the owners, for a just compensation to be made. A description of the property to be taken shall be given and, generally, the nature and extent of the use thereof that will be required in making and maintaining the property shall be stated, and also the names of the owners and others interested in the property, so far as can be ascertained, including those in possession of the premises. The petition shall ask that a jury be summoned and empaneled to ascertain and determine whether it is necessary to take for public use the absolute title in fee to such private property as it is proposed to

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take and to ascertain and determine the just compensation to be made therefor. The petition may state any other pertinent matters or things and may pray for any other or further relief to which the city may be entitled within the objects of this act: Provided always, That upon request of said city attorney, corporation counsel or other law officer of the city, made at any time before the empaneling of a jury, such jury shall be empaneled to try only the question of the necessity of taking the absolute title in fee to such private property for public use, and if such jury determine that it is necessary to take the absolute title in fee to such private property for such public use, that another jury be empaneled to determine the compensation to which any person or persons may be entitled because of the taking of such property for public use, in manner and form as is hereinafter provided.

HISTORY: CL 1929, 3813;—CL 1948, 213.113.

213.114 Summons; issuance, contents.

Sec. 4. Upon receiving such petition it shall be the duty of the clerk of said court to issue a summons against the respondents named in said petition, stating briefly the object of said petition, and commanding them in the name of the people of the state of Michigan to appear before said court, at a time and place to be named in said summons, not less than 20 nor more than 40 days from the date of the same, there to show cause, if any they have, why the prayer of said petition should not be granted.

HISTORY: CL 1929, 3814;—CL 1948, 213.114.

213.115 Summons; service; guardian ad litem; alias, pluries summons; return, evidence.

Sec. 5. Said summons shall be served by the sheriff, under-sheriff, deputy sheriff of the county, or by any member of the metropolitan police of the city of Detroit, at least 5 days before the return day thereof upon all of the respondents found within the county by exhibiting the original and delivering a copy to each of them. If any respondent who is a resident of the county can not be found, the summons shall be served by leaving a copy thereof at his or her usual or last place of abode, with some person of suitable age and discretion. If any minor or person of unsound mind is interested in the premises to be taken, service may be made upon the guardian of such person, if any, and if there is no guardian the court may appoint some discreet and proper person to be guardian of such person in such proceedings; any such guardian shall have authority to represent such person in said proceedings. The proceedings to appoint such guardian shall be the same as in other cases provided by statute. If it shall appear on the return day of the summons that any respondent can not be found within the county and has not been served in the manner provided, or is a non-resident and has not voluntarily appeared, the court may make an order requiring such respondent or respondents to appear and show cause why the prayer of the petition should not be granted on a day to be named in the order not less than 30 days from the date thereof, and may require that a certified copy of such order be personally served on such respondents wherever found, if practicable, at least 6 days before the time named in the order for appearance, or the court may make such order for appearance and require as to any or all such respondents who shall not have been personally served and have not appeared, that service be made by publishing a certified copy of such order for 3 successive weeks at least once in each week in at least 1 newspaper published within the county, if there be one, and if not then in a paper published in the county nearest thereto, the last publication to be at least 6 days before the day fixed in the order for appearance. Alias and pluries summons may be issued and the court may adjourn the proceedings from time to time as there shall be occasion and as in other civil cases. Service of such order for appearance in either mode prescribed shall be sufficient notice of the proceedings to bind the respondents and the property represented by them.

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The return of the officer upon the summons and an affidavit of the due service or the publication of the order for appearance, if any, shall be filed in the clerk's office before a jury shall be empaneled and shall be sufficient evidence of service on the respondents and of the manner of service.

HISTORY: CL 1929, 3815;—CL 1948, 213.115.

213.116 Jury to be empaneled.

Sec. 6. On the return day of the summons or on some subsequent day to which the proceedings shall have been adjourned, if no sufficient cause to the contrary has been shown, the court shall make an order that a jury be empaneled in the cause. Such jury shall be composed of 12 freeholders of the county and not directly interested in said proceedings and shall be selected and empaneled as follows: The sheriff, under-sheriff or deputy sheriff of the county shall, on the same day or at an adjourned day, make a list of 24 resident freeholders of such county, and the city attorney, corporation counsel or other law officer of the city, in person or by an assistant or deputy, and the respondents collectively, shall each have the right to strike 6 names from the list of persons written down as aforesaid, and, subject to objection for cause, the 12 persons whose names are left on the list shall compose the jury for the trial of the cause, and shall be summoned to attend at such time as the court shall direct, by a venire issued by the clerk of the court, and to be served by 1 of the officers aforesaid. If the respondents neglect or refuse to strike 6 names from said list, it shall be done by the judge of the court, and in case any of the persons to be summoned cannot be found in the county, or being summoned do not attend, or shall be excused for cause or otherwise, talesmen possessing the necessary qualifications may be summoned as jurors in the case by such sheriff or sheriff's officer, or other authorized person, and the practice and proceedings under this act, except as herein provided, relative to empaneling, summoning and excusing jurors and talesmen, and imposing penalties or fines upon them for non-attendance, shall be the same as the practice and proceedings of the circuit courts of the state relative to petit jurors in civil cases in such courts.

HISTORY: CL 1929, 3816;—CL 1948, 213.116.

213.117 Jury; oath; duties; instruction; written verdict.

Sec. 7. The jurors so empaneled shall be sworn or shall affirm in substance as follows: "You do solemnly swear (or affirm) that you will well and truly ascertain and determine whether it is necessary to take for public use the absolute title in fee to the private property which the petition describes and prays may be taken for such public use, and if you determine that it is necessary to take the absolute title in fee to such private property for public use, that then you ascertain, determine and award the just compensation to be made therefor, and faithfully and impartially discharge all other duties as devolve upon you in this case, and unless discharged by the court a true verdict give according to the law and the evidence, so help you God, (or under the pains and penalties of perjury)." The jury shall hear the proofs and allegations of the parties and, if so ordered by the court, shall go to the place where the public utility sought to be taken for public use is situated, in the charge of an officer. They shall be instructed as to their duties and the laws of the case by the judge of the court and shall retire under the charge of an officer and render their verdict in the same manner as on the trial of an ordinary civil case, but the same shall be in writing and be signed by the foreman or by all the jurors.

HISTORY: CL 1929, 3817;—CL 1948, 213.117.

213.118 Jury; determination and award; title vested in petitioner.

Sec. 8. The jury shall determine by their verdict the necessity for taking the absolute title in fee to such private property for public use, and in case they find such necessity exists, they shall award just compensation therefor to the owners of the property taken

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as well as to the owners of any mortgage, lease, agreement or other lien, estate or other interest therein. But the petitioner may take the absolute title in fee to said property subject to any mortgage or other lien thereon whenever its intention so to do is declared in the resolution of the common council, provided for in section 2 of this act, as well as in the petition of the city attorney, corporation counsel or other legal representative of the city under section 3 of this act, and in that event no compensation shall be awarded to the holder of such mortgage or lien.

HISTORY: CL 1929, 3818;—CL 1948, 213.118.

213.119 Jury; use of petition, map, blank verdict, form.

Sec. 9. To assist the jury in arriving at their verdict the court may allow the jury, when they retire, to take with them the petition filed in the case and a map showing the location of the public utility proposed to be taken for public use and may also submit to them a blank verdict, which may be as follows:

PART I.

We find that it is ..... necessary to take the absolute title in fee to the private property described in the petition in this cause, for the use of the public.

PART II.

The just compensation to be paid for such private property we have ascertained and determined, and hereby award as follows:

Description of the property to be taken.	Owners, occupants and others interested in each parcel.	Compensation.	To whom payable.

The different descriptions of the property and the names of the occupants, owners and others interested therein, may be inserted in said blank verdict, under the direction of the court, before it is submitted to the jury, or it may be done by the jury.

HISTORY: CL 1929, 3819;—CL 1948, 213.119.

213.120 Jury to determine necessity; oath; duties; instruction; written verdict.

Sec. 10. Whenever the city attorney, corporation council [counsel] or the law officer of the city shall request that the jury be empaneled under the proviso contained in section 3 of this act, such jury shall be sworn or shall affirm in substance as follows: "You do solemnly swear (or affirm) that you will well and truly ascertain and determine whether it is necessary to take for public use the absolute title in fee to the public utility which the petition describes and prays may be taken for public use, and faithfully and impartially discharge all other duties as devolve upon you in this case and unless discharged by the court a true verdict give according to the laws and the evidence, so help you God (or under the pains and penalties of perjury)." The jury shall hear the proofs and allegations of the parties and if so ordered by the court shall, in charge of an officer, go to the place where the public utility sought to be taken is situated and upon or as near thereto as practicable and examine the premises. They shall be instructed as to their duties and the law of the case by the judge of the court and shall retire under the charge of an officer and render their verdict in the same manner as on

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the trial of an ordinary civil case, but the same shall be in writing and be signed by the foreman or by all the jurors.

HISTORY: CL 1929, 3820;—CL 1948, 213.120.

213.121 Finding of no necessity to take absolute fee; further proceedings.

Sec. 11. If the jury find that it is not necessary to take the absolute title in fee to the public utility mentioned in the petition for public use, such finding may be set aside either on a motion for a new trial or on appeal to the supreme court, as herein provided, but such finding shall in no event be a bar to the institution of new proceedings.

HISTORY: CL 1929, 3821;—CL 1948, 213.121.

213.122 Finding of necessity; right to possession on giving security; writ of assistance.

Sec. 12. If the jury find that it is necessary to take for public use the absolute title in fee to such public utility, the petitioner may at once take possession of said property upon giving security to be approved by the court, after due notice to all parties concerned, to make just compensation to all persons entitled thereto for the taking the absolute title in fee to said public utility for public use by petitioner, under this act and in case said verdict is set aside said city to account to the owner or persons interested for all rents or profits derived by it from such possession and to indemnify them for all damages they may sustain thereby, and in the event said petitioner shall be entitled, on making a sufficient showing, to a writ of assistance to put it in possession of the property, as if the compensation for the taking of the absolute title in fee to such property awarded by the jury had been awarded and paid into the city treasury in accordance with section 20 of this act.

HISTORY: CL 1929, 3822;—CL 1948, 213.122.

213.123 Finding of necessity; determination of compensation; oath of jurors; duties; instruction; award.

Sec. 13. If the jury find that it is necessary to take for public use the absolute title in fee to the public utility mentioned in the petition, and no motion for a new trial having been made or determined, and no appeal from such finding of said jury being pending in the supreme court, then either the petitioner or any person entitled to compensation for the taking of said property may move the court for the empaneling of a jury to determine the just compensation therefor, and thereupon a jury shall be summoned and empaneled in accordance with section 6 of this act. All jurors so empaneled shall be sworn or shall affirm in substance as follows: "You do solemnly swear (or affirm) that you will well and truly ascertain, determine and award the just compensation to be made for the taking for public use the absolute title in fee to the utility mentioned in the petition and faithfully and impartially discharge all other duties that devolve upon you in this case and unless discharged by the court a true verdict give according to the law and the evidence, so help you God (or under the pains and penalties of perjury)." The jury shall hear the proofs and allegations of the parties and if so ordered by the court shall, in the charge of an officer, go to the place where said public utility sought to be taken is situated, and upon or as near thereto as practicable and examine the premises. They shall be instructed in their duties and the law of the case by the judge of the court and shall retire under the charge of an officer and render their verdict in the same manner as on the trial of an ordinary civil case, but the same shall be in writing and be signed by the foreman or by all the jurors. The jury shall award just compensation therefor to the owners of the absolute title in fee of the property taken, as well as to the owners of any mortgage, lease, agreement, lien, estate, or other interest therein, but the petitioner may take such property subject to any mortgage or lien therein in manner and form as provided in section 8 of this act.

HISTORY: CL 1929, 3823;—CL 1948, 213.123.

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213.124 Setting aside verdict; new trial; amendments.

Sec. 14. The verdict of the jury may be set aside by the court, either wholly or in part, and a new trial ordered either upon the whole case or upon such parts thereof as the court may deem just. Amendments either in form or substance may be allowed in any paper, petition, process, record or proceedings, or in the description of property proposed to be taken, or the name of any person, whether contained in a resolution passed by the common council, or otherwise, whenever the amendment will not interfere with the substantial rights of the parties. Any such amendment may be made after as well as before judgment confirming the verdict of the jury.

HISTORY: CL 1929, 3824;—CL 1948, 213.124.

213.125 Motions for new trial; proceedings arrested; confirmation, judgment, finality.

Sec. 15. Motions for a new trial or to arrest the proceedings shall be made within 2 days after the rendition of the verdict unless further time is allowed by the court; and if no such motion is made, or being made is overruled, the court shall enter an order or judgment confirming the verdict of the jury; and such judgment of confirmation, unless reversed by the supreme court, shall be final and conclusive as to all persons interested therein.

HISTORY: CL 1929, 3825;—CL 1948, 213.125.

213.126 Appeal; procedure.

Sec. 16. Any person whose property may be taken, as well as the petitioner, considering himself aggrieved, may appeal to the supreme court from the judgment of the court confirming the verdict of the jury by filing in writing with the clerk of said court a notice of such appeal within 5 days after the confirmation and within the same time serving a copy thereof on the city attorney, corporation counsel or other law officer of the city and filing a bond in said court, to be approved by the judge thereof, conditioned for the prosecution of said appeal to judgment and the payment of all costs, damages and expenses that may be awarded against him, in case the judgment or confirmation shall be affirmed. Such appeal shall be perfected within the same time and prosecuted as an appeal in chancery, as near as may be, subject to the provisions of this act.

HISTORY: CL 1929, 3826;—CL 1948, 213.126.

213.127 Appeal; records transmitted, fees; settlement of case by judge.

Sec. 17. In case of such appeal the clerk of the court, on payment of his legal fees and charges, shall transmit to the supreme court a certified copy of the necessary files, records and proceedings in the case; and the judge of the court shall, at the request of the appellant, settle a case according to the usual practice of said court, showing the material evidence and instructions given to the jury bearing upon any disputed points to which exception was taken, and the objections, rulings, and exceptions in the case, all of which shall be returned by said clerk as part of the records, to the clerk of the supreme court.

HISTORY: CL 1929, 3827;—CL 1948, 213.127.

213.128 Appeal; hearing; determination; expenses, compensation, damage.

Sec. 18. The said appeal may be brought on for hearing at any term of the supreme court, and said court may affirm, or for any substantial error reverse the judgment, either in whole or in part, and may grant a new trial, either upon the whole case or upon such parts as the court may deem just. The said court shall allow the prevailing party his reasonable costs and expenses to be taxed, and all costs, damages and expenses awarded to the city, if it so elect, may be applied on or deducted from the compensa-

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tion, if any, to be paid, or execution may issue on the judgment. Damages may be awarded against a party appealing without reasonable cause.

HISTORY: CL 1929, 3828;—CL 1948, 213.128.

213.129 Verdict; copy transmitted to council; collection of award.

Sec. 19. When the verdict of the jury shall have been finally confirmed by the court, and the time in which to take an appeal has expired, or, if an appeal is taken, on the filing in the court below of a certified copy of the order of the supreme court affirming the judgment of confirmation, it shall be the duty of the clerk of the court to transmit to the common council a certified copy of the verdict of the jury, and of the judgment of confirmation, and of the judgment, if any, of affirmance; and thereupon the proper and necessary proceedings, in due course, shall be taken for the collection of the sum or sums awarded by the jury.

HISTORY: CL 1929, 3829;—CL 1948, 213.129.

213.130 Verdict; collection resolution; treasurer, duties; borrowing power; right to possession; writ of assistance.

Sec. 20. Within 1 year after the confirmation of the verdict of the jury or after the judgment of confirmation shall on appeal be confirmed, the common council shall set apart and cause to be provided in the treasury, unless already provided, the amount required to make compensation to the owners and persons interested for the absolute title in fee to the private property taken as awarded by the jury, and shall, in the resolution setting apart and providing said sum, if not already provided, direct the city treasurer to pay to the persons respectively entitled to the money so set apart and provided, to each his or her proportion, as ascertained and awarded by said verdict. And it shall be the duty of the treasurer to securely hold such money in the treasury for the purpose of paying for the property taken, and pay the same to the persons entitled thereto, according to the verdict of the jury, on demand, and not pay out the money for any other purpose whatever. The common council may provide the necessary amount by borrowing from any other money or fund in the treasury and to repay the same from money raised to pay the compensation awarded by the jury when collected, or otherwise, as they may provide. Whenever the necessary sum is actually in the treasury for such purpose, the treasurer shall make and sign duplicate certificates, verified by his oath, showing that the amount of compensation awarded by the jury is actually in the treasury for payment of the private property taken in the case, giving the title of the case; he shall cause 1 of the certificates to be filed in the office of the clerk of the court in which the proceedings were had, and the other to be filed with the city clerk, which certificates shall be prima facie evidence of the matters therein stated. Whenever the amount of such compensation is in the treasury and this secured to be paid, the city may enter upon and take possession of and use such private property and said city, its successors and assigns shall be seized and possessed of the absolute title in fee to the property so taken. In case of resistance or refusal on the part of any one to the common council or its agents and servants entering upon and taking possession of such private property for the use and purpose for which it is taken, at any time, after the amount of the compensation aforesaid is actually in the treasury, ready to be paid to those entitled thereto, the common council, by the city attorney, corporation counsel or other law officer of the city, may apply to the court, and shall be entitled, on making a sufficient showing, to a writ of assistance to put them in possession of the property: Provided always, That when the money awarded by the jury for just compensation for the taking of any such public utility shall have been paid into the city treasury as above provided, or the payment thereof secured to the satisfaction of the court, after due notice to all concerned, then the petitioners shall be entitled to enter

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into and take possession of any such public utility and to have the writ of assistance of need to, notwithstanding the pendency of an appeal to the supreme court.

HISTORY: CL 1929, 3830;—CL 1948, 213.130.

213.131 Jury fees; compensation.

Sec. 21. Officers, jurors and witnesses in any proceedings under this act shall be entitled to receive from the city instituting the proceedings the same fees and compensation as are provided by law for similar services in an ordinary action at law in the circuit courts of this state.

HISTORY: CL 1929, 3831;—CL 1948, 213.131.

213.132 Attorney fees; expenses, costs; payment by municipality.

Sec. 22. All the expenses and costs of the proceedings to take and use private property under this act incurred by the city shall be paid out of the general fund, contingent fund, or a fund provided for such purposes, as the case may be; and it shall be lawful for the judge in any case to order the payment by the city to any respondent of such a reasonable attorney fee as he may deem just not exceeding 25 dollars, which may be taxed with the costs.

HISTORY: CL 1929, 3832;—CL 1948, 213.132.

213.133 Discontinuance prohibited after verdict; further proceedings.

Sec. 23. The common council shall not have the power to discontinue proceedings under this act after the rendition of the verdict of the jury that it is necessary to take the absolute title in fee to the property for public use and awarding compensation therefor, but they may direct the city attorney, corporation counsel, or other law officer of the city, to move for a new trial, or to arrest the proceedings, or to take an appeal to the supreme court, and in any such case the same proceedings shall be taken as are hereinbefore prescribed in the case of like proceedings on the part of any respondent, except that no bond shall be required.

HISTORY: CL 1929, 3833;—CL 1948, 213.133.

213.134 Property ownership; prima facie evidence.

Sec. 24. It shall be prima facie evidence as to who are owners of and persons interested in any property proposed to be taken in the proceedings instituted under this act if the register or deputy register of deeds of the county shall testify in open court that he has examined the records and titles in his office, and states who such records show are the owners of and persons interested in such property, and the nature and extent of such ownership and interest; and an abstract of the title of such property, or of any parcel or parcels thereof, certified by the register or deputy register of deeds, shall also be prima facie evidence as to ownership, and persons having an interest in any such property, and the extent and nature of such interest.

HISTORY: CL 1929, 3834;—CL 1948, 213.134.

Sec. 25. (This was a severing clause section.)

HISTORY: CL 1929, 3835;—Rep. 1945, p. 413, Act 267, Imd. Eff. May 25.

Sec. 26. (This was a repeal section.)

HISTORY: CL 1929, 3836;—Rep. 1945, p. 405, Act 267, Imd. Eff. May 25.

Act 215, 1925, p. 313; Imd. Eff. May 6.

AN ACT to authorize and empower the state highway commissioner to purchase or condemn property or interests in property to exchange for the property, rights of way, or any part thereof or interests therein, owned by railroads, railways or public utilities, having the right of eminent domain, when such property, rights of way, or any part thereof or interest therein, is necessary to be acquired for establishing, constructing,

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widening, straightening, altering, relocating or otherwise improving a trunk line highway, and to make such exchange. Am. 1957, p. 318, Act 260, Imd. Eff. Jun. 6.

The People of the State of Michigan enact:

213.151 Public utility right-of-way; acquisition by state highway commissioner; acquisition and exchange of other property.

Sec. 1. Whenever, in the discretion of the state highway commissioner, it is necessary to acquire the property or rights of way, or any part of or interest in said property or rights of way, owned by a railroad, railway or public utility having the right of eminent domain, in order to establish, construct, widen, straighten, alter, relocate or otherwise improve a trunk line highway, the state highway commissioner shall be authorized to enter into negotiations with such railroad, railway or public utility for the purchase of said property, rights of way, or any part thereof or interest therein, and to enter into an agreement with any such railroad, railway or public utility to exchange other designated property or interests in property for such property, rights of way, or any part thereof or interests therein, whenever such other designated property or interests in property shall be acquired by him; and whenever any such agreement has been entered into, the said state highway commissioner shall be authorized and he is hereby empowered to acquire such other property or interests in property by purchase or condemnation, and when acquired to execute the necessary conveyances and releases thereof to such railroad, railway or public utility for its use, and to take in exchange therefor the railroad, railway or public utility property, rights of way or any part thereof or interests therein for such public highway purposes in accordance with such agreement.

HISTORY: CL 1929, 3881;—CL 1948, 213.151;—Am. 1957, p. 318, Act 260, Imd. Eff. Jun. 6.
CITED IN OTHER SECTIONS: Sections 213.151 to 213.153 are cited in § 254.224.

213.152 Public utility property; condemnation procedure.

Sec. 2. The procedure that is, or may be, prescribed for condemnation proceedings instituted by boards of county road commissioners or the procedure that is, or may be, provided for the condemnation by state agencies and public corporations of private property for the use or benefit of the public, is hereby expressly made applicable to any proceeding brought by the state highway commissioner under the provisions of this act.

HISTORY: CL 1929, 3882;—CL 1948, 213.152.

213.153 Public utility property; payment.

Sec. 3. Whenever any property or interests in property shall be acquired by the state highway commissioner under and by virtue of the provisions of this act, the consideration or compensation to be paid therefor shall be paid out of the state highway funds.

HISTORY: CL 1929, 3883;—CL 1948, 213.153;—Am. 1957, p. 319, Act 260, Imd. Eff. Jun. 6.

Act 352, 1925, p. 646; Imd. Eff. May 27.

AN ACT to provide for the purchase and condemnation of private property for public highway purposes.

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The People of the State of Michigan enact:

213.171 Property; acquisition by county road or state highway commissioners; approval of required officials.

Sec. 1. Boards of county road commissioners, with the approval of the board of supervisors, and the state highway commissioner are hereby authorized and empowered to secure from the owners thereof:

(a) Property for the right of way for any highway to be laid out, altered, or widened, or for changing the line thereof;

(b) Gravel, rock, sand, dirt and any and all other materials that may be needed for the proper construction, improvement or maintenance of a highway;

(c) Property deemed by the board or commissioner to be necessary to give to persons using a highway a clear view of approaching persons and vehicles, cars, trains and other instruments of travel, at any intersection of a highway with another highway or with a railroad track;

(d) Property deemed by the board or commissioner to be necessary to change the channel of any water course, natural or artificial, in order to maintain a proper alignment of any highway without crossing such water course and the riparian rights of any person, firm or corporation in or pertaining to any such water course;

(e) The fee or any lesser estate in land abutting on any highway right of way and deemed by the board or commissioner to be necessary for the storage of road machinery, equipment or materials;

(f) Property deemed by the board or commissioner to be necessary for the location, development and construction of off-street parking places for vehicles, to facilitate the flow of traffic on sections of the highways forming by-passes around and connections into and through municipalities and metropolitan areas, upon which sections parking is permanently prohibited;

(g) Property deemed by the board or commissioner to be necessary for the construction, adjacent to the highways, of flight strips for the landing and take off of aircraft in order to insure greater safety for traffic. For the purpose of uniformity the size, location, layout, lighting and markings of such flight strips shall be in conformity with rules and regulations to be prescribed by the commissioner;

(h) Any and all other property and property rights deemed by the board or commissioner having jurisdiction over a highway to be necessary for the proper construction, improvement, landscaping, or maintenance thereof, including the development, construction and maintenance, adjacent to such highways, of roadside springs, parking spaces, and information lodges, in the interest of the beneficial use of such highways by the traveling public;

(i) The state highway commissioner and boards of county road commissioners are authorized and empowered to take property and property rights under the provisions of this act within the limits of any incorporated city or village in this state: Provided, however, That before any proceedings are taken under this act involving the taking of any property or property rights in any city or village for the changing, altering, opening or widening of any street or highway, said street or highway shall be taken over as county road or designated as a state trunk line or federal aid highway, as the case may be, and the consent of the village or city council by resolution so to take over or designate said street or highway as a county road or state trunk line or federal aid highway shall be first obtained.

HISTORY: Am. 1927, p. 128, Act 92, Imd. Eff. April 30;—CL 1929, 3884;—Am. 1937, p. 367, Act 237, Eff. Oct. 29;—Am. 1941, p. 483, Act 279, Eff. Jan. 10, 1942;—Am. 1942, 2nd Ex. Ses., p. 71, Act 21, Imd. Eff. March 2;—CL 1948, 213.171.

CONDEMNATION CROSS REFERENCES: See note to Compilers' § 213.1.

CITED IN OTHER SECTIONS: Sections 213.171 to 213.199 are cited in §§ 252.52 and 254.224.

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213.172 Property for county and trunk line; conveyances, name, fluid mineral and gas rights, recording.

Sec. 2. Property for a county road shall be secured by the board of county road commissioners and shall be taken in the name of the county. Property for trunk line highway purposes shall be secured by the state highway commissioner and shall be taken in the name of the state, excepting that excess property taken for highway purposes shall be taken in the name of the state highway commissioner. All such property shall be acquired by a release or other appropriate conveyance duly executed by the owner or owners of the lands and acknowledged and witnessed in the manner provided by law for the acknowledging and witnessing of deeds: Provided, That fluid mineral and gas rights shall be deemed excluded from such release or conveyance unless specifically included therein. The exercise of such fluid mineral and gas rights, as permitted by law, shall not interfere with the use of such property. All such releases and conveyances shall be recorded in the office of the register of deeds of the county in which the land is situated.

HISTORY: Am. 1927, p. 129, Act 92, Imd. Eff. Apr. 30;—CL 1929, 3885;—Am. 1935, p. 462, Act 258, Eff. Sep. 21;—Am. 1937, p. 368, Act 237, Eff. Oct. 29;—Am. 1941, p. 483, Act 279, Eff. Jan. 10, 1942;—CL 1948, 213.172;—Am. 1962, p. 18, Act 22, Eff. Mar. 28, 1963.

DEEDS: See Compilers' § 565.8 et seq.

213.173 Payment of purchase price for property.

Sec. 3. Property for highway purposes shall be paid for by the board or commissioner out of any funds under their control, available for that purpose. Any payment or tender of money under this act may be made in the form of a warrant drawn on the county or state treasury as the case may be.

HISTORY: Am. 1927, p. 129, Act 92, Imd. Eff. April 30;—CL 1929, 3886;—Am. 1937, p. 368, Act 237, Eff. Oct. 29;—Am. 1941, p. 484, Act 279, Eff. Jan. 10, 1942;—CL 1948, 213.173.

213.174 Determination of necessity by board or commissioner; hearing.

Sec. 4. Whenever the board or commissioner shall be unable to agree with any person interested in any such property for the purchase thereof, or whenever such person shall be unknown or a non-resident of the county, or a minor or an insane or incompetent person, the board or commissioner may make a written determination of the necessity of the particular highway construction, improvement, landscaping or maintenance project for which such property is desired, the necessity for taking the particular property described, and the damages which, in the opinion of the board or the commissioner, should be paid as compensation for the taking of each parcel of such property. Such determination shall also describe the property desired and shall give the name of each person interested therein, so far as known to the commissioner or commissioners making the determination: Provided, That unless such determination shall specifically include fluid mineral and gas rights, such rights shall be deemed excluded therefrom. The exercise of such fluid mineral and gas rights, as permitted by law, shall not interfere with the use of such property. The declaration of the board or commissioner that he or it has made a good faith effort and has been unable to agree with the owner, or owners, for the purchase of such property and his or its determination of the necessity of the project and of taking the particular property described therefor, if received in evidence at the necessity hearing provided in this section, shall not thereafter be questioned: Provided, That no such determination shall be made except after a hearing, of which written notice shall be given of the time and place for such hearing to all persons interested so far as known in the property desired, at least 7 days before the time of hearing, such notice to be served as hereinafter provided in section 29 of this act.

HISTORY: Am. 1927, p. 129, Act 92, Imd. Eff. Apr. 30;—CL 1929, 3887;—Am. 1931, p. 377, Act 216, Eff. Sep. 18;—Am. 1937, p. 368, Act 237, Eff. Oct. 29;—Am. 1941, p. 484, Act 279, Eff. Jan. 10, 1942;—CL 1948, 213.174;—Am. 1962, p. 18, Act 22, Eff. Mar. 28, 1963.

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213.174a Determination of necessity by circuit court commissioner if board or commissioner is disqualified.

Sec. 4a. In the event the board or commissioner shall for any reason be disqualified to hear and determine the matter of necessity, as provided in this act, such matter of necessity only shall be heard by a circuit court commissioner of the county in which the property sought to be condemned is located or by a circuit court commissioner acting in such county, as provided by law, and in case any disqualification shall be alleged against any board or commissioner before or during such hearing on necessity, such board or commissioner if they deem such allegation well-founded, may call upon a circuit court commissioner, qualified as hereinbefore provided, to hear the matter and make the determination herein prescribed, and on the day set for hearing a continuance for such purpose to a day certain, may be had if necessary. Upon the day fixed by the notice or the day certain set by such continuance, or upon such other date as said matter may be continued to, such circuit court commissioner shall hear the issue of necessity involved. Any determination on the matter of necessity made hereunder by a circuit court commissioner shall have the same force and effect and shall be filed with and acted upon by the board or commissioner in the same manner and be subject to all the provisions of this act, as are determinations made by such board or commissioner.

HISTORY: Add. 1931, p. 377, Act 216, Eff. Sept. 18;—Am. 1937, p. 369, Act 237, Eff. Oct. 29;—Am. 1941, p. 484, Act 279, Eff. Jan. 10, 1942;—CL 1948, 213.174a.

213.175 Determination of necessity; filing and recording; compensation for property.

Sec. 5. Such determination may be filed with the county clerk if with reference to a county road, and in the office of the state highway commissioner if with reference to a state trunk line highway, and a certified copy thereof recorded in the office of the register of deeds of the county in which the property is situated. Such register of deeds shall receive such instrument for record only from the highway officials in charge of the matter. Compensation for the taking of the property therein described shall promptly thereafter be paid or tendered to the owner thereof if known and residing in the county in which the land is situated, and if such tender be not accepted or the owner shall be unknown, or a non-resident of the county, by depositing with the county or state treasurer, as the case may be, the amount determined as the damages to be paid as such compensation, the same to be paid to the person or persons entitled thereto upon the execution or delivery of the proper release or releases or subject to the order of the court in case of defaults or an award of damages by court commissioners as hereinafter provided. In case it shall be so determined that the benefits equal or exceed the damage, payment, tender or deposit as aforesaid shall not be necessary, but such fact shall be clearly set forth in the notice required by section 6 hereof.

HISTORY: CL 1929, 3888;—Am. 1937, p. 369, Act 237; Eff. Oct. 29;—Am. 1941, p. 484, Act 279, Eff. Jan. 10, 1942;—CL 1948, 213.175.

213.176 Possession notice; vesting of title; removal of obstructions on property.

Sec. 6. Upon the filing of such determination and proof of payment, tender or deposit as above provided, the board or commissioner having the matter in charge shall give notice thereof to the owners or occupants of the property therein described, which notice shall be served as provided in section 29 of this act. Said notice shall state that the said board or commissioner is about to take possession of said property for the highway purposes in said determination stated, and in cases where it is determined that benefits equal or exceed damage, such fact shall be clearly set forth in said notice, which may also direct the owners or occupants of such property to remove their fence or fences or other obstructions and encroachments within 10 days thereafter. Upon the filing of such determination and the giving of such notice, the title, and the right of

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possession to all of the property and property rights described in the determination shall vest in the county or state, as the case may be, for the purpose or purposes therein stated, and in case the owners or occupants thereof shall neglect or refuse to remove their fence, fences and other obstructions and encroachments within 10 days, the board or commissioner shall have the full power, and it shall be their duty to enter upon the premises with such aid and assistance as shall be necessary and remove such fence or fences, obstructions or encroachments without delay: Provided, That no person interested as owner, or otherwise, in any of the property described in such determination, shall be required to vacate any lands or premises or move any dwelling house or other building until after the damages, if any, determined as aforesaid, for the taking of such property have been paid or tendered, and the notices given, in accordance with the provisions of sections 4, 4a, 5 and 6 of this act.

HISTORY: Am. 1927, p. 130, Act 92, Imd. Eff. April 30;—CL 1929, 3889;—Am. 1931, p. 378, Act 216, Eff. Sept. 18;—Am. 1937, p. 370, Act 237, Eff. Oct. 29;—Am. 1941, p. 485, Act 279, Eff. Jan. 10, 1942;—CL 1948, 213.176.

213.177 Petition; circuit court to appoint commissioners to determine damages.

Sec. 7. Within 90 days after the filing of any such determination of damages, as aforesaid, the board or commissioner having the matter in charge, unless the parties interested in the property therein described having accepted the amount tendered or offered and delivered the proper conveyances, shall file with the circuit court or probate court of the county in which such property is situated a petition, describing the highway improvement for which the property has been taken, reciting that the said board or commissioner has made and filed the determination as hereinabove provided, and that he or it has taken possession of the property therein described for public highway purposes, and that compensation has not been paid to the owners, stating as to each parcel whether the fee of said property, or an easement therein, has been taken, giving the name of each person interested in each such piece or parcel of property, and praying for the appointment of 3 court commissioners to appraise the damages to be paid as compensation for the taking of each such piece or parcel of property for such highway purposes.

HISTORY: CL 1929, 3890;—Am. 1937, p. 370, Act 237, Eff. Oct. 29;—Am. 1941, p. 485, Act 279, Eff. Jan. 10, 1942;—CL 1948, 213.177.

213.178 Petition; order for hearing, service.

Sec. 8. Upon the filing of the petition, the court shall make an order fixing a day for the hearing on such petition, which shall not be less than 15 days thereafter. Such order shall recite the names of the persons mentioned in the petition and the descriptions of each piece or parcel of property and shall state the purpose of the petition. A copy of such order shall be served at least 10 days before the day of hearing, upon each person named therein as being interested in the property to be taken, who is a resident of the county in which the property is located, and also upon the person or persons in possession of such property, if other than the owner. Such service may be made as provided in section 29 of this act. Service may also be made upon persons interested in the property who are non-residents of the county.

HISTORY: Am. 1927, p. 131, Act 92, Imd. Eff. April 30;—CL 1929, 3891;—Am. 1931, p. 378, Act 216, Eff. Sept. 18;—Am. 1941, p. 486, Act 279, Eff. Jan. 10, 1942;—CL 1948, 213.178.

213.179 Petition; service upon guardians; guardian ad litem.

Sec. 9. In cases where a minor or an insane or incompetent person has an interest in such property, service of a copy of the order shall be made upon the guardian, if any, and if such person has no guardian, the board or commissioner may petition the court

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for the appointment of a guardian ad litem. Upon the filing of such petition the court shall appoint a guardian ad litem, who shall be a resident of the county and upon whom service of a copy of the said order shall be made.

HISTORY: CL 1929, 3892;—Am. 1941, p. 486, Act 279, Eff. Jan. 10, 1942;—CL 1948, 213.179.

213.180 Petition; constructive service; order for appearance.

Sec. 10. Upon, or at any time after, the filing of such petition, the judge shall make an order for the appearance of any persons interested in the property, or any part thereof on or before the day of hearing therein stated, upon proof by affidavit either:

1. That such person resides out of or is absent from the county, or his whereabouts unknown;

2. That it cannot be ascertained in what county, state or country such person resides.

HISTORY: CL 1929, 3893;—Am. 1941, p. 486, Act 279, Eff. Jan. 10, 1942;—CL 1948, 213.180.

SERVICE OF PROCESS: See Compilers' § 213.261.

213.181 Order for appearance; publication; mailing and service of order.

Sec. 11. Such order shall be published in some newspaper published and circulated in the county, or in such other paper as the court may direct, at least once in each week for 2 successive weeks immediately preceding the day set for the hearing, and a copy of such order shall be mailed to each absent or non-resident person having a last known postoffice address, by registered mail, and a return receipt demanded. Proof by affidavit shall be made of such mailing, and whether or not a return receipt was received, and if one was received, it shall be attached to said affidavit; but such publication and mailing shall not be necessary in any case in which a copy of such order has been served personally or by registered mail on each such absent or non-resident person.

HISTORY: Am. 1927, p. 131, Act 92, Imd. Eff. April 30;—CL 1929, 3894;—Am. 1941, p. 486, Act 279, Eff. Jan. 10, 1942;—CL 1948, 213.181.

213.182 Order for appearance; proof of publication and service; filing.

Sec. 12. Proof of publication and service may be made by affidavit of any person having knowledge of the facts. Such proof shall be filed with the court on or before the day of hearing, and thereupon the court shall have jurisdiction of the subject matter involved in the proceedings and of the parties interested therein.

HISTORY: CL 1929, 3895;—Am. 1941, p. 486, Act 279, Eff. Jan. 10, 1942;—CL 1948, 213.182.

213.183 Default of persons not appearing; court-appointed commissioners; discontinuance.

Sec. 13. On the day fixed as aforesaid, the court shall enter the default of all persons interested in the property described who have not appeared, and shall direct the payment to such persons of the sums stated in the determination aforesaid, as compensation for the taking of the pieces or parcels of property in which they are interested; and the court shall also, unless sufficient cause to the contrary be shown, appoint 3 disinterested persons commissioners, herein called court commissioners, whose duty it shall be to appraise the damages to be paid as compensation for the taking of the property described in the petition, in respect to which an appearance is made, for highway purposes. Said commissioners shall not be residents of the township in which the property sought to be taken is situated. The court shall fix the time and place for the first meeting of such court commissioners, and require their attendance; it may also authorize the court commissioners to adjourn their meeting from time to time not later than to a day to be named, and shall fix the time for filing their report. After the appointment of court commissioners, no discontinuance shall be filed and no order of discontinuance may be entered except upon payment of expenses of the proceeding and rea-

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sonable attorney fees of all parties in interest who have appeared in said proceedings, under the order of the court.

HISTORY: CL 1929, 3896;—Am. 1937, p. 370, Act 237, Eff. Oct. 29;—Am. 1941, p. 487, Act 279, Eff. Jan. 10, 1942;—CL 1948, 213.183.

213.184 Commissioners; meetings, adjournments; witnesses.

Sec. 14. The court commissioners shall meet at the time and place ordered by the court and shall be sworn faithfully to discharge their duties. If all do not then appear, a less number may adjourn to a time certain, but no adjournment shall be made to a day later than the time allowed by the court. All adjournments shall be publicly announced. The court or the clerk thereof may issue writs of subpoena to compel the attendance of witnesses before the court or before the said court commissioners. Either of such court commissioners may administer oaths to witnesses.

HISTORY: CL 1929, 3897;—Am. 1941, p. 487, Act 279, Eff. Jan. 10, 1942;—CL 1948, 213.184.

SIMILAR PROVISIONS: See Compilers' § 224.14.

213.185 Commissioners; view of premises; hearing; evidence of ownership.

Sec. 15. The court commissioners, at the time fixed by the court or at the time fixed by adjournment, shall view the premises described in the petition and shall hear the proofs and allegations of the parties. At such hearing the determination hereinabove provided for, or a certified copy thereof, shall be read in evidence before said court commissioners and shall be prima facie evidence of the ownership of the property therein described.

HISTORY: CL 1929, 3898;—CL 1948, 213.185.

SIMILAR PROVISIONS: See Compilers' § 224.14.

213.186 Commissioners; appraisal of damages; reports.

Sec. 16. The court commissioners shall appraise the damages to be paid as compensation for each such piece or parcel of property, and shall report such decision in writing, signed by them or a majority of them, at or before the time fixed for that purpose, but it shall not be necessary for said court commissioners to report on all of such property at one time.

HISTORY: CL 1929, 3899;—Am. 1937, p. 371, Act 237, Eff. Oct. 29;—Am. 1941, p. 487, Act 279, Eff. Jan. 10, 1942;—CL 1948, 213.186.

213.187 Commissioners; not necessary to include all parcels of property in same petition.

Sec. 17. It shall not be necessary for the board or commissioner to include in one determination the descriptions of all of the property necessary to be taken for any single project, or to include in one petition, the descriptions of all of the property described in the determination upon which such petition is based.

HISTORY: CL 1929, 3900;—Am. 1941, p. 487, Act 279, Eff. Jan. 10, 1942;—CL 1948, 213.187.

213.188 Benefits to owners; deduction from damage costs.

Sec. 18. If any discontinued highway shall be upon lands through which a new highway shall be laid out, the same may be taken into consideration in estimating the damages sustained by the owner of such lands; and in like manner the benefits accruing to owners of lands by reason of laying-out, altering, widening or otherwise improving any highway or of changing the line thereof, shall be taken into consideration in determining the damages to be paid to any such owner as compensation for the taking of any of his property for any such highway purpose. In each such case, the board or commissioner having the matter in charge, or the court commissioners, as the case may be, shall state such fact and the amount deducted on account thereof in the determina-

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tion, or report, as the case may be: Provided, however, That benefits shall not be taken into consideration as above stated in case there is any assessment levied on the abutting property by reason of the laying out, altering, widening or otherwise improving said highway.

HISTORY: CL 1929, 3901;—Am. 1931, p. 378, Act 216, Eff. Sept. 18;—Am. 1941, p. 487, Act 279, Eff. Jan. 10, 1942;—CL 1948, 213.188.

213.189 Orders of court upon determination and in regarding commissioners.

Sec. 19. The court may, at the time of the filing of the report or at such other time to which it may adjourn the proceedings, on cause shown, set aside the report and refer it back to such court commissioners or appoint other commissioners to re-try the questions involved, whereupon such proceedings shall be had as are hereinbefore provided for. The court may permit the amendment of any determination, petition, affidavit, order, report or proceeding filed or had in the premises in such manner as shall be just and proper; it may fill any vacancy that shall occur among the court commissioners, by reason of death, resignation, removal or inability to act; it may at any time, in its discretion, remove any or all of said commissioners and fill the vacancy or vacancies thereby created; it may permit a defective proceeding to be set aside and other proceedings in compliance with law to be had in place thereof; it may determine the division of any award among the several claimants thereto; it may adjourn such proceedings or any part thereof from time to time, and may make all such orders in the premises as may be just and proper to further and accomplish the purpose thereof.

HISTORY: CL 1929, 3902;—Am. 1941, p. 488, Act 279, Eff. Jan. 10, 1942;—CL 1948, 213.189.

SIMILAR PROVISIONS: See Compilers' § 224.15.

213.190 Confirmation of commissioner's report; witness, attorney, damage fees.

Sec. 20. After the court shall confirm the report of the court commissioners, it shall enter an order authorizing the board or commissioner to pay the several sums awarded for damages, and they shall pay the same accordingly. The court may determine and include in said order an allowance to the person, partnership or corporation from whom property is taken for attorney fees and witness fees as taxed before and determined by the court. Such attorney fees and witness fees shall be paid at the same time and in the same manner as sums awarded for damages in such proceeding: Provided, That it shall not be lawful for the court to make such order allowing witnesses and attorney fees to more than 1 title interest and such lien interests as are adverse thereto and to each other in any single parcel of real estate as set up and described in the determination of necessity on file: And provided further, That in the case of a parcel whose value is under $100.00, no such attorney fee shall exceed $5.00, and in the case of a parcel valued at $100.00 or more, no such attorney fee shall exceed $25.00. Such payment shall be made in money or by an order drawn on the proper county or state treasurer, to the several persons entitled thereto, and if refused, or if there be no person properly authorized to receive the same, or if the person entitled thereto is a nonresident of the county or cannot be found, it shall be deposited as directed by the court.

HISTORY: CL 1929, 3903;—Am. 1937, p. 371, Act 237, Eff. Oct. 29;—Am. 1941, p. 488, Act 279, Eff. Jan. 10, 1942;—CL 1948, 213.190.

SIMILAR PROVISIONS: See Compilers' § 224.16.

213.191 Compensation of highway condemnation commissioners; expenses.

Sec. 21. The court shall fix the compensation of the court commissioners, not to exceed $50.00 per day, and determine the amount of necessary expenses incurred in connection with such proceedings, and the whole cost thereof.

HISTORY: CL 1929, 3904;—CL 1948, 213.191;—Am. 1961, p. 248, Act 172, Eff. Sep. 8.

SIMILAR PROVISIONS: See Compilers' § 224.16.

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213.192 Prima facie evidence; certificate, report, or determination.

Sec. 22. Any certificate, report or determination authorized or required by this chapter, or the record thereof, or a certified copy of any such certificate, report, determination or record, shall be prima facie evidence of the facts recited therein and of the title to the property therein described or referred to in the county or state, as the case may be, and of the right of the board or commissioner to take the same for highway purposes.

HISTORY: CL 1929, 3905;—Am. 1941, p. 488, Act 279, Eff. Jan. 10, 1942;—CL 1948, 213.192.

SIMILAR PROVISIONS: See Compilers' § 224.16.

213.193 Right to acquire property of municipalities and cemetery associations; exchange.

Sec. 23. The provisions of this chapter shall be deemed to extend to and include the right to acquire and take property and property rights held, reserved, owned, used or occupied by any cemetery association or municipality, or by any person, firm, society, association or corporation for cemetery or municipal purposes; to acquire and take property desired by the board or commissioner to exchange for other property which in his or their opinion it is necessary to acquire for highway purposes, whenever he or they have agreed in writing with the owner or owners of such property for such exchange; and to acquire and take the fee to the whole of a particular lot or parcel of land whenever in the opinion of the board or commissioner it is advisable to provide for the proper construction, improvement or maintenance of highways.

HISTORY: Am. 1927, p. 131, Act 92, Imd. Eff. April 30;—CL 1929, 3906;—Am. 1941, p. 488, Act 279, Eff. Jan. 10, 1942;—CL 1948, 213.193.

213.194 Sale of excess land; conveyance; record.

Sec. 24. Whenever the whole of a lot or parcel of land is, or has been, taken by any board or the commissioner, as provided in the preceding section, such board or commissioner, or his or their successors in office shall have the right, and are hereby authorized, to sell and convey the portion not needed, on whatever terms such board or commissioner may deem proper: Provided, That in those cases where the title to excess lands, acquired by the state highway commissioner under any law of this state, has been taken in the name of the state of Michigan, it shall be lawful for the state highway commissioner, and he is hereby authorized and empowered to sell and convey said lands as if the title thereto had originally been taken in his name as hereinbefore provided: And provided further, A record of all such sales, showing the appraised value, the sale price and other pertinent information, shall be kept in the office of the state highway commissioner.

HISTORY: CL 1929, 3907;—Am. 1935, p. 463, Act 258, Eff. Sept. 21;—Am. 1941, p. 489, Act 279, Eff. Jan. 10, 1942;—CL 1948, 213.194.

213.195 Repealed. 1958, p. 84, Act 77, Eff. Sep. 13.

Section applied the act to pending condemnation proceedings.

Sec. 26. (This was a severing clause section.)

HISTORY: CL 1929, 3909;—Am. 1941, p. 489, Act 279, Eff. Jan. 10, 1942;—Rep. 1945, p. 413, Act 267, Imd. Eff. May 25.

213.197 Review by certiorari; procedure; time limitations.

Sec. 27. Any proceeding taken under the provisions of this act shall be subject to review upon certiorari. The procedure therefor shall be the same as is required in case of certiorari to review judgments rendered by judges of the circuit courts: Provided, That the application for certiorari must be filed within 20 days after the report of the court commissioners shall have been confirmed: And provided further, That the determination of necessity provided in section 4 of this act may be reviewed by certiorari only

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within 10 days after such determination of necessity and the procedure shall be the same as review of judgments rendered by a justice of the peace, except that such certiorari may be heard by the court during term or at chambers upon 5 days' notice given to the opposing party.

HISTORY: Am. 1927, p. 132, Act 92, Imd. Eff. April 30;—CL 1929, 3910;—Am. 1941, p. 489, Act 279, Eff. Jan. 10, 1942;—CL 1948, 213.197.

213.198 State highway commissioner or deputy may conduct proceedings.

Sec. 28. Any act or proceeding herein directed or authorized to be performed or conducted by the state highway commissioner may be done by said state highway commissioner in person, or by 1 of his deputies; or the state highway commissioner may generally or specifically deputize any person to hold or conduct any hearing directed by this act and said deputized person shall report his conclusions and recommendations to the state highway commissioner, who shall then make his determination thereon. Any action by such deputy, or any hearing or other proceeding conducted by him shall be deemed to be for the purpose of this act, and have the same legal force and significance as though personally performed by the said state highway commissioner.

HISTORY: Add. 1927, p. 132, Act 92, Imd. Eff. April 30;—CL 1929, 3911;—CL 1948, 213.198.

213.199 All notices and orders; service.

Sec. 29. All notices and orders heretofore mentioned in this act, unless otherwise provided, shall be served as follows:

(a) Personally; or

(b) By leaving a copy at the residence of the person or persons interested; or

(c) By mailing a copy thereof by registered mail at the last known post office address of each person or persons, so far as is known, and by publication in some newspaper printed or circulated in the county in which such lands are located at least 7 days prior to the date of hearing; or

(d) Non-residents of the county may be served in any of the above methods or by posting copies thereof in 5 conspicuous places in the township, 1 of which shall be on the property.

HISTORY: Add. 1931, p. 379, Act 216, Eff. Sept. 18;—CL 1948, 213.199.

Act 190, 1929, p. 505; Imd. Eff. May 20.

AN ACT to authorize municipalities to purchase or condemn the fee to real estate to be used for acquiring, opening or widening of any boulevard, street or alley within such municipality and authorizing such municipalities to purchase or condemn the fee to private property adjacent to such proposed improvement whenever it is necessary to take such adjacent private property in order to carry out such proposed improvement most advantageously, and authorizing such municipalities to lease or sell any such real estate so taken after the proposed improvement is completed and which is not needed directly for such boulevards, streets or alleys.

The People of the State of Michigan enact:

213.221 Boulevard, street and alley; fee of adjacent property, acquisition.

Sec. 1. Whenever the legislative body of any municipality shall determine that it is necessary to acquire, open or widen any boulevard, street or alley within said municipality, and whenever such legislative body shall determine that in order to carry out such proposed improvement most advantageously that it is necessary to take private property adjacent to the proposed improvement, the fee to such private property may be purchased or taken by condemnation proceedings and the taking of such private

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property for the purpose of advantageously carrying out the proposed improvement contemplated is hereby declared to be a taking for a public purpose.

HISTORY: CL 1929, 3912;—CL 1948, 213.221.

CONDEMNATION CROSS REFERENCES: See note to Compilers' § 213.1.

213.222 Boulevard, street and alley; condemnation proceedings.

Sec. 2. If condemnation proceedings are resorted to for the purpose of securing any such fee to such private property such condemnation proceedings may be brought in accordance with the provisions of the charter of such municipality or in accordance with any other appropriate provisions therefor as exist or shall be made by law.

HISTORY: CL 1929, 3913;—CL 1948, 213.222.

213.223 Boulevard, street and alley; sale of unused portion.

Sec. 3. After the completion of said improvements such municipality may lease or sell such parts of said property as are not to be actually used for such boulevard, street or alley, with or without such restrictions as may be appropriate to the improvements made.

HISTORY: CL 1929, 3914;—CL 1948, 213.223.

Act 140, 1945, p. 201; Imd. Eff. May 4.

AN ACT to provide for the acquisition of overhead and underground rights, and rights of access, air, view and light by public corporations, authorities or agencies of this state for the laying out, establishment or development of public streets and highways.

The People of the State of Michigan enact:

213.251 Overhead and underground rights; acquisition; purposes.

Sec. 1. Any public corporation, authority or agency of this state empowered by law to acquire private property for the laying out, establishment or development of public streets and highways within their respective jurisdictions is hereby authorized to acquire overhead and underground rights, and rights of access, air, view and light for the laying out, establishment and development of such public streets and highways. Such rights may be acquired by gift, devise, purchase or condemnation in the same manner as such public corporation, authority or agency is now or hereafter may be authorized by law to acquire property or property rights for public purposes within the scope of its powers, either separately or in conjunction with any other property right or rights, and may also be acquired for the establishment or development of limited access highways as defined and provided for by the provisions of Act No. 205 of the Public Acts of 1941.

HISTORY: CL 1948, 213.251.

NOTE: Act 205, 1941, above referred to, is Compilers' §§ 252.51-252.55.

Act 379, 1927, p. 902; Eff. Sep. 5.

AN ACT to provide for service of process or notice on unknown owners or claimants to land in condemnation proceedings.

The People of the State of Michigan enact:

213.261 Condemnation; service of process on unknown claimants.

Sec. 1. If there be any person interested in any land that is now or may hereafter be subject to any condemnation proceedings, whose name appears in the records of any

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public office as having at any time claimed any right, title, interest or estate in the subject matter of such proceedings, or any portion thereof, or any lien or charge thereon, without having conveyed or released the same or who might at any time under the provisions or legal effect of any instrument of record, claim or be entitled to claim any benefits thereunder, and it is not known whether such person is living or dead, or where he may reside, if living, or whether the title, interest, claim, lien or possible right has been by him assigned to any person or persons, or if dead, whether he has personal representatives or heirs living, or where they or some of them may reside, or whether such title, interest, claim, lien or possible right has been disposed of by will, it shall be lawful to make such person, and everyone claiming under him, defendants in such suit or proceeding, by naming such person and adding the words,—"or his unknown heirs, devisees, legatees and assigns", and he or they shall be served by process or notice, as required by law to be served in condemnation proceedings, by publication or otherwise, as provided in sections 12371 to 12378 inclusive, and sections 12449 to 12452 inclusive, as amended, of the Compiled Laws of the state of Michigan of 1915, the same being the several sections providing for substituted service on unknown, concealed or non-resident defendants. Upon such publication as hereinbefore provided, the said owner or claimant so named and described and/or his unknown heirs, devisees, legatees, and assigns, and the land in said notice described, shall thereby be subjected to the jurisdiction of the court, the commission or the commissioners, as the case may be.

HISTORY: CL 1929, 3915;—CL 1948, 213.261.

NOTE: CL 1915, 12371 to 12378 are Compilers' repealed §§ 612.20 to 612.27 (see §§ 600.1801 et seq., 600.1901 et seq., 600.1945, 600.1955), CL 1915, 12449 to 12452 are Compilers' repealed §§ 613.46 to 613.49 (see 600.1801 et seq., 600.1901 et seq., 600.1945, 600.1955).

CONDEMNATION CROSS REFERENCES: See note to Compilers' § 213.1.

213.271, 213.272 Repealed. 1958, p. 84, Act 77, Eff. Sep. 13.

Sections provided for determination of damages resulting from highway department's condemnation of land, for establishment of title to improvements thereon, for disposition of or payment for improvements, and establishment of rights therein.

Act 270, 1931, p. 454; Eff. Sep. 18.

AN ACT to provide for the application of awards in condemnation proceedings against taxes and/or special assessments, and to prescribe the effect thereof. Am. 1941, p. 679, Act 365, Eff. Jan. 10, 1942.

The People of the State of Michigan enact:

213.291 Condemnation awards; application to payment of taxes and special assessments.

Sec. 1. In the case of property taken in any condemnation proceedings, the award shall first be applied to the payment of all delinquent taxes and/or delinquent special assessments and current taxes and current special assessments which have become due and payable. In case such award shall be insufficient to pay all of such taxes and/or special assessments, such award shall be applied pro rata to the payment of such taxes and/or special assessments, and such payment shall be deemed satisfaction of such taxes and/or special assessments as to the property so taken and the petitioner shall be entitled to a receipt from the proper tax collecting officer or officers so stating. In case title to such property passes, by virtue of such proceedings after the date upon which the assessment roll is required to be completed and before the tax becomes due and payable, the unit of government, board, department or commission that is the petitioner in the condemnation proceeding shall pay such taxes and special assessments when the same become due and payable. Where lands have been bid in to the state at

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tax sales and the period of redemption has not expired, the amount required to redeem from such sale shall be considered as unpaid taxes.

HISTORY: Am. 1941, p. 679, Act 365, Eff. Jan. 10, 1942;—Am. 1947, p. 30, Act 24, Imd. Eff. Apr. 3;—CL 1948, 213.291.

Act 288, 1957, p. 401; Imd. Eff. Jun. 14.

AN ACT to prescribe procedure for taking property of a public hospital or public college or public university for public use.

The People of the State of Michigan enact:

213.301 Property of public college, university or hospital; condemnation, definitions.

Sec. 1. As used in this act

(a) "Public hospital" means a hospital whose property, or any portion of whose property, is exempt from taxation under the provisions of Act No. 206 of the Public Acts of 1893, as amended, being sections 211.1 to 211.157 of the Compiled Laws of 1948.

(b) "Public college" and "public university" mean any such institution which has been established for at least the 10 years immediately preceding any proposed taking of any of its property and which is empowered by the state to grant degrees.

HISTORY: New 1957, p. 401, Act 288, Imd. Eff. Jun. 14.

213.302 Property of public college, university or hospital; determination of relative necessity.

Sec. 2. No property of any public hospital or public college or public university shall be taken by the public or by any corporation for public use unless there has been a determination that the public use for which the property is to be taken is more necessary to the public than the present use or any reasonably contemplated future use to which it is or may be put by the public hospital or public college or public university.

HISTORY: New 1957, p. 401, Act 288, Imd. Eff. Jun. 14.

213.303 Property of public college, university or hospital; judicial determination of necessity.

Sec. 3. The judicial determination of relative necessity hereby required shall be obtained in the same manner as is prescribed for a declaration of rights under Act No. 36 of the Public Acts of 1929, being sections 691.501 to 691.507 of the Compiled Laws of 1948, and shall be a condition precedent to the commencement hereafter of any other judicial proceedings for the taking of any such property.

HISTORY: New 1957, p. 402, Act 288, Imd. Eff. Jun. 14.

213.304 Judicial determination; abatement of pending proceedings.

Sec. 4. This act shall abate all pending judicial proceedings for the taking of any such property in which judgment has not become final prior to the effective date hereof.

HISTORY: New 1957, p. 402, Act 288, Imd. Eff. Jun. 14.

Act 207, 1965, p. 367; Imd. Eff. Jul. 16.

AN ACT to provide for the proration of general taxes on real property acquired for public purposes.

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The People of the State of Michigan enact:

213.311 Property taxes; proration on real property acquired for public purposes.

Sec. 1. When real property is acquired for public purposes, general taxes shall be prorated to the date of closing when acquired by negotiation. When acquired by condemnation, proration shall be to the date compensation is made or secured.

HISTORY: New 1965, p. 367, Act 207, Imd. Eff. Jul. 16.

213.312 Property taxes; proration, taxes included.

Sec. 2. For the purpose of this act, taxes to be prorated are the taxes of each governmental unit having power to levy taxes on real property for the current calendar year, as required by the general property tax act to be shown on each statement and receipt for taxes on real property in which the closing date of a sale of real property occurs.

HISTORY: New 1965, p. 367, Act 207, Imd. Eff. Jul. 16.

Act 40, 1965, p. 56; Imd. Eff. May 19.

AN ACT to authorize and require public agencies to pay allowances for the expense of moving personal property from real property acquired for public purposes.

The People of the State of Michigan enact:

213.351 Property acquired for public purposes; definitions.

Sec. 1. As used in this act:

(a) "Occupant" means an individual, family, business, including the operation of a farm, or a nonprofit organization, required by a public agency to vacate real property because of a public improvement project.

(b) "Family" means 2 or more persons who are living together in the same quarters.

(c) "Moving expense" means the cost of dismantling, disconnecting, crating, loading, insuring, temporary storing, transporting, unloading, reassembling, reconnecting and reinstalling of personal property, exclusive of trade fixtures and exclusive of the cost of any improvements, alterations or any other changes in or to any structure in effecting such reinstallation.

HISTORY: New 1965, p. 56, Act 40, Imd. Eff. May 19.

213.352 Property; public purposes, moving expenses; maximum payments, allowances in lieu of expenses.

Sec. 2. An occupant who vacates real property on or after May 15, 1965, pursuant to the provisions of a written agreement to purchase the property or pursuant to the provisions of a written agreement for possession and use of the property or pursuant to the transfer of title to the property in condemnation proceedings, shall be reimbursed by the public agency for the reasonable and necessary moving expense for moving his personal property not more than 50 miles, subject to the following conditions:

(a) The maximum payment to an individual or family shall not exceed $200.00. The maximum payment to a business, including the operation of a farm, or a nonprofit organization shall not exceed $3,000.00.

(b) An individual or a family may elect to receive a fixed moving allowance, in lieu of actual moving expense, based on a schedule of payments established by the acquiring agency taking into consideration the maximum payment allowed, the number of rooms and other factors.

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(c) No payment shall be made to an occupant until after he has vacated the real property.

HISTORY: New 1965, p. 56, Act 40, Imd. Eff. May 19.

213.353 Payments allowed by federal regulation; payments, number.

Sec. 3. The maximum payments imposed by section 2 do not prohibit payments made in accordance with applicable regulations for federal reimbursement which payments are hereby authorized, provided such payments are at least equal to payments under section 2. If payment is made in accordance with applicable federal regulation, payment shall not also be made pursuant to section 2. In no event shall more than 1 payment be made to the same occupant for the same occupancy. After the occupant has vacated the property, no payment may thereafter be paid to any party with respect to the subsequent occupancy of the same property.

HISTORY: New 1965, p. 57, Act 40, Imd. Eff. May 19.

213.354 Moving allowances; paid for highway projects.

Sec. 4. Moving allowances paid because of highway projects are deemed to be a highway purpose and a cost of highway construction.

HISTORY: New 1965, p. 57, Act 40, Imd. Eff. May 19.

213.355 Moving allowances; additional to compensation; not considered in condemnation proceedings.

Sec. 5. Moving allowances are independent of and in addition to compensation for land, buildings or property rights. The cost of moving personal property is not subject to consideration in condemnation proceedings for the acquisition of land, buildings or property rights.

HISTORY: New 1965, p. 57, Act 40, Imd. Eff. May 19.

Act 295, 1966, p. 495; Imd. Eff. Jul. 14.

AN ACT to provide for the purchase and condemnation of property for public purposes by cities, villages, boards of county road commissions and the state highway commission. Am. 1967, p. 295, Act 206, Imd. Eff. Jul. 10.

The People of the State of Michigan enact:

213.361 Property; kinds, acquisition for public highways.

Sec. 1. Cities, villages, boards of county road commissioners, and the state highway commission, hereinafter also referred to as the petitioner, are authorized and empowered to secure the fee simple or lesser estate in real property and any other property from the owners thereof in:

(a) Property for the right of way for limited access highways and any other highways to be laid out, altered or widened, or for changing the direction or line thereof.

(b) Gravel, rock, sand, dirt and any and all other materials that may be needed for the proper construction, improvement or maintenance of a highway.

(c) Property deemed by the petitioner to be necessary to give to persons using a highway a clear view of approaching persons and vehicles, cars, trains and other instruments of travel, at any intersection of a highway with another highway or with a railroad track.

(d) Property deemed by the petitioner to be necessary to change the channel of any water course, natural or artificial, in order to maintain a proper alignment of any highway without crossing the water course and the riparian rights of any person, firm or corporation in or pertaining to any such water course.

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(e) Property abutting on any highway right of way and deemed by the petitioner to be necessary for the storage of road machinery, equipment or materials.

(f) Property deemed by the petitioner to be necessary for the location, development and construction of offstreet parking places for vehicles, to facilitate the flow of traffic on sections of the highways forming bypasses around and connections into and through municipalities and metropolitan areas, upon which sections parking is permanently prohibited.

(g) Property deemed by the petitioner to be necessary for the construction, adjacent to the highways, of flight strips for the landing and take off of aircraft or for clear zones or aviation easements in connection therewith, or any combination thereof, in order to insure greater safety for traffic. For the purpose of uniformity, the size, location, layout, lighting and markings of such flight strips shall be in conformity with rules and regulations to be prescribed by the board or commission.

(h) Any and all other property and property rights deemed by the board or commission having jurisdiction over a highway to be necessary for the proper construction, improvement, landscaping or maintenance thereof, including the development, construction and maintenance, adjacent to such highways, of roadside parks, parking spaces, rest areas, scenic areas, scenic lookouts, information lodges and any other purpose authorized by law in the interest of the beneficial use of such highways by the traveling public.

(i) Nonresidential property deemed by cities and villages to be necessary for redevelopment or rehabilitation projects as authorized by Act No. 344 of the Public Acts of 1945, as amended, being sections 125.71 to 125.83 of the Compiled Laws of 1948. Nonresidential property means any commercial, industrial or professional properties, either zoned or used as such.

HISTORY: New 1966, p. 495, Act 295, Imd. Eff. Jul. 14;—Am. 1967, p. 295, Act 208, Imd. Eff. Jul. 10.

213.362 Property in city or village; designation and consent prior to acquisition for street or highway.

Sec. 2. Before any proceedings are taken under this act by boards of county road commissioners or the state highway commission involving the taking of property or property rights in a city or village for the changing, altering, opening or widening of a street or highway, the street or highway shall be taken over as a county road or designated as a state trunk line or federal aid highway, and the consent of the village or city council by resolution so to take over or designate the street or highway as a county road or state trunk line or federal aid highway shall be first obtained.

HISTORY: New 1966, p. 495, Act 295, Imd. Eff. Jul. 14;—Am. 1969, p. 303, Act 154, Imd. Eff. Jul. 31.

213.363 Property; conveyances; name in which taken, instruments, mineral and gas rights, recording.

Sec. 3. Property for county roads shall be secured by the board of county road commissioners and shall be taken in the name of the board. Property for trunk line highway purposes shall be secured by the state highway commission and shall be taken in the name of the state or commission. Property secured by a city or village shall be taken in the name of the city or village. All such property not acquired by condemnation shall be acquired by appropriate instrument duly executed by the owner or owners of the lands and acknowledged and witnessed in the manner provided by law for the acknowledging and witnessing of deeds. Fluid mineral and gas rights shall be deemed excluded from such instruments unless specifically included therein. The ex-

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ercise of such fluid mineral and gas rights, as permitted by law, shall not interfere with the use of such property for highway purposes, including limited access highway purposes. All such instruments shall be recorded in the office of the register of deeds of the county in which the land is situated.

HISTORY: New 1966, p. 495, Act 295, Imd. Eff. Jul. 14;—Am. 1967, p. 296, Act 206, Imd. Eff. Jul. 10.

213.364 Property; payments; source, warrants.

Sec. 4. Property acquired shall be paid for by the petitioner out of any funds under its control and available for that purpose. Any payment or deposit of money under this act may be made in the form of a warrant drawn on the city, village, county or state treasury.

HISTORY: New 1966, p. 496, Act 295, Imd. Eff. Jul. 14;—Am. 1967, p. 296, Act 206, Imd. Eff. Jul. 10.

213.365 Property; adjacent land, cemeteries, exchanges, parcels of property.

Sec. 5. This act extends to and includes:

(a) The right to acquire and take property adjacent to that required for public purposes for the purpose of exchanging it for property required or of replatting or rearranging the property abutting on the public improvement after the taking so as to conform with the plan or arrangement in effect before the taking.

(b) The right to acquire and take property and property rights held, reserved, owned, used or occupied by any cemetery association, or by any person, firm, society, association or corporation for cemetery purposes.

(c) The right to acquire and take property which is to be exchanged for public property needed for highway purposes pursuant to an agreement in writing with the owner or owners of such public property for such exchange.

(d) The right and duty to acquire and take the fee to a whole of a particular parcel of land whenever the acquisition of the portion thereof actually needed would destroy the practical value or utility of the remainder of such parcel. The question as to whether or not the practical value or utility of the remainder is in fact destroyed shall be determined by the court or jury and incorporated in its verdict.

HISTORY: New 1966, p. 496, Act 295, Imd. Eff. Jul. 14;—Am. 1967, p. 296, Act 206, Imd. Eff. Jul. 10.

213.366 Petition; condemnation of property in circuit courts; filing, contents, notice.

Sec. 6. (1) When the petitioner is unable to agree with any person interested in any private property for the purchase thereof, the petitioner, after making a good faith written offer to purchase the property, may file a petition for the acquisition of the property or property rights, in the circuit court of the county in which the property is located. When any such parcel, property, property rights or interest is situated in 2 or more counties, the petition may be filed in any of the counties in which an owner is resident, and if no owner resides therein, it may be filed in any of such counties. The petition shall ask that a jury be summoned and impanelled to ascertain and determine just compensation to be made therefor.

(2) The petition shall contain or have annexed thereto:

(a) A description of the property to be taken sufficient for its identification and the names of the persons interested therein, so far as known.

(b) A statement of the estate or interest in the property to be taken. Fluid mineral and gas rights and rights of access to and over the highway are deemed excluded from the taking unless such rights are specifically included therein.

(c) A plan showing the property to be taken.

(d) A statement of purpose for which the property is being acquired, and any other

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pertinent matter of things, and may pray for any other or further relief to which the petitioner is entitled by law.

(3) The petitioner shall file with the petition, with respect to each parcel, a statement of the sum of money estimated by petitioner to be just compensation for the property to be taken. The statement shall be in the form of a notice to the persons interested in each parcel notifying such persons of the proposed taking, of the time within which motions for review under section 8 shall be filed, and of the amount which will be awarded in the event of a default and the persons to whom the amount will be paid. The statement shall be entitled a notice of taking and statement of estimated compensation, and shall be served upon all respondents, with the other pleadings in the case, in the manner prescribed by section 13 hereof.

HISTORY: New 1966, p. 496, Act 295, Imd. Eff. Jul. 14;—Am. 1967, p. 296, Act 206, Imd. Eff. Jul. 10.

213.367 Petition; declaration of taking; time for filing, contents.

Sec. 7. The petitioner may file in the cause, with the petition or at any time before judgment, a declaration of taking declaring that property is thereby taken by petitioner. The declaration of taking shall contain or have annexed thereto the same information required by paragraphs (a), (b) and (d) of subsection (2) of section 6 and also a statement of the sum of money estimated by petitioner to be just compensation for the property taken.

HISTORY: New 1966, p. 497, Act 295, Imd. Eff. Jul 14;—Am. 1967, p. 297, Act 206, Imd. Eff. Jul. 10.

213.368 Petition; motion for review of necessity of taking; notice of hearing; hearing time; determination; appeal.

Sec. 8. Within 10 days after the notice required by section 6 has been given, a person claiming fraud or abuse of discretion, or both, in the necessity of the taking of all or any part of the property for the purposes stated in the petition, and having a justiciable interest in the property involved, may file a motion in the same court and cause, asking that such necessity be reviewed. He shall give at least 10 days' notice of the hearing to all parties interested in the same parcel. Such hearing shall be held within 20 days of the filing of the motion. At the hearing the court shall determine whether or not there has been either fraud or abuse of discretion in regard to such necessity. Appeal from the findings of the court may be taken as in other civil cases.

HISTORY: New 1966, p. 497, Act 295, Imd. Eff. Jul. 14.

213.369 Petition; declaration of taking; filing; deposit with city, village, county or state treasurer; vesting of title.

Sec. 9. If no motion for review is filed within the time specified in section 8, upon filing a declaration of taking and depositing with the city, village, county or state treasurer the amount of the estimated compensation the title to the property described in the declaration of taking shall vest in petitioner, who shall forthwith record a copy of the declaration of taking with the register of deeds of the county. The right to just compensation shall then vest in the persons entitled thereto and be secured as herein provided. The deposit shall likewise be made and title vest as hereinbefore provided if, after a hearing or appeal such motion is denied.

HISTORY: New 1966, p. 497, Act 295, Imd. Eff. Jul. 14;—Am. 1967, p. 297, Act 206, Imd. Eff. Jul. 10.

213.370 Property; application for payment of money deposited.

Sec. 10. If a motion for review as provided in section 8 is not filed, or is denied and the right to appeal has terminated, upon application of the parties in interest the court may order the city, village, county or state treasurer to pay the money thus deposited, or any part thereof, for or on account of the just compensation to be awarded in the proceeding.

HISTORY: New 1966, p. 497, Act 295, Imd. Eff. Jul. 14;—Am. 1967, p. 297, Act 206, Imd. Eff. Jul. 10.

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213.371 Property; surrender of possession of same to petitioner; writ of assistance.

Sec. 11. Upon filing of a declaration of taking and making the deposit as provided in section 9, or if motion for review is filed, upon final determination thereof, the court shall fix the time and terms for surrender of possession of the property to the petitioner, and to enforce surrender by appropriate order or writ of assistance.

HISTORY: New 1966, p. 497, Act 295, Imd. Eff. Jul. 14;—Am. 1967, p. 297, Act 206, Imd. Eff. Jul. 10.

213.372 Respondents; guardian ad litem for.

Sec. 12. The court shall appoint a guardian ad litem for any minor, insane or incompetent person named as a respondent, which guardian shall be a resident of the county.

HISTORY: New 1966, p. 497, Act 295, Imd. Eff. Jul. 14.

213.373 Condemnation; order fixing day of hearing; contents, publication; service; proof.

Sec. 13. (1) Upon filing such petition, the court shall enter an order fixing a day for hearing which shall be not less than 3 weeks thereafter. The order shall recite the names of the persons mentioned in the petition as parties in interest, reasonably describe the property to be taken, state the purpose of the petition, and order such persons to appear before the court at the time fixed in the order for the hearing on the petition.

(2) The order shall be published once in each week for 3 weeks consecutively in some newspaper published and circulated in the county. If service as provided in subsection (3) is made on all parties in interest, publication is not required.

(3) A copy of the order and all notices and pleadings theretofore filed by the petitioner with respect to each parcel shall be served on each person named in the petition as interested in such parcel, who resides within the county, and on each such guardian at least 20 days before the day of hearing. Service may be made personally or by leaving the copies at the residence of the person to be served with a person of suitable age and discretion. If such service cannot be made or is not required, service shall be made by first class mail. If the present address of any person named in the petition cannot be ascertained upon diligent inquiry, the copies shall be mailed to his last known address. If his last known address cannot be ascertained upon diligent inquiry, service by publication as provided in subsection (2) is sufficient.

(4) Publication and mailing constitute service upon all nonresidents of the county and all persons absent from the jurisdiction or unknown or who are evading service or who for any other reason cannot be found. In lieu of publication, personal service as provided in subsection (3) may be made on those interested parties residing anywhere in the state.

(5) Proof of publication, mailing and service may be made by affidavit of any person having knowledge of the facts. The proof shall be filed with the court on or before the day of hearing. Service in either mode prescribed shall be sufficient notice of the proceeding to bind the parties in interest named therein and the property as described in the petition.

HISTORY: New 1966, p. 496, Act 295, Imd. Eff. Jul. 14;—Am. 1967, p. 297, Act 206, Imd. Eff. Jul. 10;—Am. 1968, p. 196, Act 134, Imd. Eff. Jun. 11.

213.374 Hearing; default judgments; entry; payment of compensation.

Sec. 14. On the day fixed for hearing the court shall enter the default of all persons interested in the property described who have not appeared and, if the default of all the parties interested in a given parcel is entered, shall enter judgment and direct payment to such persons of the sums stated in the notice of taking and statement of esti-

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mated compensation as compensation for the taking of the pieces or parcels of property in which they are interested.

HISTORY: New 1966, p. 498, Act 295, Imd. Eff. Jul. 14.

213.375 Hearing; jury trial; number; summoning; waiver.

Sec. 15. On the date of the hearing the court shall set a date certain for the impanelling of the jury and trial as to parcels not previously disposed of. A jury trial may be waived as to any individual parcel with the consent of petitioner and all interested parties who have appeared with respect to such parcel. Such jury shall be composed of 12 freeholders of the county and shall be selected and impanelled from the petit jurors summoned to serve at that term of court.

HISTORY: New 1966, p. 498, Act 295, Imd. Eff. Jul. 14.

213.376 Hearing; peremptory challenges; procedure for impaneling, summoning and excusing jury.

Sec. 16. The petitioner shall have 6 peremptory challenges and each respondent shall have 1 peremptory challenge: Provided, however, That the respondent or respondents shall in all cases have at least 6 peremptory challenges: Provided further, That when tenants by the entirety, joint tenants or tenants in common are joined as party respondents, they shall be deemed as singular respondents and entitled to only 1 peremptory challenge as provided herein. The practice and proceedings under this act, except as herein provided, relative to the impanelling, summoning and excusing jurors and talesmen and imposing penalties or fines upon them for nonattendance, shall be the same as the practice and proceedings of the circuit courts of the state relative to petit jurors in civil cases.

HISTORY: New 1966, p. 498, Act 295, Imd. Eff. Jul. 14.

213.377 Jury; oath or affirmation; duties.

Sec. 17. (1) The jurors so impanelled shall be sworn or shall affirm in substance as follows:

"You do solemnly swear (or affirm) that you will well and truly ascertain, determine and award a just compensation to be made for taking the private property which the petition describes and faithfully and impartially discharge all other duties which devolve upon you in this case, and unless discharged by the court, a true verdict given according to law and evidence, so help you God (or under the pains of perjury)."

(2) The jury shall hear the proofs and allegations of the parties, and if so ordered by the court shall whenever practicable visit the property proposed to be taken and examine it. It shall be instructed as to its duties and the law of the case by the judge of the court, and shall retire under charge of an officer and render its verdict in the same manner as on the trial of an ordinary civil case, but the same shall be in writing and shall be signed by the foreman or by all the jurors.

HISTORY: New 1966, p. 499, Act 295, Imd. Eff. Jul. 14;—Am. 1967, p. 298, Act 206, Imd. Eff. Jul. 10.

213.378 Jury or court; award of compensation by.

Sec. 18. The court or jury shall award in its verdict, just compensation for each parcel, and thereafter on request of any party thereto may divide the award among the respective parties in interest whether the interest is that of mortgagee, lessee, lienor or otherwise in accordance with proper evidence submitted by such parties in interest.

HISTORY: New 1966, p. 499, Act 295, Imd. Eff. Jul. 14.

213.379 Jury; use of maps, plans, exhibits and blank verdicts.

Sec. 19. (1) To assist the jury in arriving at its verdict the court may allow the jury when it retires to take with it any map, plan or other exhibit admitted in the case as an exhibit, and may also submit to it a blank verdict, which may be as follows:

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The just compensation to be paid for the private property described in the petition in this cause, to be taken for the use or benefit of the public for the proposed improvement or for the accomplishment of the proposed purpose, we have ascertained and determined and hereby award as follows:

(Description of each of the several parcels of private property to be taken—owners, occupants and others interested in each parcel—compensation—to whom payable.)

(2) The different descriptions of the property and the names of the occupants, owners and others interested therein may be inserted in the blank verdict under the direction of the court before it is submitted to the jury, or may be inserted by the jury.

HISTORY: New 1966, p. 499, Act 295, Imd. Eff. Jul. 14.

213.380 Amendments, when allowed.

Sec. 20. Amendments in form and substance may be allowed in any paper, petition, process, record or proceeding or in the description of the property proposed to be taken or in the name of any person whether contained in the resolution passed by the petitioner or otherwise, whenever the amendment will not interfere with the substantial rights of the parties. An amendment may be made before or after judgment confirming the verdict.

HISTORY: New 1966, p. 499, Act 295, Imd. Eff. Jul. 14.

213.381 Judgment; verdict confirmed; motion for new trial; appeals; interest on judgment.

Sec. 21. The court shall forthwith, without notice or hearing, enter judgment confirming the verdict. A motion for a new trial, and other motion seeking relief from the judgment shall be made and an appeal shall be taken in the same manner and within the same time for civil actions. Where there has been a prior declaration of taking, interest on the judgment shall commence at the time fixed by the court for the surrender of possession of the property and shall be computed on the amount by which the judgment exceeds the amount deposited pursuant to section 9. In the absence of a prior declaration of taking, interest on such judgment does not begin to run until after the time has elapsed within which a motion for new trial or appeal may be filed. Interest shall be computed on the amount by which the judgment exceeds the amount deposited pursuant to section 9.

HISTORY: New 1966, p. 499, Act 295, Imd. Eff. Jul. 14.

213.382 Payment of award; procedure; writ of assistance.

Sec. 22. When the verdict has been confirmed by the court, and the time within which to file motions seeking relief from the judgment or to take an appeal has expired, or if an appeal is taken, on the filing in the court below of a certified copy of the order of the court of appeals or the supreme court affirming the judgment of confirmation, the clerk of the court shall transmit to the petitioner certified copies of the verdict, the judgment of confirmation, and any order affirming the judgment. The petitioner shall then set apart the amount of the judgment, less such sums as have theretofore been deposited as provided in section 9, and shall by resolution direct payment to the persons respectively entitled to the money so set apart and awarded. The treasurer of the county or state shall hold and securely keep the money so set apart for the purpose of paying for the property taken and pay the same to the persons entitled thereto according to the judgment on demand, and shall not pay it out for any other purpose whatever. When the necessary sum is actually set apart in the hands of the treasurer, he shall make and sign duplicate certificates verified by his oath, giving the title of the cause and describing the property taken, and showing that the amount of the judgment is in his hands, less such sums as have been deposited and paid, as provided in section 9. He shall file 1 certificate in the office of the clerk of the court in which the proceedings were had, and the other with the register of deeds of the

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county, which certificate shall be prima facie evidence of the matters therein stated. When the compensation is thus set aside and secured to be paid, if the petitioner has not theretofore entered upon and taken possession of and use of such private property, it may enter upon and take possession of it. In case of resistance or refusal on the part of anyone to allow the petitioner to enter upon and take possession of such private property, at any time after the amount of the compensation is actually set aside and ready to be paid to those entitled thereto, the court shall enforce the surrender by appropriate order or writ of assistance.

HISTORY: New 1966, p. 500, Act 295, Imd. Eff. Jul. 14;—Am. 1967, p. 296, Act 206, Imd. Eff. Jul. 10.

213.383 Payment of witnesses; attorney fees.

Sec. 23. Witnesses, both ordinary and expert, in any proceeding under this act are entitled to receive from the petitioner the same fees and compensation provided by law for similar services in ordinary civil actions in circuit court, including reasonable expenses of preparation and trial. The court may order payment by the petitioner to any respondent of an attorney fee not to exceed $100.00 which may be taxed as costs.

HISTORY: New 1966, p. 500, Act 295, Imd. Eff. Jul. 14.

213.384 Property; prima facie evidence of ownership or interest in; use of abstracts of title as evidence.

Sec. 24. It shall be prima facie evidence as to who are owners of and persons interested in any property proposed to be taken if the register or deputy register of deeds of the county or any person having knowledge of the facts testifies in open court that he has examined the records, and states who the records show are the owners of and persons interested in such property, and the nature and extent of such ownership and interest. An abstract of the title to such property or any parcel thereof certified by the register or deputy shall also be prima facie evidence of ownership and persons having an interest in any such property and the nature and extent of such interest.

HISTORY: New 1966, p. 500, Act 295, Imd. Eff. Jul. 14.

213.385 Notice of filing petition; record; constructive notice to purchaser of realty.

Sec. 25. To render the filing of a petition in court constructive notice to a purchaser of real estate, the petitioner shall file for record with the register of deeds of the county a notice of the filing of the petition. The notice shall set forth the title of the cause and the general object thereof, a description of the property to be affected thereby, notice of the filing of declaration of taking if any, and notice of deposit of funds with the treasurer pursuant to the declaration of taking. The register of deeds shall then record the notice in a book kept for that purpose upon payment of the fee provided by law for recording deeds. The register of deeds shall enter in an indexed book kept in his office references to the notice which will enable all persons interested to search his office for the notice without inconvenience.

HISTORY: New 1966, p. 500, Act 295, Imd. Eff. Jul. 14.

213.386 Constructive notice to purchaser of personalty.

Sec. 26. To render the filing of a petition in court constructive notice to a purchaser of personal property, the petitioner shall file with the city, village or township clerk a notice similar to that provided for in section 25.

HISTORY: New 1966, p. 501, Act 295, Imd. Eff. Jul. 14.

213.387 Property; lease, sale or conveyance of excess.

Sec. 27. When property has been acquired by any city, village, board or the commission it shall have the right to lease, sell and convey any portion thereof not needed, on whatever terms such board or commission may deem proper. A record of all leases

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and sales, showing the appraised value, the sale price and other pertinent information, shall be kept in the office of the board or commission.

HISTORY: New 1966, p. 501, Act 295, Imd. Eff. Jul. 14;—Am. 1967, p. 299, Act 206, Imd. Eff. Jul. 10.

213.388 Property; enhancement in value of remainder of parcel to be considered in determining compensation; duty to claim benefits.

Sec. 28. Enhancement in value of the remainder of a parcel, by reason of laying out, altering, widening or otherwise improving any highway or of changing the line thereof, or by any such action in combination with discontinuing a highway, shall be taken into consideration in determining compensation for the taking of any part of the parcel for any such highway purpose. In such case:

(a) The petitioner shall set forth in the petition the fact that such benefits are claimed and describe the construction proposed to be made which will create such enhancement. If the construction is not completed in substantial compliance with the plan upon which the petitioner based its claim of benefits the respondent, within 1 year of the completion of construction, may reopen the question of compensation. In such event the respondent is entitled to the difference between the value of his property as affected by the actual construction, and the value of his property as it would have been had construction been completed according to plan. The respondent shall not recover more compensation than he would have received had there been no claim of benefits.

(b) In response to such claim by petitioner, the respondent prior to trial may request the court to require petitioner to acquire that portion of the remainder of the tract from which the taking is to be made which petitioner claims to be benefited. The petitioner at any time before trial, may withdraw its claim of benefits and thereby avoid the effect of this paragraph.

(c) The petitioner shall have the burden of proof with respect to the existence of such benefits.

(d) Where the existence or amount of such benefits is disputed by the property owner, the petitioner may acquire the entire tract or parcel of land from which the proposed taking is to be made or the portion thereof which petitioner claims to be benefited.

HISTORY: New 1966, p. 501, Act 295, Imd. Eff. Jul. 14.

213.389 Property; date of valuation, determination, civil action in court of claims.

Sec. 29. The date of valuation in all proceedings pursuant to this act shall be the date of filing the declaration of taking or the date of commencement of trial, whichever is earlier. The value of the property, and of any part thereof remaining after the taking, shall be determined with respect to the condition of the property and the state of the market on that date. Any enhancement or diminution in the value of the property before the proposed taking but not after the taking which is directly attributable to the proposed project or the announcement thereof shall be disregarded in arriving at such value and the property shall be valued in all cases as though the project had not been contemplated. Where a claim is made that the conduct of petitioner has resulted in a taking of property in the constitutional sense at a date earlier than the date of valuation set forth herein, such taking shall give rise to an action at law which may be prosecuted in the court of claims, if the petitioner is the state highway commission, or in the circuit courts of the several counties if the petitioner is a board of county road commissioners.

HISTORY: New 1966, p. 501, Act 295, Imd. Eff. Jul. 14.

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213.390 Proceedings; discontinuance of.

Sec. 30. The petitioner shall not have power to discontinue the proceedings under this act after the vesting of title to the property taken. In case of the discontinuance of the proceedings after a jury has been impanelled, the petitioner, as a condition of the right to discontinue the proceedings, shall pay the actual expenses and reasonable attorney fees of all parties affected by such discontinuance.

HISTORY: New 1966, p. 502, Act 295, Imd. Eff. Jul. 14.

213.391 Effect on other condemnation acts.

Sec. 31. This act does not directly or by implication repeal or amend any other condemnation act or part thereof.

HISTORY: New 1966, p. 502, Act 295, Imd. Eff. Jul. 14.

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CHAPTERS 220-244. HIGHWAYS—GENERAL HIGHWAY LAW

General Highway Law

Act 283 of 1909

			Sections
		General Purpose of Act	220.1
Chapter	I	Laying Out, Altering and Discontinuing Highways	221.1-221.30
	II	Taxes for Highway Purposes	222.1-222.19
	IV	County Road Law	224.1-224.31
	V	State Reward for Roads	225.1-225.17
	VI	For the Security of Persons and Property on the Highways	226.1-226.6
	IX	Opening of Private Roads and Temporary Highways	229.1-229.11
	X	Penalties and Forfeitures	230.1-230.9
	XI	Shade Trees in Highways	231.1-231.4
	XII	General Duties of Commissioners and Overseers	232.1-232.6
	XIII	Miscellaneous Provisions	233.1-233.15
	XIV	Highway Taxes and the Assessment Thereof	234.1-234.7
		Township Road Bonds	234.8-234.18
	XV	Drains	235.1-235.8a
	XVI	Powers and Duties of Boards of Supervisors	236.1-236.11
	XVIII	Highway Orders	238.1-238.4
	XIX	Culverts, or Cattle-Passes and Hedges	239.1-239.6
	XX	State Roads	240.1-240.5
	XXI	Sidewalks	241.1-241.13
	XXII	Recovery of Damages	242.1-242.8
	XXIII	Law of the Road	243.1-243.9
	XXIV	Noxious Weeds	244.1-244.10

Act 283, 1909, p. 544; Eff. Sep. 1.

AN ACT to revise, consolidate and add to the laws relating to the establishment, opening, discontinuing, vacating, closing, altering, improvement, maintenance and use of the public highways and private roads, the condemnation of property and gravel therefor; the building, repairing and preservation of bridges; setting and protecting shade trees, drainage, cutting weeds and brush within this state, and providing for the election or appointment and defining the powers, duties and compensation of state, county, township and district highway officials. Am. 1929, p. 61, Act 31, Eff. Aug. 28; —Am. 1951, p. 53, Act 50, Imd. Eff. Jun. 1.

The People of the State of Michigan enact:

General Purpose of Act	
220.1	Highways and private roads; establishment and maintenance; authority of municipalities; highway officials, duties.

220.1 Highways and private roads; establishment and maintenance; authority of municipalities; highway officials, duties.

Sec. 1. Public highways and private roads may be established, opened, improved and maintained within this state under the provisions of this act, and the counties,

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townships, cities, villages and districts of this state shall possess the authority herein prescribed for the building, repairing and preservation of bridges and culverts; the draining of highways, cutting of weeds and brush in the improvement of highways and the duties of state, county, township, city, village and district highway officials shall be as defined in this act.

HISTORY: CL 1915, 4287;—CL 1929, 3916;—CL 1948, 220.1.

FORMER ACTS: This act is a codification of the laws relating to public highways, private roads and bridges. It supersedes the following acts:

Act 243 of 1881 as amended being CL 1897, 4035 to 4050 and 4057 to 4070, and 4072 to 4192:

Act 306 of 1905 which repeals Act 62 of 1889 being CL 1897, 4051 to 4056; Act 163 of 1889 being CL 1897, 4071; Act 173 of 1897 being CL 1897, 4193 to 4197; Act 154 of 1869 as amended, being CL 1897, 4198 to 4201; Act 176 of 1881, being CL 1897, 4202; Act 60 of 1883 as amended being CL 1897, 4203 to 4209; Act 71 of 1881, being CL 1897, 4210 to 4211; Act 72 of 1881, being CL 1897, 4212 to 4213; Act 234 of 1879, being CL 1897, 4214 to 4215; Act 149 of 1855 as amended, being CL 1897, 4216 to 4219; Act 16 of 1883, being CL 1897, 4220 to 4223; Act 57 of 1883, being CL 1897, 4224 to 4225; Act 13 of 1885, being CL 1897, 4228; Act 149 of 1893, as amended being CL 1897, 4262 to 4290; R.S. 1846, Chap. 44, being CL 1897, 4291 to 4297; Act 264 of 1887, being CL 1897, 3441 to 3445; Act 159 of 1903 which repeals Act 21 of 1893, being CL 1897, 3446 to 3448; Act 163 of 1895, being CL 1897, 2513 to 2522; Act 91 of 1897, being CL 1897, 2383 to 2386 which act was declared unconstitutional in Gravel Road v. Hogadone, 150 Mich. 638, 641, 114 N.W. 917, Act 72 of 1899; Act 76 of 1899 as amended; Act 56 of 1903 as amended; Act 203 of 1903; Act 231 of 1903 as amended; Act 69 of 1905; Act 146 of 1905 as amended; Act 247 of 1905; Act 108 of 1907 as amended; Act 166 of 1907; Act 168 of 1907; Act 263 of 1907; Act 327 of 1907; Act 268 of 1907; Act 249 of 1897 being CL 1897, 3499 to 3511; Act 261 of 1859 being CL 1897, 5707 to 5708; Act 292 of 1887 being CL 1897, 5516 to 5521.

Transfer to City of Lansing of certain lands for street and highway purposes, see Act 212 of 1901.

Authorizing the City of Grand Rapids to use highways between Grand Rapids and Lake Michigan for water mains, see Act 285 of 1907.

Improvement of Fort Gratiot Turnpike, see Act 99 of 1911 and Act 62 of 1915.

State public wagon road extending from village of Seney, see Act 58 of 1913 and Act 179 of 1915.

CONSTITUTION: See Const. VII, 16, 29, 31.

STREETS AND SIDEWALKS: Sidewalks or pavements outside cities and villages, see Compilers' § 41.271 et seq.

Villages, see Compilers' § 67.7 et seq.; fourth class cities, see Compilers' § 102.1 et seq.; home rule cities, see Compilers' § 117.4h.

Street commissioner, fourth class cities, see Compilers' §§ 87.22 and 87.23.

PURCHASE AND CONDEMNATION OF PROPERTY: See Compilers' § 224.11 et seq., and Compilers' § 213.171 et seq.

SUBDIVISION CONTROL ACT: See Act 288 of 1967, being CL 560.101 et seq.

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CHAPTER I.—LAYING OUT, ALTERING AND DISCONTINUING HIGHWAYS.

221.1-221.19 Repealed.
221.20 Public highway; definition, width.
221.21 Repealed.
221.22 Public highway; discontinuance.
221.23-221.26 Repealed.
221.27 Highway across railroads; permission; right-of-way; public utilities commission, powers; construction, maintenance; costs, allocation; penalties.
221.28-221.30 Repealed.

221.1-221.19 Repealed. 1958, p. 83, Act 77, Eff. Sep. 13.

Sections regulated width, laying out, altering or discontinuing highways.

221.20 Public highway; definition, width.

Sec. 20. All highways regularly established in pursuance of existing laws, all roads that shall have been used as such for 10 years or more, whether any record or other proof exists that they were ever established as highways or not, and all roads which have been or which may hereafter be laid out and not recorded, and which shall have been used 8 years or more, shall be deemed public highways, subject to be altered or discontinued according to the provisions of this act. All highways that are or that may become such by time and use, shall be 4 rods in width, and where they are situated on section or quarter section lines, such lines shall be the center of such roads, and the land belonging to such roads shall be 2 rods in width on each side of such lines.

HISTORY: CL 1915, 4307;—CL 1929, 3936;—CL 1948, 221.20. This section re-enacts Sec. 20 of Ch. I of Act 243 of 1881, being How. 1315;—CL 1897, 4081.

221.21 Repealed. 1958, p. 83, Act 77, Eff. Sep. 13.

Section required that roads be ascertained, described, and entered of record if records of roads were or might be defective.

221.22 Public highway; discontinuance.

Sec. 22. Every public highway already laid out, or hereafter to be laid out, no part of which shall have been opened and worked within 4 years after the time of its being so laid out, shall cease to be a road for any purpose whatever.

HISTORY: CL 1915, 4309;—CL 1929, 3938;—CL 1948, 221.22. This section re-enacts Sec. 22 of Ch. I of Act 243 of 1881, being How. 1317;—CL 1897, 4083.

221.23-221.26 Repealed. 1958, p. 83, Act 77, Eff. Sep. 13.

Sections set forth matters to be considered in determination of damages or benefits from laying out, alteration, or discontinuance of a highway, described procedure for paying damages and assessing them, authorized commissioners to lay out and open highways, and provided for care, alteration and discontinuance of state roads.

221.27 Highway across railroads; permission; right-of-way; public utilities commission, powers; construction, maintenance; costs, allocation; penalties.

Sec. 27. Before laying out any highway under the provisions of this act where the same crosses the track and right of way of any railroad company, steam or electric, application shall be made to the Michigan public utilities commission for permission to make such crossing and thereupon it shall be the duty of said commission to cause such examination of the location of such proposed crossing as they may deem necessary. At such examination the railroad company and the township, good roads district, or county interested shall be entitled to be heard after the service of proper notice upon them by the Michigan public utilities commission. If the location of the proposed crossing is found, upon said examination and hearing, to be necessary, feasible and rea-

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sonably safe for a crossing at grade, it shall then be the duty of said commission to grant permission for such crossing to the highway officials making such application, all such crossings to be made according to the specifications adopted by the Michigan public utilities commission. And it shall also be the duty of the said commission, if it deems it necessary for the safety of the traffic on said proposed highway crossing, to prescribe and order such protection to prevent accident thereat as in its judgment is necessary. But if after examination and hearing the Michigan public utilities commission determines that the proposed location is extra hazardous for a crossing at grade, it shall then be its duty to deny permission for such crossing and to require the crossing, if constructed at the said location, to be made other than at grade and according to plans to be submitted to the Michigan public utilities commission for its consideration and approval before the construction of the crossing is commenced. If the said commission determines that it is impracticable to secure a reasonably safe crossing at the point in question, either at grade or otherwise, it may refuse to allow such crossing. If permission is granted for such crossing, either at grade or otherwise, the same proceedings in relation to acquiring the rights of way for such highway across the land of said railroad company, including the right of way across the tracks shall be had as in other cases. Service of all papers shall be made in the same manner upon such railroad companies as is provided by law for service of summons on railroad companies. Such railroad companies shall construct and maintain such crossing and shall be paid annually by such township, good roads district or county, upon verified statements of account rendered therefor, the actual and necessary expense incurred by any railroad company in maintaining such crossing for each year that it is so maintained, and the actual value of the use of the land so used for the same period, and when the compensation awarded such railroad company for its annual damages as above provided shall have been paid or tendered to any person in charge of the ticket or freight office of such company entitled thereto, and situated nearest the said highway crossing, pursuant to the provisions of section 24 of this chapter, then and in such case, such right of way shall be deemed to be fully acquired and secured by and for the public. The highway officials shall then notify in writing such railroad company to furnish a competent superintendent or track man to superintend the construction of such crossing which shall be constructed according to the order of the Michigan public utilities commission issued in regard to said crossing; and such township, good roads district or county shall pay to such superintendent a sum not to exceed 5 dollars a day for a grade crossing and not to exceed 10 dollars a day for a crossing other than at grade, for the time actually and necessarily spent in superintending such construction. And such highway officials are authorized to issue orders for the payment of such superintendent. In case such railroad company refuses or neglects to furnish a superintendent for the construction of such crossing as aforesaid, then it shall be the duty of the Michigan public utilities commission to appoint some suitable person to superintend the construction of such crossing who shall receive the compensation aforesaid from said township, good roads district or county for such services. If any railroad company shall attempt to obstruct the opening of any such highway after such right of way has been secured and payment for damages herein provided for, has been made and tendered as herein provided by any agent, officer or employe or other person, the said railroad company shall be liable to a penalty of 25 dollars for each day the opening or construction of such highway is impeded, for the benefit of the township, good roads district or county, and such township, good roads district or county may sue for and recover such penalty in the circuit court for the county in which such crossing is located, in the name of the township, good roads district, or county; and in addition thereto if any officer, agent or employe or person acting for or in the interest of any railroad company shall annoy, hinder or obstruct any highway official, contractor or person employed by him or

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them in opening such highway or constructing the same according to the order issued by the Michigan public utilities commission, then such officer, agent, employe or person shall be guilty of a misdemeanor and upon conviction thereof shall be fined not to exceed 100 dollars, or imprisonment in the county jail not to exceed 90 days, or by both such fine and imprisonment in the discretion of the court. All material and labor used in the construction of such crossing shall be furnished by the township, good roads district or county applying for such crossing. No public highway shall hereafter be constructed across the tracks of any railroad, nor shall the tracks of any railroad be constructed across a public highway without having first secured the permission of the Michigan public utilities commission. Said commission shall have power, when in their judgment they deem it necessary for the safety of the public, to change the location of or abolish any existing crossing of railroads with highways and to require, when in their judgment it would be practicable, a separation of grades at any such crossing and to prescribe the manner of construction and the terms upon which such separation shall be made and the proportion in which the expense of the alteration or abolition of such crossing or the separation of such grades shall be divided between the railroad corporation and the state, county, good roads district or township: Provided, That no disposition shall be made of this matter until after all parties in interest shall have been afforded an opportunity to be heard in relation thereto. The state's portion of the cost of such changes as may be ordered by the provisions of this act shall in no case exceed 25 percentum of the total cost of such improvement except that in the case of any such separation of grades on a trunk line road the proportion of the expense that is not borne by the railroad corporation concerned shall be divided between the state and the county, good roads districts or township, as the case may be, on the same basis as is or may be provided by law for the division of the cost of constructing trunk line highways. The amount to be paid by the state shall be paid from any state highway funds not otherwise appropriated upon the certificate of the state highway commissioner to the auditor general.

HISTORY: Am. 1915, p. 292, Act 175, Eff. Aug. 24;—CL 1915, 4314;—Am. 1921, p. 221, Act 101, Eff. Aug. 18;—Am. 1921, 1st Ex. Ses., p. 806, Act 31, Eff. Sept. 19;—CL 1929, 3943;—CL 1948, 221.27. This section as originally enacted superseded, with additions, Sec. 27 of Ch. I of Act 243 of 1881, being How. 1322;—As Am. 1883, p. 177, Act 166, Eff. Sept. 8;—As Am. 1889, p. 341, Act 231, Eff. Oct. 2;—As Am. 1893, p. 231, Act 145, Eff. Aug. 28;—CL 1897, 4068.

COMPILERS' NOTE: The title and enacting clause of Act 175 of 1915 are faulty in not specifying what sub-chapter is amended. The title and enacting section of Act 367 of 1921 indicate an intention to amend this section but no amendment was made in that act.

GRADE SEPARATION: See Compilers' § 253.1 et seq.

221.28-221.30 Repealed. 1958, p. 83, Act 77, Eff. Sep. 13.

Sections authorized laying out of state line highways, provided survey expenses, and permitted highways of less than standard width.

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CHAPTER II.—TAXES FOR HIGHWAY PURPOSES.

222.1-222.19 Repealed.

222.1-222.19 Repealed. 1958, p. 83, Act 77, Eff. Sep. 13.

Sections provided for taxes for highway purposes and set forth procedures for collecting and accounting and for borrowing in anticipation of tax.

CHAPTER III.—GOOD ROADS DISTRICT.

Secs. 1-10.

HISTORY: CL 1915, 4337-4346;—Rep. 1929, p. 185, Act 73, Imd. Eff. April 23.

Sec. 1, Am. 1913, p. 670, Act 155, Eff. Aug. 14;—Am. 1921, p. 13, Act 9, Eff. March 18, originally enacted re-enacted, with additions, Sec. 1 of Act 268 of 1907.

Secs. 2 and 3 superseded Secs. 2 and 3 of Act 268 of 1907;

Sec. 4 re-enacted Sec. 4 of Act 268 of 1907;

Secs. 5-6, Am. 1917, p. 693, Act 268, Eff. Aug. 10, as originally enacted superseded Secs. 5-6 of Act 268 of 1907;

Sec. 7, Am. 1915, p. 175, Act 101, Imd. Eff. June 27, as originally enacted superseded Sec. 7 of Act 268 of 1907.

Sec. 8 re-enacted a part of Sec. 8 of Act 268 of 1907.

Sec. 9, Am. 1913, p. 671, Act 355, Eff. Aug. 14, was a new section.

Sec. 10, Add. 1913, p. 671, Act 355, Eff. Aug. 14;—Am. 1915, p. 30, Act 21, Eff. Aug. 24.

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CHAPTER IV.—COUNTY ROAD LAW.

224.1 Adoption of county road system; referendum, form of resolution; special election.
224.2 Election; time notice, form.
224.3 Election; publication of notice, ballots.
224.4 Election; results.
224.5 Election; conduct.
224.6 County road commissioners; appointment or election, procedure; term of office; appointed commissioner, removals; complete board.
224.7 County road commissioners; oath, bond, regular term, succession, eligibility.
224.8 County road commissioners; vacancies, compensation.
224.9 County road commissioners; body corporate; quorum, officers; superintendent; official name; title to land; service of process; conveyances; clerk of board.
224.10 County road commissioners; interest in contracts prohibited; highway engineer, employees, sealed bids; surplus government property.
224.10a County road commissioners; group insurance for employees and dependents.
Annuities for employees; amounts, conditions.
Employee participation.
Benefits on uniform scale; authorized companies.
Collective bargaining unit programs.
Reports.
224.11 County road commissioners; authority to layout, widen or change road; purchase of private property.
224.11a County road commissioners; acceptance of land, payment of taxes and special assessments.
224.12 Condemnation; petition for appointment of commissioners; order for hearing; publication and service; proof.
224.13 Condemnation; commissioners; appointment, duties, qualifications.
224.14 Condemnation; meeting of commissioners, adjournment; subpoena of witnesses; view of premises; report; damages.
224.15 Condemnation; powers of court.
224.16 Condemnation; payment of awards; certificate of court, recording; vesting of title; prima facie evidence; court commissioners, compensation, expenses.
224.17 County line road; disagreement, arbitration; neglect of county commissioners; authority of state highway commissioner, deduction from county tax refunds.
224.18 State reward; map; conversion; determination, notice; name; intercounty roads; abandonment; discontinuance of jurisdiction; petition, list of occupants on abutting land.
Abandonment, notice of hearing, service.
Affidavit of service; hearing examiner, report of findings.
View of premises; necessity for abandonment.
Record of determination, filing with state highway commissioner.
Reservation of easement, extinguishment.
224.19 County road commissioners and county highway engineer; duties; actions for injuries to road; bids rejection; review of plans.
224.20 County road commissioners; surveys; tax, determination, maximum; submission to supervisors, revision, apportionment; tax levy, collection, disbursement.
224.20a County road tax; nonapplication of tax rate limitations; local approval; use of revenues.
224.20b County road tax; submission to electors; allocation of revenues; use.
224.21 County road commissioners; authority to obligate county limitation; roads under construction; duty of county to keep roads in repair; actions brought against board; liability for damages.
224.22 Bond issue; submission to electors, notice, vote; disbursement of proceeds.
224.23, 224.24 Repealed.
224.25 Board of county road commissioners; statement of accounts made to board of supervisors, audit, proof of filing, publication, statement of county clerk, filing with state highway commissioner.
224.26, 224.27 Repealed.
224.30, 224.31 Repealed.

224.1 Adoption of county road system; referendum, form of resolution; special election.

Sec. 1. On petition of not less than 10 per centum of the resident freeholders residing in each of the several organized townships, incorporated villages and cities, of any county, as shown by the tax roll of the preceding year, or upon a majority vote of the members of the board of supervisors, the board of supervisors of such county may submit the question of adopting the county road system to a vote of the electors of such county. The said board of supervisors may submit the question at a general or special election called for that purpose. The following form of resolution shall be sufficient for submitting the question, viz.: Resolved, That the question of adopting the county road system be submitted to a vote of the electors of the county of ..... at (the gen-

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eral or special election) to be held on the ..... day of ..... nineteen hundred ..... If a special election is to be called, a clause added to the resolution in form following shall be sufficient for that purpose, viz.: "And a special election is hereby called to be held in the several townships and wards of said county on the day last aforesaid, for the purpose of taking such vote." In any county of the state in which the question of adopting the county road system, whether under this act or under any previous law providing therefor, has been heretofore submitted to a vote of the electors and has been determined affirmatively, and in which the county road system for any reason has not been put into actual operation and effect, the question of the adoption of the provisions of this chapter may be submitted as herein provided, notwithstanding such previous submission and adoption.

HISTORY: CL 1915, 4347;—Am. 1921, p. 266, Act 122, Eff. Aug. 18;—CL 1929, 3976;—CL 1948, 224.1. This section as originally enacted superseded Sec. 1 of Act 149 of 1893, being CL 1897, 4262;—As Am. 1905, p. 296, Act 199, Eff. Sept. 16;—As Am. 1907, p. 95, Act 82, Imd Eff. May 8.

COUNTY PARK TRUSTEES: See Compilers' § 123.66.

224.2 Election; time notice, form.

Sec. 2. At least 3 weeks shall intervene between the adoption of the resolution by the board of supervisors and the time of holding such election. After the adoption of the resolution by the board of supervisors, the county clerk shall give notice thereof. Such notice shall be addressed to the electors of the county and shall set forth the action of the board of supervisors together with a copy of the resolution, and shall further give notice that said question will be stated upon the ballot to be used at said election, as follows: Shall the county road system be adopted by the county of .....? Said notice may be in the form following, viz:

To the electors of the county of .....

Notice is hereby given that at a meeting of the board of supervisors of said county held on the ..... day of ..... 19...., the following resolution was adopted, viz.: (here set forth the resolution).

Notice is further given that said question will be stated on the ballots to be used at said election, as follows: Shall the county road system be adopted by the county of .....?

Dated .....

.....

Clerk of the county of .....

HISTORY: CL 1915, 4348;—CL 1929, 3977;—CL 1948, 224.2. This section re-enacts Sec. 2 of Act 149 of 1893, being CL 1897, 4263.—As Am. 1907, p. 96, Act 82, Imd. Eff. May 8.

224.3 Election; publication of notice, ballots.

Sec. 3. Said clerk shall cause such notice, printed in the form of a handbill, to be posted in 3 or more public places in each township and ward of such county, at least 2 weeks before the time of such election, and also to be published in such newspaper or newspapers published and circulated in said county as the board of supervisors may direct, once in each week for at least 2 weeks before said election. Proof of the posting and publication of such notice may be made by affidavit of any person or persons knowing the facts and be filed in the office of said clerk and shall be recorded in the records of the proceedings of the board of supervisors. Such affidavit or the record thereof, or a certified copy of such affidavit or the record thereof, shall be prima facie evidence of the facts stated therein. Ballots shall be prepared and distributed by the same officers prescribed by law for general elections. The questions shall be stated on such ballots as follows, viz.: Shall the county road system be adopted by the county of

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.....? and immediately below and on different lines shall be printed the word "yes" and the word "no." At the time mentioned in such resolution such election shall be held and the vote taken accordingly.

HISTORY: CL 1915, 4349;—CL 1929, 3978;—CL 1948, 224.3. This section re-enacts Sec. 3 of Act 149 of 1893, being CL 1897, 4264.

224.4 Election; results.

Sec. 4. If upon the canvass of the votes cast at such election it shall appear that the majority is in favor of the adoption thereof, then the county road system shall be considered as adopted in such county, and thereupon the provisions of this act and all other acts relative to such system shall be and become operative in such county.

HISTORY: CL 1915, 4350;—CL 1929, 3979;—CL 1948, 224.4. This section re-enacts Sec. 4 of Act 149 of 1893, being CL 1897, 4265.

224.5 Election; conduct.

Sec. 5. In all elections held under this act the manner of preparing and distributing the ballots, the manner of conducting, canvassing, returning and declaring the result, shall be the same as now prescribed by law for other like county elections, except as herein otherwise provided.

HISTORY: Am. 1915, p. 127, Act 75, Eff. Aug. 24;—CL 1915, 4351;—CL 1929, 3980;—CL 1948, 224.5. This section as originally enacted superseded part of Sec. 5 of Act 149 of 1893, being CL 1897, 4266.

224.6 County road commissioners; appointment or election, procedure; term of office; appointed commissioner, removals; complete board.

Sec. 6. In any county where the county road system has been or shall hereafter be adopted, a board of county road commissioners consisting of 3 members shall be elected by the people of such county. In the first instance such commissioners shall be appointed by the board of supervisors or elected at a general or special election called for that purpose, as shall be ordered by the board of supervisors. If such commissioners are appointed they shall hold office only until the first day of January in the year in which the next regular session of the legislature is held. If such commissioners are to be elected at a general election, notice thereof, embodying a copy of the resolutions of the board of supervisors, giving the number and terms of the office of the commissioners to be elected, shall be published by the clerk in the newspaper or newspapers selected by the board of supervisors as required by section 3 of this chapter and act; if a special election is called for the election of such commissioners, a like notice shall be given by the clerk, which notice shall be posted and published in such newspapers as required by said section 3 of this chapter and act. The regular election of county road commissioners shall be held at the general election on the first Tuesday after the first Monday in November, and the term of office of such county road commissioners shall commence on the first day of January in the year following their election. The notice thereof shall be given at the time notice is given of the general election of county officers: Provided, That the election of county road commissioners, as herein provided, shall not be mandatory in any county which contains 12 surveyed townships or more, either entire or fractional as determined by the government survey thereof. In such county or counties the board of supervisors may, by a majority of its members elect, appoint such county road commissioners; but a county road commissioner so appointed shall not be removed from office before the expiration of his term of office without being given due written notice of the charges made against him and an opportunity to appear before the board of supervisors for a hearing thereon: Provided further, That in any county in which the board of road commissioners shall consist, at the time this amendment takes effect, of less than 3 members, the board of supervisors, at the first regular meeting thereafter, or at a special meeting called for that purpose, shall appoint such additional members as may be necessary. At the time of such appointment the board of supervisors shall designate the date of expiration of the initial

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term of each commissioner so appointed, so that the term of a commissioner shall expire on the thirty-first day of December of each even year.

HISTORY: Am. 1911, p. 233, Act 148, Eff. Aug. 1;—Am. 1913, p. 764, Act 400, Eff. Aug. 14;—Am. 1915, p. 127, Act 75;—Am. 1915, p. 307, Act 181, Eff. Aug. 24;—CL 1915, 4352;—Am. 1917, p. 874, Act 356, Imd. Eff. May 10;—Am. 1929, p. 576, Act 233, Eff. Aug. 28;—CL 1929, 3981;—CL 1948, 224.6. This section as originally enacted superseded Sec. 6 of Act 149 of 1893, being CL 1897, 4267;—As Am. 1905, p. 294, Act 197, Eff. Sept. 16;—As Am. 1907, p. 96, Act 82, Imd. Eff. May 8.

The title to Act 371 of 1913 indicates an intention to amend this section but it is not amended in the body of said act.

SUPER-HIGHWAY COMMISSION: County road commissioners to be members, see Compilers' § 252.3.

COUNTY PARK TRUSTEES: In counties operating under county road system, board of county road commissioners takes place of county park trustees, see Compilers' § 123.66.

224.7 County road commissioners; oath, bond, regular term, succession, eligibility.

Sec. 7. Any person elected or appointed county road commissioner shall, within 10 days after being notified in writing by the clerk of such county of his election or appointment, take and subscribe the constitutional oath of office and file the same with said clerk. Each and every county road commissioner shall be required to execute and give official bond in such amount as the board of supervisors of such county may determine, the expense of securing such bond, if any, to be paid from the county road fund. The term of office of the first commissioners elected or appointed in any county under this act, shall commence immediately upon filing such oath of office and bond, and shall continue as herein provided. The successor to each such commissioner shall be elected at the general election on the first Tuesday after the first Monday in November preceding the expiration of his term. They shall hold office for 2, 4 and 6 years respectively, from the said first day of January; and thereafter 1 commissioner shall be elected or appointed biennially for the full term of 6 years. No member of the board of supervisors shall be eligible to the office of county road commissioner, and such offices shall not be held by the same person at the same time.

HISTORY: Am. 1915, p. 128, Act 75, Eff. Aug. 24;—CL 1915, 4353;—Am. 1917, p. 875, Act 356, Imd. Eff. May 10;—CL 1929, 3982;—CL 1948, 224.7. This section as originally enacted superseded Sec. 7 of Act 149 of 1893, being CL 1897, 4268;—As Am. 1899, p. 141, Act 96, Imd. Eff. June 1;—As Am. 1907, p. 97, Act 82, Imd. Eff. May 8.

224.8 County road commissioners; vacancies, compensation.

Sec. 8. In case a vacancy shall occur in the office of county road commissioner, the board of supervisors shall appoint a commissioner to fill such vacancy, who shall hold office for the unexpired portion of the term in which the vacancy occurs. Each commissioner shall hold his office until his successor is elected or appointed and qualified. The board of supervisors shall fix the compensation of such commissioners.

HISTORY: Am. 1911, p. 234, Act 148, Eff. Aug. 1;—Am. 1913, p. 714, Act 371, Eff. Aug. 14;—CL 1915, 4354;—CL 1929, 3983;—Am. 1943, p. 158, Act 121, Eff. Jul. 30;—CL 1948, 224.8;—Am. 1951, p. 53, Act 50, Eff. Jun. 1.

This section as originally enacted superseded Sec. 8 of Act 149 of 1893, being CL 1897, 4269;—As Am. 1905, p. 294, Act 197, Eff. Sep. 16.

The title to Act 371 of 1913 indicates an intention to amend Sec. 6 of Ch. 4 also, but the amendment is omitted from the Act.

224.9 County road commissioners; body corporate; quorum, officers; superintendent; official name; title to land; service of process; conveyances; clerk of board.

Sec. 9. The board of county road commissioners shall constitute and be a body corporate with the right of making and using a common seal and altering the same. A majority of the members of the board of county road commissioners shall constitute a quorum for the transaction of business, but a less number may adjourn from time to time. The board may adopt such rules and regulations for calling and holding meetings and for the transaction of business as they may deem best. They shall annually appoint 1 of their number chairman to hold during the pleasure of the board. The board of county road commissioners shall act as an administrative board only and the function of the board shall be limited to the formulation of policy and the performance of official duties imposed by law and delegated by the board of supervisors, and no member of the board of county road commissioners shall be employed individually in any other capacity by, or for any other duties with the board of county road commissioners: Pro-

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vided, however, That nothing in this act shall interfere with the work of the commissioners during their present term of office. They shall appoint a competent superintendent, skilled in road building, who may or may not be an engineer who shall under the direction of the board, supervise all road building operations in the county. Such board shall be known as the board of county road commissioners of the county of ..... and by that name may sue and be sued, and may hold the title to land or any interest therein, acquired in the manner authorized by law, in that name. Process may be served on the chairman or clerk of the board. Such board may also sell and convey any land or interest in any land held in the name of the said board, or any improvements located thereon, when such land, interest in land, or improvements located thereon, are not a part of any public street or highway, or park, or are not required to be used for any public street or highway, or park. Any conveyance so made shall be signed by the chairman and countersigned by the clerk, or deputy clerk, of said board. The seal of the board shall be attached and said conveyance shall be acknowledged by the signers thereof, as authorized by said board, and as the free act and deed of said board. The clerk of the county shall be clerk of the board of county road commissioners, and shall keep the records and accounts of the board, and preserve its files in a manner directed by the board: Provided, however, That when, in the opinion of the board of county road commissioners, the work is of sufficient volume, the board may appoint a secretary, with the permission of the board of supervisors, who shall be and act as clerk of the board, and whose salary, together with the salaries of the members of the board of county road commissioners, shall be paid by the board of county road commissioners from the county road funds.

HISTORY: CL 1915, 4355; Am. 1917, p. 875, Act 356, Imd. Eff. May 10;—Am. 1919, p. 208, Act 116, Eff. Aug. 14;—Am. 1929, p. 681, Act 277, Eff. Aug. 28;—CL 1929, 3984;—CL 1948, 224.9;—Am. 1951, p. 53, Act 50, Eff. Jun. 1.

This section as originally enacted, re-enacted Sec. 9 of Act 149 of 1893, being CL 1897, 4270.

224.10 County road commissioners; interest in contracts prohibited; highway engineer, employees, sealed bids; surplus government property.

Sec. 10. Neither the clerk nor any member of the board of county road commissioners shall, directly or indirectly, either personally or as a member of any firm or stockholder in any corporation, be pecuniarily interested as contractor or employee in any contract entered into or work carried on by or for such board or in property purchased or sold by or for such board. This section shall not be construed to prevent the purchase of land for a road, from a member of the board or the clerk thereof. The board of commissioners shall employ a competent county highway engineer who shall make all surveys ordered by the board, prepare plans and specifications for all roads, bridges and culverts, and exercise such general supervision over all construction as will insure that the plans and specifications are strictly followed. Two or more adjoining counties may employ the same engineer, if the work in 1 or more of such counties is not enough to employ the whole time of such engineer. The board may also engage such other professional and consultant services as it deems necessary to carry out the provisions of this act and promote efficiency and economy in the operation of the county road system. The board may also employ such other servants and laborers as may be necessary, and may purchase such machines, tools, appliances and materials as shall in its judgment be necessary or convenient for the proper carrying on of their work. In all cases involving the expenditure of an amount greater than $2,500.00 for the purchase of machines, tools, appliances and materials, the board of county road commissioners shall advertise for sealed proposals for the machines, tools, appliances and materials proposed to be purchased, except under emergency conditions the limit shall not exceed $5,000.00. The board shall advertise for sealed proposals for the purchase of passenger vehicles and trucks weighing less than 5,000 pounds. The board may purchase

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surplus properties from the state and federal governments without advertising for sealed proposals.

The engineer employed by the board shall be officially known as the county highway engineer.

HISTORY: Am. 1913, p. 672, Act 355, Eff. Aug. 14;—Am. 1915, p. 128, Act 75, Eff. Aug. 24;—CL 1915, 4356;—CL 1929, 3985;—Am. 1937, p. 542, Act 292, Imd. Eff. Jul. 23;—Am. 1943, p. 88, Act 75, Imd. Eff. Mar. 29;—Am. 1945, p. 200, Act 139, Imd. Eff. May 4;—Am. 1946, 1st Ex. Ses., p. 39, Act 16, Imd. Eff. Feb. 25;—CL 1948, 224.10;—Am. 1967, p. 58, Act 39, Imd. Eff. Jun. 6.

This section as originally enacted superseded Sec. 10 of Act 149 of 1893, being CL 1897, 4271.

224.10a County road commissioners; group insurance for employees and dependents.

Sec. 10a. (1) The board of county road commissioners may participate in the cost of, or provide life, health and accident, and hospitalization insurance for, employees under its jurisdiction and their dependents in any county where the board of supervisors has not made such benefits available to the employees pursuant to the provisions of section 12a of Act No. 156 of the Public Acts of 1851, as amended, being section 46.12a of the Compiled Laws of 1948.

Annuities for employees; amounts, conditions.

(2) In any county where the board of supervisors has not adopted and established a plan providing for retirement benefits or pensions for employees under the jurisdiction of the board of county road commissioners pursuant to the provisions of section 12a of Act No. 156 of the Public Acts of 1851, as amended, being section 46.12a of the Compiled Laws of 1948, the board of county road commissioners may purchase or participate in the cost of endowment policies or retirement annuities for employees under its jurisdiction, to provide such annuities or benefits for each employee after he has attained the age of 60 years in an amount not to exceed $100.00 per month or 2% of the average monthly earnings of the employee times the years of service of the employee, whichever may be the lesser sum. The board as an alternative may provide such annuities or benefits to employees under its jurisdiction who have attained the age of 75 years and have been in its employ not less than 15 years, or who have attained the age of 70 years and have been in its employ not less than 20 years, or who have attained the age of 65 years and have been in its employ not less than 25 years, or who have been in its employ not less than 30 years, to the extent of monthly payments equal to 1/2 of the average of an employee's monthly salary or wage received from the board during a period of 5 years immediately preceding retirement, not to exceed $100.00 per month, or 1/2 of the prevailing average monthly salary or wage of employees of the board, whichever may be the greater sum.

Employee participation.

(3) Endowment policies or annuities in excess of the amounts herein stipulated may be provided by a plan of employee participation whereby the employees shall pay the total cost of such excess. If the employment or the annuity benefits of any employee who has participated in the cost of such annuity benefits shall be terminated before the employee has received annuity benefits equal to the total amount of his participation, the balance of such total participation shall be refunded to the employee or his heirs at the time of such termination.

Benefits on uniform scale; authorized companies.

(4) Any board of county road commissioners electing to pay or provide for annuities or benefits under the provisions of this section shall grant such benefits to all employees eligible therefor according to a uniform scale and shall not deny such benefits to any employee by termination of his employment after such employee has become eligible therefor. Endowment policies or annuities provided for in this section shall be purchased from legal reserve companies authorized to write annuities in this state.

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Collective bargaining unit programs.

(5) Nothing in this section shall prohibit or restrict a board of county road commissioners who have prior to January 1, 1968 entered into a collective bargaining agreement from participating in a pension or insurance program for those of its employees who are members of a collective bargaining unit, as determined pursuant to section 13 of Act No. 336 of the Public Acts of 1947, as added, being section 423.213 of the Compiled Laws of 1948, which complies with and is established under the then existing requirements of section 302 (c) of the national labor relations act, as amended, 29 USC 186 (c), and the applicable provisions of the internal revenue code, notwithstanding the failure of such pension or insurance program to (a) provide benefits in the form of endowment policies or annuities, (b) provide benefits within the dollar limitations of this section, (c) provide benefits in accordance with the conditions of eligibility of this section, (d) provide for vesting of benefits before the employee commences retirement, or (e) provide for coverage of employees outside the bargaining unit covered by such collective bargaining agreement.

Reports.

(6) A report of the condition of the retirement system shall be filed annually with the county pension committee provided for under section 12a of Act No. 156 of the Public Acts of 1851, as amended, being section 46.12a of the Compiled Laws of 1948, in such form as the committee shall from time to time prescribe.

HISTORY: Add. 1941, p. 253, Act 171, Eff. Jan. 10, 1942;—Am. 1945, p. 79, Act 80, Eff. Sep. 6;—CL 1948, 224.10a;—Am. 1965, p. 287, Act 185, Imd. Eff. Jul. 15;—Am. 1968, p. 307, Act 211, Imd. Eff. Jun. 24.

224.11 County road commissioners; authority to layout, widen or change road; purchase of private property.

Sec. 11. Said board of county road commissioners may lay out such new roads within the county as they deem necessary. Such roads shall be not less than 4 rods wide. Said board may also change the width or the location or straighten the line of any road over which they take jurisdiction. If in the laying out, widening, changing or straightening of any road it shall become necessary to take private property, the said board shall cause a survey of such proposed road to be made, together with an accurate description of the lands required therefor. Thereupon they shall endeavor to agree with each owner, resident of said county, for the purchase of a right-of-way over his land included within such description: Provided, however, That in counties now having or hereafter acquiring a population of 400,000 or over, the said board of county road commissioners shall not be required to endeavor to agree with each owner, resident of said county. If they are able to agree with the owner thereof, they may purchase the same and pay therefor out of the funds under their control, and such lands shall then be conveyed to the county for the use and purpose of a road.

HISTORY: CL 1915, 4357;—Am. 1929, p. 676, Act 275, Eff. Aug. 28;—CL 1929, 3986;—Am. 1931, p. 288, Act 145, Eff. Sept. 18;—CL 1948, 224.11. This section as originally enacted re-enacted Sec. 11 of Act 149 of 1893, being CL 1897, 4272.

224.11a County road commissioners; acceptance of land, payment of taxes and special assessments.

Sec. 11a. The board of county road commissioners in laying out, widening, changing or straightening, or in any manner acquiring lands for county road purposes, shall not accept any lot or lands deeded to it unless all taxes and special assessments on such lands have been paid in full.

HISTORY: Add. 1963, p. 66, Act 59, Eff. Sep. 6.

224.12 Condemnation; petition for appointment of commissioners; order for hearing; publication and service; proof.

Sec. 12. Whenever said board shall by resolution declare it necessary to condemn private property for the laying out, widening, changing or straightening of any road or

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for any other purpose for which the board is authorized to acquire private property the board may present to the circuit court or probate court of the county a petition describing the proposed road and each parcel of land necessary therefor giving the name of each person interested in each parcel so far as known, and praying for the appointment of 3 commissioners to determine the necessity of such proposed road, the necessity of taking each such parcel therefor, and to appraise the damages to be paid as compensation for such taking of each parcel for road purposes. The court shall appoint a guardian ad litem for any minor, insane or incompetent person interested in the proceedings. The guardian shall be a resident of the county. Upon the filing of the petition, the court shall make an order fixing a day for the hearing on such petition, which shall be not less than 3 weeks thereafter. Such order shall recite the names of the persons mentioned in the petition, and state the purpose of the petition. Such order shall be published once in each week for 3 successive weeks in some newspaper published and circulated in the county to be designated by the court, and notice thereof shall be served on each person named in the petition interested in the land who resides within the county, and upon each such guardian, at least 10 days before the day of hearing. Such service may be made personally or by leaving at the place of residence of the person to be served. Such publication shall constitute service of said order upon all non-residents of the county and all persons absent from the jurisdiction or unknown, or who are evading service or who for any other reason cannot be found. Proof of publication and service may be made by affidavit of any person or persons having knowledge of the facts. Such proof shall be filed with the court on the day of hearing, and thereupon the court shall have jurisdiction of the subject matter involved in the proceedings and of the parties interested therein.

HISTORY: CL 1915, 4358;—Am. 1929, p. 676, Act 275, Eff. Aug. 28;—CL 1929, 3987;—Am. 1931, p. 228, Act 145, Eff. Sept. 18;—CL 1948, 224.12. This section as originally enacted re-enacted Sec. 12 of Act 149 of 1893, being CL 1897, 4273.

For similar law see Act 352 of 1925, being Compilers' § 213.171 et seq.

CONDEMNATION: In general see notes to Compilers' § 213.1 et seq.

224.13 Condemnation; commissioners; appointment, duties, qualifications.

Sec. 13. On the day of hearing, the court shall hear the parties and appoint 3 disinterested persons commissioners, herein called court commissioners, whose duty it shall be to determine the necessity of such proposed road and the necessity for taking each parcel of land described in the petition therefor, and if they shall decide that it is necessary, then to appraise the damages to be paid as compensation for the taking of each such parcel therefor. Said commissioners shall not be residents of the townships in which the land sought to be taken is situated, nor of any township adjacent thereto. The court commissioners shall be sworn faithfully to discharge their duty. The courts shall fix the time and place for the first meeting of such court commissioners, and require their attendance; it may also authorize the court commissioners to adjourn their meeting from time to time not later than to a day to be named, and shall fix the time for filing the report of such court commissioners.

HISTORY: CL 1915, 4359;—Am. 1921, p. 664, Act 367, Eff. Aug. 18;—CL 1929, 3988;—CL 1948, 224.13. This section as originally enacted re-enacted Sec. 13 of Act 149 of 1893, being CL 1897, 4274.

For similar law see Sec. 4 of Act 352 of 1925, being Compilers' § 213.174.

224.14 Condemnation; meeting of commissioners, adjournment; subpoena of witnesses; view of premises; report; damages.

Sec. 14. The court commissioners shall meet at the time and place ordered by the court. If all do not then appear, a less number may adjourn to a time certain, but no adjournment shall be made to a day later than the time allowed by the court. Such adjournments shall be publicly announced. The court or the clerk thereof may issue writs of subpoena to compel the attendance of witnesses before the court or before the said court commissioners. Either one of such court commissioners may administer oaths to witnesses. The court commissioners, at the time fixed by the court or at the time fixed

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by adjournment, shall view the premises described in the petition and hear the proofs and allegations of the parties and render their decision in the premises. They shall report such decision in writing, signed by them or a majority of them, at the time fixed for that purpose. If their decision is that the road is unnecessary or that any part of the land described in the petition is unnecessary to be taken therefor, no further proceedings for the establishment of such road shall be taken for 1 year thereafter; if the decision is that the proposed road is necessary and that such lands are necessary to be taken therefor, they shall appraise the damages to be paid as compensation to each person interested for each parcel of land. In determining such damages the said commissioners shall take into consideration the benefits accruing to the owners of such lands by reason of the laying out, straightening, altering or widening such highway.

HISTORY: CL 1915, 4360;—Am. 1925, p. 276, Act 191, Imd. Eff. May 5;—CL 1929, 3989;—CL 1948, 224.14. This section as originally enacted re-enacted Sec. 14 of Act 149 of 1893, being CL 1897, 4275.

For similar provisions see Secs. 14-16 of Act 352 of 1925, being Compilers' §§ 213.184 to 213.186.

224.15 Condemnation; powers of court.

Sec. 15. The court may, at the time of the filing of the report or at such other time to which it may adjourn the proceedings, on cause shown, set aside the report and refer it back to such court commissioners or appoint other commissioners to retry the questions involved, whereupon such proceedings shall be had as are hereinbefore provided for. The court may permit the amendment of any petition, affidavit, order, report or proceeding filed or had in the premises in such manner as shall be just and proper; it may fill any vacancy that shall occur among the court commissioners; it may permit a defective proceeding to be set aside and other proceedings in compliance with law to be had in place thereof; it may adjourn such proceedings or any part thereof from time to time, and may make all such orders in the premises as may be just and proper to further and accomplish the purpose thereof.

HISTORY: CL 1915, 4361;—CL 1929, 3990;—CL 1948, 224.15. This section as originally enacted re-enacted Sec. 15 of Act 149 of 1893, being CL 1897, 4276.

For similar law see Sec. 19 of Act 352 of 1925, being Compilers' § 213.189.

224.16 Condemnation; payment of awards; certificate of court, recording; vesting of title; prima facie evidence; court commissioners, compensation, expenses.

Sec. 16. After the court shall confirm the report of the court commissioners, it shall enter an order authorizing the board of county road commissioners to pay the several sums awarded for damages, and the board shall pay the same accordingly. Such payment shall be made in money to the several persons entitled thereto, and if refused, or if there be no person properly authorized to receive the same, it shall be deposited as directed by the court. Upon filing proof of payment or deposit as ordered, the court shall prepare a certificate under its seal, signed by the judge, reciting briefly the proceedings that have been had, giving the names of the parties interested, describing the lands taken for such road, the award of damages therefor and the payment or deposit of the money, and deliver the same to the board of county road commissioners, and thereupon the title to such land shall be deemed vested in the county to be used for road purposes only. Such certificate shall be recorded in the book of deeds in the office of the register of deeds. Such certificate, certificates or the record thereof or a certified copy of such record, shall be prima facie evidence of the facts recited therein, and of title to such lands in the county and of the right of the board of county road commissioners to construct and maintain a road thereon. The court shall fix the compensation of the court commissioners and determine the amount of necessary expenses

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incurred in connection with such proceedings which shall be paid by the board of county road commissioners.

HISTORY: CL 1915, 4362;—Am. 1929, p. 677, Act 275, Eff. Aug. 28;—CL 1929, 3991;—CL 1948, 224.16. This section as originally enacted re-enacted Sec. 16 of Act 149 of 1893, being CL 1897, 4277.

For similar provisions see Sec. 20 et seq. of Act 352 of 1925, being Compilers' § 213.190 et seq.

224.17 County line road; disagreement, arbitration; neglect of county commissioners; authority of state highway commissioner, deduction from county tax refunds.

Sec. 17. The boards of county road commissioners of adjoining counties may unite in laying out and establishing a county road on or near the line between their counties, and may institute proceedings to acquire the lands for such road, and may thereafter construct and maintain such road at the joint expense of the counties: Provided, That should any part of such line road either now established or hereafter to be established, become at any time abandoned, or should the division of such line road between such counties for opening, improvement and maintainance become at any time unjust and inequitable for any cause, then on the written application of 7 or more freeholders of either county, or upon application of the state highway commissioner addressed to the county road commissioners of either county, the commissioners to whom such application is made shall, within 5 days after receipt thereof, notify the county road commission of the adjoining interested county. Each commission shall thereupon appoint as arbitrator 1 of its own members, and the 2 shall forthwith jointly appoint a time and place of hearing which shall not be less than 10 nor more than 20 days after the receipt of the application. Notice of the time and place of such hearing shall be posted in 3 public places in each county affected, or published at least 1 time in a newspaper printed and circulated in each county affected, at least 5 days before the date of such hearing, and no other notice of same shall be required. Such hearing may be adjourned from time to time, but no longer than 20 days. At such hearings said arbitrators shall jointly determine whether the former division of such line road is just and equitable, and if not, shall determine and allot what portion of same shall thereafter be improved and maintained by either of such counties, which allotment shall take effect immediately thereafter. Should such arbitrators be unable to agree, then they shall adjourn such hearing, and on the adjourned day associate with themselves a county road commissioner of some other immediately adjoining county. Should the 2 arbitrators be unable to agree on the third arbitrator, then on notification of the state highway commissioner by the county road commission to which application for redivision has been made that they are unable to agree on the third arbitrator, the said state highway commissioner shall appoint a third disinterested party to sit in his place, and the 3 shall sit together and determine such questions by majority vote: Provided, further, That whenever a line road or bridge shall have been laid out or established, and the county road commissions refuse or neglect to construct or maintain their designated portion thereof in a manner reasonably safe and fit for public travel, then the state highway commissioner shall upon petition of 7 freeholders of either county, inspect the merits of the petition, and if said state highway commissioner decides with the petitioners, he shall direct the county road commission to which the road or bridge belongs to so construct and maintain such road or bridge, and in default thereof he shall be authorized to cause said road to be placed in condition safe and fit for public travel and pay for same out of the highway fund, reimbursing said fund by appropriate deduction from the next installment of weight and gasoline tax refunds due such county or counties.

HISTORY: CL 1915, 4363;—CL 1929, 3992;—Am. 1935, p. 220, Act 142, Imd. Eff. June 4;—CL 1948, 224.17. This section as originally enacted re-enacted Sec. 17 of Act 149 of 1893, being CL 1897, 4278.

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224.18 State reward; map; conversion; determination, notice; name; inter-county roads; abandonment; discontinuance of jurisdiction; petition, list of occupants on abutting land.

Sec. 18. In case state reward is to be applied for, the board of county road commissioners shall file with the state highway commissioner, for his approval, a map of the county showing the location of the proposed system of county roads: Provided, however, That this proposed system may be changed if approved by the state highway commissioner. All state rewarded roads composing a part of this system shall be taken over as county roads by the board of county road commissioners and any road heretofore laid out, or any part thereof, shall become county roads if the board of county road commissioners shall at any time so determine, and in passing through or on the line between townships or incorporated villages or cities any streets or parts of streets of such village or city may be adopted as a county road, with the consent of the proper authorities of such city or cities, village or villages: Provided further, That where any such street shall be taken over as a county road and is improved as such, city and village authorities shall have the right to further improve such road by surfacing the same outside the portion thereof constructed by the county and by the addition of gutters, curbs, sidewalks, and other improvements, and to provide for the care and maintenance of such improvements, and to levy and collect taxes for the same. The vote of the county road commissioners in respect to such determination shall be taken by yeas and nays, and shall be entered at large on the records of the said board of county road commissioners. Notice of determination shall be forthwith given by the clerk to the highway commissioner of each township and the highway authorities of each city or village in which said road or any part thereof is situated, and published in some newspaper printed and circulated in the county, once in each week for 3 successive weeks: Provided further, In case there is no established printing office within the county, the said clerk, or the highway commissioner may advertise in a newspaper published in an adjoining county. Proof of such service and publication may be made by affidavit by any person knowing the facts, and be filed with the clerk. Such affidavit or the record thereof or certified copy of such affidavit or record shall be prima facie evidence of its contents. After service and publication of such notice, the board of county road commissioners shall have sole and exclusive jurisdiction and control of such road so embraced within such determination, and the township or municipality within which the same is situated shall be relieved from all responsibility therefor. Immediately after laying out or taking control of a road said board shall give the same a name and the board may thereafter change the name of said road if deemed necessary by said board in order to conform to a general plan or avoid confusion or duplication. The name so given by said board to any road under its jurisdiction, either originally or in case of a change as provided for in this section, shall thereafter be the official name by which said road shall be known. Said board is also empowered to enter into agreements with the board of county road commissioners in any adjoining county with reference to the laying out, maintenance, construction and improvement of inter-county roads, the undertaking of each such board becoming a party to any such agreement being limited to the construction, improvement, or maintenance of the portion of the road subject to the jurisdiction of such board. The board of county road commissioners of any county which has adopted the county road system is hereby authorized and empowered to, at any time, either relinquish jurisdiction of or absolutely abandon and discontinue any county road, or any part thereof, by a resolution adopted by a majority vote. The vote of the county road commissioners in respect to either such relinquishment of jurisdiction or absolute abandonment and discontinuance shall be taken and entered, and notice thereof be given, in the same manner as required in this section, in cases in which county roads are adopted. After proceedings to relinquish jurisdiction have been had,

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the jurisdiction and control of such road, or part thereof, shall revert to the township or municipality within which the same is situated, and the county shall be relieved of the responsibility therefor. After proceedings to absolutely abandon and discontinue have been had, such road or part thereof shall cease to exist as a public highway. Said board shall, at the time of the passage of any resolution to absolutely abandon and discontinue any portion of any highway under its jurisdiction, determine in said resolution that it is to the best interests of the public that said highway or portion thereof shall be absolutely abandoned and discontinued. Said board shall cause a true copy of every resolution or other proceeding, containing an accurate description of the lands comprising the highway or portion thereof which has been absolutely abandoned and discontinued thereby, to be recorded in the office of the register of deeds for the county wherein the lands are situated: Provided, That the said board of county road commissioners shall not absolutely abandon and discontinue any highway, or part of highway, upon or along which there shall be any building of any character, except as hereinafter provided, upon the written petition of 7 or more freeholders of the township in which said road is sought to be absolutely abandoned and discontinued. Said petition for absolutely abandoning and discontinuing said highway shall describe said road in general terms or by any name by which it is known, and if the absolute abandonment and discontinuance of only a portion of any road is asked for, such portion shall be specified. Such petition shall be accompanied by a true and correct list of the names and mailing addresses of the occupants of each parcel of land abutting the highway, or portion thereof, sought to be absolutely abandoned and discontinued, which list shall be certified to under oath by 1 of the persons making or presenting such petition.

Abandonment, notice of hearing, service.

Whenever such petition for absolute abandonment and discontinuance of said road or portion thereof, shall contain the signatures of all of the owners of record and occupants of land abutting thereon, as ascertained from the records in the office of the register of deeds and the certified list above provided for, the board of county road commissioners shall, within 20 days after receiving the same, determine the advisability of such abandonment and discontinuance and either grant or deny said petition without further proceedings thereon. In all other cases said board shall, within 20 days after receiving such petition, issue a written notice stating the object of such petition and appointing a time and place of hearing, which notice shall be served on the owners of record and occupants of lands through or adjoining which it is proposed to absolutely abandon and discontinue such road, by mailing a copy thereof by first class mail to the residence of each owner of record or occupant at his last known address, at least 10 days before the time of hearing, and if the owner shall not reside upon such lands and/or the owner of record or occupant thereof cannot be found within the county in which said lands are situated, the notice to the owner of record or occupant of such lands shall be served by posting up the same in 3 public places in the township in which said road is situated, and by publishing the same in a newspaper circulated within the county, 10 days before the time of hearing. Notice shall be served upon railroad companies by leaving a copy thereof with the agent in charge of any ticket or freight office of the company operating such railroad, on the line thereof.

Affidavit of service; hearing examiner, report of findings.

Upon the service of the notice required by the last preceding paragraph, and before any further proceedings shall be had, the person by whom the service was made shall make and annex to such notice, or a copy thereof, an affidavit stating the time and manner of service, which shall be by first class mail, and by posting and advertising; and if upon a railroad company, the fact of such service and upon whom, and such notice and affidavit, together with an affidavit of publication if such notice was pub-

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lished, shall be attached to the petition, and the whole shall be present at the time of the hearing upon the petition. The board of county road commissioners may designate, as hearing examiner, an employee to hold the hearing upon the petition. After the hearing, the examiner shall report all findings of fact to the board.

View of premises; necessity for abandonment.

The board of county road commissioners or the superintendent or engineer employed by said board shall proceed to view the premises described in the petition and notice, and the board shall ascertain the necessity or advisability of absolutely abandoning and discontinuing the highway pursuant to such petition.

Record of determination, filing with state highway commissioner.

Within 30 days after final determination upon the petition for absolutely abandoning and discontinuing any highway, as hereinbefore provided, the said board of county road commissioners shall file with the state highway commissioner a full record and return of their doings.

Reservation of easement, extinguishment.

The board of county road commissioners may reserve an easement for public utility purposes within the right-of-way of any road absolutely abandoned and discontinued under this section and may, by resolution, extinguish any easement so reserved whenever such easement ceases to be used for public utility purposes.

HISTORY: Am. 1913, p. 626, Act 330, Eff. Aug. 14;—Am. 1915, p. 129, Act 75, Eff. Aug. 24;—CL 1915, 4364;—Am. 1917, p. 875, Act 356, Imd. Eff. May 10;—Am. 1919, p. 206, Act 116, Eff. Aug. 14;—Am. 1921, p. 383, Act 195, Imd. Eff. May 17;—Am. 1921, p. 110, Act 74, Eff. Aug. 18;—Am. 1921, p. 664, Act 367, Eff. Aug. 18;—Am. 1927, p. 882, Act 369, Eff. Sep. 5;—CL 1929, 3993;—Am. 1935, p. 214, Act 135, Imd. Eff. Jun. 4;—Am. 1937, p. 538, Act 290, Imd. Eff. Jul. 23;—Am. 1943, p. 54, Act 52, Imd. Eff. Mar. 30;—CL 1948, 224.18;—Am. 1949, p. 219, Act 206, Imd. Eff. May 29;—Am. 1952, p. 106, Act 96, Eff. Sep. 18;—Am. 1963, p. 46, Act 46, Imd. Eff. Apr. 29.

This section as originally enacted superseded, with additions, Sec. 18 of Act 149 of 1893, being CL 1897, 4279.

CITED IN OTHER SECTIONS: The above section is cited in § 247.861.

224.19 County road commissioners and county highway engineer; duties; actions for injuries to road; bids rejection; review of plans.

Sec. 19. The board of county road commissioners shall have authority to grade, drain, construct, gravel, shale or macadamize any road under its control, or to place thereon any form of improvement which in its judgment may be best, and extend and enlarge such improvements. It shall have authority to construct bridges and culverts on the line of the road, and to repair and maintain the roads, bridges, and culverts. The commissioners shall take over, construct and maintain all bridges included in the proposed system of county roads provided in section 18 of this act. This shall not apply to bridges which may be lawfully taken over for construction and maintenance in whole or in part by the state. Whenever it shall be necessary to construct a bridge or bridges across a navigable stream over which a road under the control of the board of county road commissioners shall run, the board shall have power and authority to construct, repair and maintain a bridge or bridges across the navigable stream with proper and adequate approaches thereto for the accommodation of traffic and the bridge or bridges and the approaches thereto shall be of such width, size, strength, material, pattern and design as shall, in the judgment of the board, be suitable to meet the necessities and requirements of traffic and the surrounding conditions, whether the bridge or bridges or the approaches thereto or any portion thereof be within the limits of any incorporated municipality or not. For this purpose the board of county road commissioners may borrow money, enter into contracts and pledge the credit of the county in the manner and within the limitations provided by law. For any money borrowed, obligation assumed, or pledge of credit given, the bonds of the county may be issued and sold when authorized by the electors in the manner provided by law. The authority and powers herein granted relative to bridges over navigable streams and the grant thereof shall be retroactive and it is hereby declared that all acts of boards of county road commissioners, boards of supervisors and other county officers, and all elections

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held, indebtedness incurred or authorized, and all bonds approved or authorized by the electors of the county, to be issued and sold for the purpose and with the intent to provide for the construction, repair and maintenance of bridges over navigable streams and the approaches thereto are valid and binding acts and obligations. All obligations assumed, indebtedness incurred, pledge of credit given, bonds issued or authorized by counties within the state of Michigan for the foregoing purposes are hereby legalized and made valid. The construction, improvement and maintenance of roads, bridges and culverts, shall be in accordance with plans and specifications furnished or approved by the county highway engineer, who shall have supervision of construction. The commissioners shall have all the authority in respect to the roads, bridges and culverts which is vested in highway officers in townships, including the right to condemn gravel for road purposes and to petition the county drain commissioner for an outlet drain as provided in section 8, chapter 15, of this act. The board of county road commissioners may maintain in its own name an action for injury to any county road, or to any part of the whole width thereof as laid out and established, or to any of the improvements thereon. All moneys recovered in the action shall be paid to the county treasurer, and be credited to the county road fund. Whenever the board of county road commissioners shall decide to build or rebuild a road or bridge by any method other than by employment of day labor and purchase of necessary materials therefor, the board shall advertise for sealed bids for the work, if the work involves an expenditure of an amount greater than $5,000.00. The board shall have the right to reject any and all bids, and may do the work by day labor, purchasing the necessary materials and employing the labor therefor. In case the board shall decide to do the work by day labor, the plans and specifications together with all bids received thereon, and the reason, in writing, for not letting the job by contract, shall be filed in the office of the county clerk. If a bridge is to be repaired or built at a cost greater then $500.00, the county road commissioners may apply to the state highway commission, who shall assign a competent engineer to review and report on plans that may have been prepared by the county highway engineer, or decide as to the merits of the several plans on which tenders may have been received before the contract was let, and pass on the completed structure before the contractor for the same shall be paid.

HISTORY: Am. 1913, p. 672, Act 355, Eff. Aug. 14;—CL 1915, 4365;—Am. 1917, p. 877, Act 356, Imd. Eff. May 10;—Am. 1919, p. 210, Act 116, Eff. Aug. 14;—Am. 1921, p. 384, Act 195, Imd. Eff. May 17;—CL 1929, 3994;—CL 1948, 224.19;—Am. 1955, p. 216, Act 149, Imd. Eff. Jun. 7;—Am. 1967, p. 238, Act 176, Imd. Eff. Jun. 30.

This section as originally enacted superseded, with additions, Sec. 19 of Act 149 of 1893, being CL 1897, 4280.

224.20 County road commissioners; surveys; tax, determination, maximum; submission to supervisors, revision, apportionment; tax levy, collection, disbursement.

Sec. 20. Before the first day of October of each year said board of county road commissioners shall cause preliminary surveys, general plans, specifications and estimates of roads, bridges and culverts to be made by the county highway engineer, whose qualifications shall be approved by the state highway commissioner in case it is intended by the commissioners to apply for said reward. Based upon the above estimates, said board of county road commissioners shall determine upon the amount of tax which in its judgment should be raised for such year in said county for the purposes aforesaid, specifying and itemizing the roads and parts of roads upon which such moneys are to be expended, stating the amount asked for each of such roads, and shall cause such determination to be entered upon its records. Such tax shall not exceed five dollars on each one thousand dollars of assessed valuation according to the assessment roll of the last preceding year in counties where such valuation does not exceed twenty millions of dollars; such tax shall not exceed four dollars on each one thousand dollars of assessed valuation according to the assessment roll of the last preceding year in counties where such valuation is more than twenty million dollars and does not ex-

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ceed forty millions of dollars; such tax shall not exceed three dollars on each one thousand dollars of assessed valuation according to the assessment roll of the last preceding year in counties where such valuation is more than forty million dollars and does not exceed one hundred million dollars; such tax shall not exceed two dollars on each one thousand dollars of assessed valuation according to the assessment roll of the last preceding year in counties where such valuation is more than one hundred million dollars and does not exceed three hundred million dollars; and such tax shall not exceed one dollar on each one thousand dollars of assessed valuation according to the assessment roll of the last preceding year in counties where such valuation is more than three hundred million dollars. At the annual meeting of the board of supervisors held in October, the county clerk shall lay such determination before the board of supervisors, and such board of supervisors shall pass upon the said determination, and if a majority of such board of supervisors agree therewith, then such tax shall be apportioned among the several townships and cities of said county according to their equalized valuation. If the determination of the board of county road commissioners shall not meet with the approval of a majority of the board of supervisors, then the said board of supervisors shall proceed to decide upon the amount of tax to be raised for such year in such county for the purposes aforesaid, and may allow or reject in whole or in part any or all of the items for the sections of roads thus submitted for its consideration; and it shall not be lawful for such county road commissioners without the consent of such board of supervisors to spend any such moneys upon any other roads than as thus specified. It shall be the duty of the board of supervisors to raise a sufficient tax to keep any county roads or bridges already built in reasonable repair, and in condition reasonably safe and fit for public travel. After the said board of supervisors shall have decided upon the amount of tax to be raised, the said board shall thereupon apportion such tax between the several townships and cities of said county according to their equalized valuation. The supervisors or other assessing officers in such townships and cities shall levy and apportion the taxes so apportioned as provided in this section, to their respective townships and cities respectively, upon which the county taxes are assessed. The taxes so assessed shall be collected and paid to the county treasurer the same as other county taxes. All the provisions of law relating to the assessment, levy, collection and return of county taxes and the sale of property delinquent therefor, shall apply to taxes to be raised pursuant to this act. The county treasurer shall keep a separate account of the taxes collected and moneys received under this act and shall pay the same out only upon the order of such board of county road commissioners and upon warrants signed by the chairman and countersigned by the clerk of the board. In counties having a county auditor or board of county auditors the warrants shall pass through the hands of such county auditors and be further countersigned by them, when payment shall be made thereof by the county treasurer. All moneys raised under the provisions of this act shall be expended by such board of county road commissioners exclusively for the purposes herein mentioned.

HISTORY: Am. 1913, p. 673, Act 355, Eff. Aug. 14;—Am. 1915, p. 130, Act 75, Eff. Aug. 24;—CL 1915, 4366;—Am. 1917, p. 285, Act 157, Eff. Aug. 10;—Am. 1919, p. 435, Act 246, Eff. Aug. 14;—Am. 1921, p. 665, Act 367, Eff. Aug. 18;—Am. 1927, p. 365, Act 177, Imd. Eff. May 14;—CL 1929, 3995;—Am. 1932, 1st Ex. Ses., p. 54, Act 36, Imd. Eff. May 13;—CL 1948, 224.20;—Am. 1953, p. 203, Act 168, Eff. Oct. 2.

This section as originally enacted superseded Sec. 20 of Act 149 of 1893, being CL 1897, 4281;—Am. 1907, p. 98, Act 82, Imd. Eff. May 8.

224.20a County road tax; nonapplication of tax rate limitations; local approval; use of revenues.

Sec. 20a. The tax rate limitations of section 20 shall not apply where an extra tax levy has been approved by the electorate of the county of not to exceed 1/2 of 1% of the assessed valuation as equalized for the preceding year, if such levy has been submitted to the electorate pursuant to a resolution of the board of supervisors approved by the governing bodies of each city within the county. Revenues derived from the extra tax levy authorized by this section may be used for the improvement of city streets

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in such amounts and on such projects as shall be mutually agreed upon by the county road commission and the governing bodies of the cities and approved by the board of supervisors. The provision of this section shall apply only when the tax rate limitations of section 20 are exceeded.

HISTORY: Add. 1966, p. 111, Act 89, Imd. Eff. Jun. 14.

224.20b County road tax; submission to electors; allocation of revenues; use.

Sec. 20b. (1) Notwithstanding any other provision of this act, the board of supervisors of any county by proper resolution may submit to the electorate of the county at any general or special election the question of a tax levy for highway, road and street purposes.

(2) Unless otherwise agreed by the governing bodies of the cities and villages and the board of county road commissioners the revenues derived from the tax levy authorized by this section shall be allocated and distributed by the county treasurer as follows:

(a) To the county road fund:

(i) A percentage of the total revenues equal to the proportion that the state equalized valuation of the unincorporated area of the county bears to the total state equalized value of the county.

(ii) A percentage of the remainder of the revenues equal to the proportion that the county primary road mileage within cities and villages bears to the total of the city and village major street mileage in the county plus the county primary road mileage within cities and villages in the county. The mileages to be used are the most recent mileages as certified by the state highway commission.

(b) The remaining revenues shall be distributed to the cities and villages in the proportion that the state equalized valuation of each bears to the total state equalized valuation of the incorporated areas of the county.

(3) The revenues allocated to the cities and villages shall be expended exclusively for highway, road and street purposes. The revenues allocated to the county road fund shall be expended by the board of county road commissioners exclusively for highway, road and street purposes.

HISTORY: Add. 1968, p. 195, Act 133, Eff. Nov. 15.

224.21 County road commissioners; authority to obligate county limitation; roads under construction; duty of county to keep roads in repair; actions brought against board; liability for damages.

Sec. 21. Said board of county road commissioners shall have no power to contract indebtedness for any amount in excess of the moneys credited to such board and actually in the hands of the county treasurer: Provided, That the board may incur liability to complete roads under construction and upon contracts, after a tax is voted, to an amount not exceeding 3/4 of the said tax. It is hereby made the duty of the counties to keep in reasonable repair, so that they shall be reasonably safe and convenient for public travel, all county roads, bridges and culverts that are within their jurisdiction and under their care and control and which are open to public travel. The provisions of law respecting the liability of townships, cities, villages and corporations for damages for injuries resulting from a failure in the performance of the same duty respecting roads under their control, shall apply to counties adopting such county road system. Actions arising thereunder shall be brought against the board of county road commissioners of the county and service shall be made upon the clerk and upon the chairman of the board made defendant therein, which shall be named in the process as the "board of county road commissioners of the county of ....." and any judgment obtained thereon against such board of county road commissioners shall be

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audited and paid from the county road fund as are other claims against such board of county road commissioners: Provided, however, That no board of county road commissioners, subject to any liability under this section, shall be liable for damages sustained by any person upon any county road, either to his person or property, by reason of any defective county road, bridge or culvert under the jurisdiction of the board of county road commissioners, unless such person shall serve or cause to be served within 60 days after such injury shall have occurred, a notice in writing upon the clerk and upon the chairman of the board of county road commissioners of such board, which notice shall set forth substantially the time when and place where such injury took place, the manner in which it occurred, and the extent of such injuries as far as the same has become known, the names of the witnesses to said accident, if any, and that the person receiving such injury intends to hold such county liable for such damages as may have been sustained by him. It is the intention that the provisions of this section shall apply to all county roads whether such roads become county roads under chapter 4 of the general highway laws, Act No. 283 of the Public Acts of 1909, as amended, or under the provisions of the Covert Act, so-called, the same being Act No. 59 of the Public Acts of 1915, as amended.

HISTORY: Am. 1915, p. 132, Act 75, Eff. Aug. 24;—CL 1915, 4367;—Am. 1919, p. 687, Act 388, Eff. Aug. 14;—CL 1929, 3996;—CL 1948, 224.21;—Am. 1951, p. 346, Act 234, Eff. Sep. 28;—Am. 1954, p. 14, Act 12, Eff. Aug. 13.

This section as originally enacted, re-enacted Sec. 21 of Act 149 of 1893, being CL 1897, 4282;—As Am. 1907, p. 99, Act 82, Imd. Eff. May 8.

CITED IN OTHER SECTIONS: The above section is cited in §§ 250.61 and 691.1402.

224.22 Bond issue; submission to electors, notice, vote; disbursement of proceeds.

Sec. 22. Whenever the board of supervisors of the county by a majority vote of all the members elect resolve to contract indebtedness or issue bonds to raise money for the construction and maintenance of county roads, the question shall be submitted to a vote of the electors of the county at a general or a special election called for that purpose. Notice of the submission of such resolution to a vote of the electors and in case a special election is called, notice of the calling of such special election shall be given in the same manner and for the same length of time as now prescribed by law. If a majority of the electors voting on such resolution shall vote in favor thereof, it shall be deemed to have carried. The manner of stating the question upon the ballots shall be prescribed by the resolution of the board of supervisors. No bond or evidence of indebtedness shall be negotiated at less than par and the accrued interest. All money raised by the board of supervisors for the construction and maintenance of county roads shall be expended under the direction of the board of county road commissioners.

HISTORY: CL 1915, 4368;—CL 1929, 3997;—CL 1948, 224.22. This section re-enacts Sec. 22 of Act 149 of 1893 being CL 1897, 4283;—As Am. 1899, p. 178, Act 127, Imd. Eff. June 15;—As Am. 1907, p. 99, Act 82 Imd. Eff. May 8.

224.23, 224.24 Repealed. 1958, p. 83, Act 77, Eff. Sep. 13.

Sections defined "township roads", put them in care of township board and highway commissioner, and provided that county road law be inoperative where county road system was not adopted.

224.25 Board of county road commissioners; statement of accounts made to board of supervisors, audit, proof of filing, publication, statement of county clerk, filing with state highway commissioner.

Sec. 25. Accurate accounts shall be kept under the direction of the board of all money received and disbursed by it, and a full statement thereof together with a complete statement in detail, of all work done, right-of-way acquired, and road constructed by said board shall be made to the board of supervisors of the county at its annual meeting each year. Such statement shall be published in the report of the proceedings of the board of supervisors. The accounts of said board of county road commissioners shall be reported to and audited by the board of supervisors at each

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meeting thereof or by any committee they may appoint for such purpose: Provided, That in counties having a board of auditors the accounts shall be audited by the board of auditors of that county, but the said board of auditors shall have no jurisdiction over the expenditure of any portion of the county road fund. Proof of filing of such statement with the board of supervisors, sworn to by the chairman of the board of county road commissioners, with copy of such statement annexed, together with sworn statement of the county clerk that such statement was published as a part of the proceedings of the board of supervisors shall be filed with the state highway commissioner within 30 days following such annual meeting.

HISTORY: CL 1915, 4371;—CL 1929, 4000;—Am. 1937, p. 272, Act 178, Imd. Eff. Jul. 9;—CL 1948, 224.25;—Am. 1952, p. 91, Act 51, Eff. Sep. 18.

This section supersedes Sec. 25 of Act 149 of 1893, as Add. 1895, p. 206, Act 96, Imd. Eff. Apr. 28, being CL 1897, 4286.

224.26, 224.27 Repealed. 1958, p. 83, Act 77, Eff. Sep. 13.

Sections provided that adoption of county road system would not prohibit organized township from building state reward roads, required notice of intent to build, and set specifications.

Secs. 28-29.

HISTORY: CL 1915, 4374, 4375;—Rep. 1921, p. 16, Act 11, Imd. Eff. March 18. These sections re-enacted Secs. 25 and 26 of Act 149 of 1893, as Add. 1897, p. 109, Act 100, Imd. Eff. Apr. 28, being CL 1897, 4289, 4290;—As Renum. 1907, p. 101, Act 82, Imd. Eff. May 8.

224.30, 224.31 Repealed. 1958, p. 83, Act 77, Eff. Sep. 13.

Sections excepted Marquette county from provisions relating to road commissioners' election and terms of office, directed that commissioners be appointed in Marquette county, and provided for filling vacancies and for abolishment of township road system.

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CHAPTER V.—STATE REWARD FOR ROADS.

225.1 State highway department; duties.
225.2, 225.2a Repealed.
225.2b Commissioner to control state roads; condemnation, construction and improvement of drains.
225.3 Road institutes; purpose, compensation for attendance.
225.4-225.8 Repealed.
225.12, 225.13 Repealed.
225.14 State department; office and equipment.
225.17 Repealed.

225.1 State highway department; duties.

Sec. 1. There is hereby created and established a state highway department, which shall be charged with the giving of instruction in the art of building, improving and repairing public wagon roads and bridges, collecting reports from township and county highway commissioners, overseers of highways and superintendents and commissioners of streets in villages and cities, and with the distribution of any state reward for improving the public wagon roads, that this legislature or any future session may provide for, or any funds that may be given to the state for such purposes by the United States government.

HISTORY: CL 1915, 4378;—CL 1929, 4019;—CL 1948, 225.1. This section re-enacts Sec. 1 of Act 146 of 1905, which was similar to Sec. 1 of Act 203 of 1903.

COMPILERS' NOTE: Section 2 of amendatory Act 300 of 1947 provides as follows:

"Section 2. All records, files and documents in the office of the Mackinac bridge authority shall be turned over to the state highway department, and kept in said department."

STATE REWARD TRUNKLINE HIGHWAYS: See Compilers' § 250.2.

MACKINAC BRIDGE AUTHORITY: Act 35, 1st Ex. Ses. of 1934, repealed, and records and files and documents turned over to state highway department, by Act 300 of 1947.

225.2, 225.2a Repealed. 1964, p. 570, Act 286, Eff. Jan. 4, 1965.

Sections created office of state highway commissioner, stated his duties, and amount of his bond and salary, and authorized appointment of subordinates.

225.2b Commissioner to control state roads; condemnation, construction and improvement of drains.

Sec. 2b. The state highway commissioner is hereby invested with full charge and control over roads heretofore or hereafter built or maintained by the state; and shall have the same authority to purchase or condemn land for highway purposes including lands containing gravel, stone or other material used and useful in highway construction as is or may be granted by law to township highway commissioners and to county road commissioners. The procedure that is, or may be, prescribed for condemnation proceedings instituted by boards of county road commissioners, is hereby expressly made applicable to such a proceeding when brought by the state highway commissioner. Such right of purchase or condemnation shall be deemed to exist in the case of the construction or maintenance of any road built or improved solely by the state, or by the state with federal aid, or by the state in conjunction with any of the municipalities of the state. The said commissioner may also exercise the same measure of authority as is or may be granted to county road commissioners with respect to the construction of drains when necessary for the construction or improvement of any highway within the contemplation hereof.

HISTORY: Add. 1919, Ex. Ses., p. 37, Act 24, Imd. Eff. June 25;—Am. 1921, p. 667, Act 367, Eff. Aug. 18;—CL 1929, 4022;—CL 1948, 225.2b.

CONDEMNATION: See Compilers' § 224.11 et seq. and Act 352 of 1925, being Compilers' § 213.171 et seq.

225.3 Road institutes; purpose, compensation for attendance.

Sec. 3. The highway commissioners of the several townships in each and every county in the state, and the county highway commissioners in counties working under the county road law, shall if deemed advisable by the state highway commissioner, meet annually in a road institute, at such time and place as the state highway commissioner may designate, there to consider such matters as he may present to their attention, and to discuss such matters of road improvement as may be of special interest to

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such township and county highway commissioners, and every township highway commissioner may collect from his township the same per diem as in actual road work, and his actual expenses in attending such institute shall, if reasonable, be allowed by the township board and shall be paid by said township. Every county highway commissioner may collect from his county the same per diem as in actual road work, and his actual expenses in attending such institute, shall, if reasonable, be allowed by the board or committee, or county auditors who may have the authority in such matters in the county of which he is a county highway commissioner, and shall be paid by said county.

HISTORY: Am. 1913, p. 676, Act 355, Eff. Aug. 14;—Am. 1915, p. 132, Act 75, Eff. Aug. 24;—CL 1915, 4380;—CL 1929, 4023.—CL 1948, 225.3. This section as originally enacted superseded Sec. 3 of Act 146 of 1905, as Am. 1907, p. 409, Act 309, Imd. Eff. June 28, which was similar to Sec. 3 of Act 203 of 1903.

COMPENSATION: Per diem of township commissioners, see Compilers' § 41.95 and notes thereto, of county commissioners, see Compilers' § 224.8.

225.4-225.8 Repealed. 1958, p. 83, Act 77, Eff. Sep. 13.

Sections required local officials to make sworn reports to state highway commissioner, required him to furnish plans and advice on building or improvement of public roads or bridges, defined terms and required commissioner to record actions of the department and to make township maps.

Sec. 9.

HISTORY: Am. 1915, p. 132, Act 75, Eff. Aug. 24;—CL 1915, 4386;—Am. 1917, p. 878, Act 356, Imd. Eff. May 10;—Am. 1923, p. 287, Act 184, Eff. Aug. 30;—Rep. 1925, p. 185, Act 143, Imd. Eff. April 30. This section as originally enacted superseded, in part, Sec. 9 of Act 146 of 1905, as Am. 1907, p. 409, Act 309, Imd. Eff. June 28.

This section provided for the application for state reward and its approval on meeting standard.

Sec. 10.

HISTORY: Am. 1911, p. 235, Act 148, Eff. Aug. 1;—Am. 1913, p. 677, Act 355, Eff. Aug. 14;—Am. 1915, p. 133, Act 75, Eff. Aug. 24.—CL 1915, 4387;—Am. 1917, p. 879, Act 356, Imd. Eff. May 10;—Am. 1919, Ex. Ses., p. 7, Act 1, Imd. Eff. June 25;—Am. 1923, p. 288, Act 184, Eff. Aug. 30;—Rep. 1925, p. 185, Act 143, Imd. Eff. April 30. This section as originally enacted superseded, with additions, Sec. 10 of Act 146 of 1905.

This section set forth the classes of roads meriting state reward.

Sec. 10a.

HISTORY: Add. 1917, p. 155, Act 85, Imd. Eff., April 17;—Am. 1919, p. 160, Act 92, Imd. Eff. April 19;—Rep. 1919, Ex. Ses., p. 10, Act 1, Imd. Eff. June 25.

This section provided for amount of reward on class "B" and "C" roads.

Sec. 11.

HISTORY: Am. 1911, p. 237, Act 148, Eff. Aug. 1;—Am. 1913, p. 680, Act 355, Eff. Aug. 14;—Am. 1915, p. 136, Act 75, Eff. Aug. 24.—CL 1915, 4388;—Rep. 1925, p. 185, Act 143, Imd. Eff. April 30. This section as originally enacted superseded Sec. 11 of Act 146 of 1905, as Am. 1907, p. 409, Act 309, Imd. Eff. June 28.

This section placed a limitation on the reward, provided for drawing installments and the credit of money drawn.

225.12, 225.13 Repealed. 1958, p. 83, Act 77, Eff. Sep. 13.

Sections provided for patrol system for road maintenance and made state highway commissioner's decision final on merit for state reward.

225.14 State department; office and equipment.

Sec. 14. There shall be assigned to the state highway commissioner, by the board of state auditors, suitable rooms at Lansing, and at such other cities as the state highway commissioner and board of state auditors may determine, for the conducting of the business of the state highway department, and they shall provide suitable furniture and office equipment.

HISTORY: CL 1915, 4391;—Am. 1917, p. 883, Act 356, Imd. Eff. May 10;—CL 1929, 4031;—CL 1948, 225.14. This section as originally enacted re-enacted Sec. 15 of Act 146 of 1905, which was similar to Sec. 7 of Act 203 of 1903.

Sec. 15.

HISTORY: Add. 1913, p. 680, Act 355, Eff. Aug. 14;—CL 1915, 4392;—Rep. 1925, p. 185, Act 143, Imd. Eff. April 30.

This section provided for an increase in the reward on raise of standard.

Sec. 16.

HISTORY: Add. 1913, p. 681, Act 355, Eff. Aug. 14;—CL 1915, 4393;—Am. 1917, p. 883, Act 356, Imd. Eff. May 10;—Am. 1919, p. 212, Act 116, Eff. Aug. 14;—Rep. 1927, p. 480, Act 243, Eff. Sep. 5. This section as originally enacted superseded Sec. 16 of Act 146 of 1905, as Am. 1907, p. 409, Act 309, Imd. Eff. June 28.

This section provided for the annual maintenance reward.

225.17 Repealed. 1958, p. 83, Act 77, Eff. Sep. 13.

Section provided state aid for bridges having more than a 30 feet span.

Secs. 18-19. (These were appropriation and tax clause sections.)

HISTORY: Add. 1917, p. 354, Act 177, Imd. Eff. May 2;—Rep. 1945, p. 411, Act 267, Imd. Eff. May 25.

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CHAPTER VI.—FOR THE SECURITY OF PERSONS AND PROPERTY ON THE HIGHWAYS.

226.1-226.6 Repealed.

226.1-226.6 Repealed. 1958, p. 83, Act 77, Eff. Sep. 13.

Sections provided for maintenance of width of roads along a water course and for other safety measures, for award of damages; and stated duty of road companies to maintain roads in safe condition with penalty for failure to do so.

CHAPTER VII.—THE OBSTRUCTION OF HIGHWAYS AND ENCROACHMENTS THEREON.

Secs. 1-14.

HISTORY: CL 1915, 4401-4414;—Rep. 1925, p. 719, Act 368, Eff. Aug. 27, being CL 1929, 4061.

Secs. 1-6, 10, 11 superseded Ch. VI of Act 243 of 1881, being How. 1371-1378;—CL 1897, 4121-4128. Secs. 2, 3 and 6 of Act 243 of 1881 were Am. 1899, p. 381, Act 244, Eff. Sep. 23.

Secs. 7, 8 and 9 superseded Act 263 of 1907. Sec. 8 was Am. 1911, p. 393, Act 223, Eff. Aug. 1.

Sec. 12 was Add. 1913, p. 223, Act 125, Eff. Aug. 14.

Secs. 13 and 14 were Add. 1913, p. 701, Act 367, Eff. Aug. 14.

For present law, see Compilers' §§ 247.171 to 247.190.

CHAPTER VIII.—THE ERECTION, REPAIRING AND PRESERVATION OF BRIDGES.

Secs. 1-32.

HISTORY: CL 1915, 4415-4446;—Rep. 1925, p. 672, Act 354, Imd. Eff. May 27, being CL 1929, 4552.

Sec. 1 superseded Sec. 1 of Ch. VII of Act 243 of 1881, being How. 1379;—As Am. 1889, p. 206, Act 177, Imd. Eff. June 21;—CL 1897, 4129.

Sec. 2 superseded Sec. 3 of Ch. VII of Act 243 of 1881, being How. 1381;—As Am. 1883, p. 46, Act 56, Eff. Sep. 8;—As Am. 1887, p. 136, Act 121, Eff. Sep. 28;—As Am. 1899, p. 418, Act 274, Eff. Oct. 2;—CL 1897, 4131.

Secs. 3-8 superseded Secs. 4-9 of Ch. VII of Act 243 of 1881, being How. 1382-1387;—CL 1897, 4132-4137. Sec. 6 of Ch. VII of Act 243 of 1881 was Am. 1887, p. 167, Act 156, Eff. Sep. 28.

Secs. 9-12 superseded Secs. 10-13 of Ch. VII of Act 243 of 1881, as Add. 1889, p. 340, Act 230, Eff. July 3, being How. 1387a-1387d;—CL 1897, 4138-4141. Sec. 10 of Ch. VII of Act 243 of 1881 was Am. 1891, p. 37, Act 37, Imd. Eff. April 21.

Sec. 13 superseded Act 72 of 1899. Sec. 13 was Am. 1915, p. 137, Act 75, Eff. Aug. 24.

Secs. 14-17 superseded Act 149 of 1855, being CL 1857, 1106-1109;—CL 1871, 1309-1312;—How. 1453-1455;—CL 1897, 4216-4219. Secs. 2 and 3 of Act 149 of 1855 were Am. 1875, p. 97, Act 65, Eff. April 6.

Secs. 18-23 superseded Act 292 of 1887, being How. 2102k-2102p;—CL 1897, 5516-5521.

Secs. 24-25 superseded Act 27 of 1883, being How 1455e-1455f;—CL 1897, 4224-4225.

Sec. 26 is similar to proviso in Compilers' § 67.7.

Secs. 27-32 superseded Act 306 of 1905.

For present law, see Compilers' §§ 254.1 to 254.32.

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CHAPTER IX.—OPENING OF PRIVATE ROADS AND TEMPORARY HIGHWAYS.

229.1 Private road; application; hearing, notice.
229.2 Jury; formation; citation to appear.
229.3 Jury; oath, duty.
229.4 Jury; certificate; laying out of road.
229.5 Damages and costs; payment.
229.6 Width of road; use, purpose.
229.7 Temporary highways; application.
229.8 Temporary highways; notice; determination of necessity, damages, duration; logging railroad.
229.9 Temporary highways; owner's consent; deemed private highway; damages and expense, payment.
229.10 Temporary highways; winter use.
229.11 Appeal; procedure, bond, fees; judgment, certification; costs.

229.1 Private road; application; hearing, notice.

Sec. 1. Whenever application shall be made to the commissioner of highways of any township for a private road, he shall give notice in writing to the owner or occupant of the land over which the road is proposed to be laid out, to meet on a day and at a place certain, which shall not be more than 10 nor less than 5 days from the time of service of such notice, for the purpose of aiding in the striking of a jury to determine as to the necessity of such road; and if the land over which it is proposed to lay such road be non-resident and the owner thereof does not reside in the county, such notice shall be served in the same manner as is provided in case of *bearing on laying out public roads, and proof of such service or posting shall be made in like manner.

HISTORY: CL 1915, 4447;—CL 1929, 4062;—CL 1948, 229.1. This section re-enacts Sec. 1 of Ch. VIII of Act 243 of 1881, being How. 1388;—CL 1897, 4142, changing word "hearing" to "bearing."

*NOTE: It is evident that the word "bearing" should be "hearing."

PASSAGE WAYS: To lands adjoining at a single point, see Compilers' § 247.201.

CONDEMNATION: See Compilers' § 224.12 et seq.

229.2 Jury; formation; citation to appear.

Sec. 2. At the time and place designated the commissioner shall direct some disinterested person to write down the names of 12 disinterested freeholders, from which list the owner or occupant of the land to be crossed by such road and the applicant for the road shall strike out 3 names each, and the balance remaining on the list shall form the jury. In case the owner or occupant or the applicant shall not be present, or being present shall neglect or refuse to strike, the commissioner shall strike for the party so absent or neglecting or refusing. The commissioner shall issue a citation to such freeholders to appear before him at a time certain within 48 hours to determine as to the necessity of such road and the damages resulting therefrom in case such road shall be deemed necessary, and the hearing of the application shall then stand continued until the time when the citation is returnable: Provided, however, That when from any cause a sufficient number of jurors to form a panel shall not appear at the given time, the commissioner may direct some disinterested freeholder to write down the names of disinterested freeholders enough to equal twice the number of vacancies to be filled. The commissioner shall strike off 1/2 of the names from such list, and shall issue a citation to such freeholders to appear before him forthwith.

HISTORY: Am. 1911, p. 79, Act 64, Eff. Aug. 1;—CL 1915, 4448;—CL 1929, 4063;—CL 1948, 229.2. This section as originally enacted re-enacted Sec. 2 of Ch. VIII of Act 243 of 1881, being How. 1389;—As Am. 1883, p. 47, Act 59, Imd. Eff. April 27;—CL 1897, 4143.

229.3 Jury; oath, duty.

Sec. 3. Such freeholders, when met, shall be sworn by the commissioner well and truly to examine in regard to the necessity of such road, and in case they shall decide that such road is necessary, to justly and impartially appraise the damages of the owner or owners, or occupant of the land, by reason of laying out such road.

HISTORY: CL 1915, 4449;—CL 1929, 4064;—CL 1948, 229.3. This section re-enacts Sec. 3 of Ch. VIII of Act 243 of 1881, being How. 1390;—CL 1897, 4144.

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229.4 Jury; certificate; laying out of road.

Sec. 4. If the jury shall determine that the road so applied for is necessary, they shall make and subscribe a certificate of such determination, and also their appraisal of the damages, and shall deliver the same to the commissioner; and the commissioner shall thereupon lay out the road, describing the same particularly by its bounds, courses, and distances, and shall cause a record thereof to be made in the clerk's office of the proper township, which shall be recorded in the same manner as is required in the case of public roads.

HISTORY: CL 1915, 4450;—CL 1929, 4065;—CL 1948, 229.4. This section re-enacts Sec. 4 of Ch. VIII of Act 243 of 1881, being How. 1391;—CL 1897, 4145.

229.5 Damages and costs; payment.

Sec. 5. The damages awarded to the owner or occupant of the land through which such road shall be laid, when thus ascertained, together with the expenses of the proceedings, shall be paid to the commissioner by the person applying for the road, which damages shall be paid or tendered by the commissioner to such owner or occupant, and when so paid or tendered the commissioner shall proceed to open the road.

HISTORY: CL 1915, 4451;—CL 1929, 4066;—CL 1948, 229.5. This section re-enacts Sec. 5 of Ch. VIII of Act 243 of 1881, being How. 1392;—CL 1897, 4146.

229.6 Width of road; use, purpose.

Sec. 6. Private roads shall not be less than 1 rod in width, and when laid out as above provided, shall be for the use of the applicant, his heirs and assigns, but not to be converted to any other use or purpose than that of a road; but the owner or occupant of the land through which such road shall be laid out shall not be prevented from making use thereof as a road, if he shall signify his intention of so doing to the jury at the time of laying out such road, and before the appraisal of the damages by them.

HISTORY: CL 1915, 4452;—CL 1929, 4067;—CL 1948, 229.6. This section re-enacts Sec. 6 of Ch. VIII of Act 243 of 1881, being How. 1393;—CL 1897, 4147.

229.7 Temporary highways; application.

Sec. 7. Whenever any owner of any timbered land, not less than 40 acres, shall wish to have a temporary highway laid out, over which a logging railroad may be operated on conditions hereinafter stated, he may in writing make application to the commissioner of highways of the proper township for that purpose, who shall proceed to empanel a jury, or submit the matter to commissioners if the parties in interest so desire, and the proceedings shall be substantially the same as provided in this chapter for opening private roads.

HISTORY: Am. 1911, p. 250, Act 153, Eff. Aug. 1;—Am. 1913, p. 638, Act 335, Eff. Aug. 14;—CL 1915, 4453;—CL 1929, 4068;—CL 1948, 229.7. This section as originally enacted re-enacted Sec. 1 of Act 327 of 1907.

229.8 Temporary highways; notice; determination of necessity, damages, duration; logging railroad.

Sec. 8. When any such application shall be made, the commissioner of highways of the township in which said road is to be located, shall give notice in writing to the owner and occupant of the land in substantially the same manner as provided in section 1 of this act for the purpose of aiding in the striking of a jury to determine as to the necessity of such road and to appraise the damages, or the parties in interest may agree upon 3 or more persons as commissioners to act in place of a jury to determine such necessity and appraise such damages. If it shall be determined that said temporary highway is necessary for the purpose of removing the timber from such lands, the jury or commissioners shall certify under their hands such determination and also their appraisal of the damages, and shall determine the length of time that such highway shall be necessary; and at the expiration of such time said highway shall cease, and the commissioner shall lay out the road in accordance with said determination, describing the same particularly, and shall cause a record thereof to be made in the clerk's office:

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Provided, That no logging railroad shall be operated upon or along any such temporary highways, except that at any time prior to December 31, 1935, permission may be given by the commissioner of highways to construct and operate such logging railroad, but such railroad shall not be operated or maintained after December 31, 1935.

HISTORY: Am. 1911, p. 250, Act 153, Eff. Aug. 1;—Am. 1913, p. 639, Act 335, Eff. Aug. 14;—CL 1915, 4454;—Am. 1923, p. 298, Act 187, Eff. Aug. 30;—CL 1929, 4069;—CL 1948, 229.8. This section as originally enacted re-enacted Sec. 2 of Act 327 of 1907.

NOTE: Sec. 1, above referred to, is Compilers' § 229.1.

229.9 Temporary highways; owner's consent; deemed private highway; damages and expense, payment.

Sec. 9. No such highway or logging railroad shall be laid out along and upon and so as to occupy any road made or caused to be made by the owner of any land or by any person with the consent of such owner and used by the person or persons who made the same, unless such owner shall consent thereto in writing. Such temporary highways shall be private highways, and all the expenses of their laying out, which expenses shall include the compensation due the highway commissioner, the jury or commissioners acting as such, for such services, and all damages that may be awarded on account of the taking of lands therefor, shall be paid to the commissioner by the persons applying for the same, and upon such payment they may enter upon, open and work such highways at their own and sole expense, but no trees shall be cut therein except as shall be necessary to make a track or tracks.

HISTORY: Am. 1913, p. 639, Act 335, Eff. Aug. 14;—CL 1915, 4455;—CL 1929, 4070;—CL 1948, 229.9. This section as originally enacted re-enacted Sec. 3 of Act 327 of 1907.

229.10 Temporary highways; winter use.

Sec. 10. In case such highway is only to be used in the winter time such facts shall be set up in the application and also in the finding of the jury or commissioners, and this shall be taken into consideration in awarding damages to the owners of the land crossed.

HISTORY: Am. 1913, p. 639, Act 335, Eff. Aug. 14;—CL 1915, 4456;—CL 1929, 4071;—CL 1948, 229.10. This section as originally enacted re-enacted Sec. 4 of Act 327 of 1907.

229.11 Appeal; procedure, bond, fees; judgment, certification; costs.

Sec. 11. Any party in interest may appeal from the determination of the jury or commissioners in any proceedings under this chapter to the circuit court for the county, within 30 days, by filing with the township clerk an affidavit made by himself, his agent or attorney, stating that such determination is not in accordance with the just rights of such party, as the person making such affidavit verily believes. And said party shall also file with said clerk within said time a bond running to the highway commissioner for the benefit of all other parties in interest, conditioned that the appellant will prosecute his appeal with all due diligence, and that if a judgment be rendered against him in the circuit court he will pay such judgment, including all costs with interest thereon; which bond shall be in a penalty sufficient to secure the costs and damages and with 1 or more sufficient sureties, who shall justify their responsibility in writing and under oath endorsed on said bond. The appellant shall also pay to the township clerk the sum of 1 dollar for making his return on appeal, and also the further sum of 3 dollars as clerk and entry fee to be paid by said township clerk to the clerk of the circuit court. Said appeal shall be heard before the judge of the circuit court, and a jury of 6 freeholders selected by the parties from the regular panel under the direction of the circuit judge, in the manner jurors are selected in civil causes, or if the parties desire, by 3 commissioners to be appointed by the circuit judge. The county clerk shall act as clerk of the court the same as in other causes, and the proceedings as far as applicable shall be according to the ordinary course of civil procedure. The judgment and determination on appeal shall be certified back to the township clerk for any further proceedings that may be required by the statute. In case of more than 1 appeal

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they shall be heard together as 1 cause. Costs may be awarded by the circuit court and collected the same as on appeals from justice's court. On perfecting said appeal all proceedings shall be stayed and no further steps taken until the determination or dismissal of said appeal. No costs shall be awarded against any party, except such as actually appeal or defend such appeal.

HISTORY: Add. 1913, p. 640, Act 335, Eff. Aug. 14;—CL 1915, 4457;—CL 1929, 4072;—CL 1948, 229.11.

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CHAPTER X.—PENALTIES AND FORFEITURES.

230.1-230.3 Repealed.
230.4 Obstruction of navigable stream, highway drain or water course; forfeiture.
230.5 Mile-stone, guide-post; wilful destruction or injury; penalty.
230.6 Trees or shrubs; wilful destruction or injury; civil liability.
230.7 Injury to bridges; treble damages.
230.8 Trees felled in highway; removal, failure, forfeiture.
230.9 Repealed.

230.1-230.3 Repealed. 1958, p. 83, Act 77, Eff. Sep. 13.

Sections set penalty for neglect of duty by an overseer or highway commissioner; authorized prosecution by commissioner upon written complaint by resident.

230.4 Obstruction of navigable stream, highway drain or water course; forfeiture.

Sec. 4. Whoever shall wilfully obstruct the navigation of any river or stream, which is now or may hereafter be declared a public highway, by felling any tree therein or by putting into any such river or stream any refuse lumber, slabs, or other waste materials, or who shall wilfully obstruct any highway, or fill up or place any obstructions in any ditch constructed for draining the water from any highway, or who shall injure any highway by diverting any creek, or by obstructing any water course or sluice, shall forfeit for every such offense a sum not exceeding 25 dollars.

HISTORY: CL 1915, 4461;—CL 1929, 4080;—CL 1948, 230.4. This section re-enacts Sec. 5 of Ch. IX of Act 243 of 1881, being How. 1403;—CL 1897, 4157.

230.5 Mile-stone, guide-post; wilful destruction or injury; penalty.

Sec. 5. Whoever shall wilfully destroy, remove, injure, or deface any mile-stone, mile-board, guide-post, or guide-board erected on any highway, or shall wilfully injure or deface any inscription or device placed thereupon, or who shall wilfully injure or deface any watering-trough, basin, or fountain placed upon the highway for the use of the public or for ornament, shall forfeit for each offense the sum of 25 dollars.

HISTORY: CL 1915, 4462;—CL 1929, 4081;—CL 1948, 230.5. This section re-enacts Sec. 6 of Ch. IX of Act 243 of 1881, being How. 1404;—CL 1897, 4158.

230.6 Trees or shrubs; wilful destruction or injury; civil liability.

Sec. 6. Any person who shall wilfully injure, deface, tear, or destroy any tree or shrub planted along the margin of the highway, or purposely left there for shade or ornament, or who shall hitch any horse to any such tree, by means of which the same shall suffer injury, or who shall negligently or carelessly, by any other means, suffer any horse or other beast driven by or for him, or any beast belonging to him and lawfully in the highway, to break down, destroy, or injure any tree or shrub not his own, standing for use or ornament in any highway, shall be liable to an action for damages in a sum not less than 1 nor more than 25 dollars for each offense, to be recovered at the suit and for the benefit of the owner or tenant of the land in front of which such tree or shrub stands, or at the suit of the commissioner in whose township such tree or shrub may be situated, for the benefit of the highway improvement fund of such township.

HISTORY: CL 1915, 4463;—CL 1929, 4082;—CL 1948, 230.6. This section supersedes Sec. 7 of Ch. IX of Act 243 of 1881, being How. 1405;—CL 1897, 4159.

For similar provisions see Compilers' § 247.241.

230.7 Injury to bridges; treble damages.

Sec. 7. Whoever shall injure any bridge maintained at the public charge, or any public road, by drawing logs or timber on the surface of any such road or bridge, or by

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any other act, shall be liable in damages to 3 times the amount of the injury, to be recovered in an action of trespass or on the case, by the commissioner of highways of the township within which the injury was done, in his name of office, to be expended by him in the repair of roads in his township.

HISTORY: CL 1915, 4464;—CL 1929, 4083;—CL 1948, 230.7. This section supersedes part of Sec. 8 of Ch. IX of Act 243 of 1851, being How. 1406;—CL 1897, 4160.

230.8 Trees felled in highway; removal, failure, forfeiture.

Sec. 8. If any trees shall fall or be fallen by any person from any occupied land into any highway, any person may give notice to the occupant of the land from which such trees shall have fallen to remove the same in 2 days, and if such trees shall not be removed within that time, but shall continue in such highway, such occupant shall forfeit the sum of 50 cents for every day thereafter until such tree shall be removed.

HISTORY: CL 1915, 4465;—CL 1929, 4084;—CL 1948, 230.8. This section re-enacts Sec. 9 of Ch. IX of Act 243 of 1851, being How. 1407;—CL 1897, 4161.

230.9 Repealed. 1963, p. 137, Act 106, Eff. Sep. 6.

Section made deposit of garbage or rubbish on highway a misdemeanor.

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CHAPTER XI.—SHADE TREES IN HIGHWAYS.

231.1-231.4 Repealed.

231.1-231.4 Repealed. 1958, p. 83, Act 77, Eff. Sep. 13.
Sections required planting and preservation of shade trees along highways.

CHAPTER XII.—GENERAL DUTIES OF COMMISSIONERS AND OVERSEERS.

232.1-232.6 Repealed.

232.1-232.6 Repealed. 1958, p. 83, Act 77, Eff. Sep. 13.
Sections provided for bonds of highway commissioners and overseers, for filling vacancies in office, for repair or construction of roads and bridges with or without bids, and for payment for materials and labor.

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CHAPTER XIII.—MISCELLANEOUS PROVISIONS.

233.1-233.5 Repealed.
233.7-233.13 Repealed.
233.14 Ferry landings; deemed public highways.
233.15 Repealed.

233.1-233.5 Repealed. 1958, p. 83, Act 77, Eff. Sep. 13.

Sections stated township clerks' duties, powers of township highway commissioner, and fees and duties of peace officers, made per diem allowance for commissioner and permitted township to purchase plank or toll roads.

Sec. 6.

HISTORY: CL 1915, 4482;—Am. 1917, p. 462, Act 212, Eff. Aug. 10;—CL 1929, 4106. Rep. 1945, p. 205, Act 142, Eff. Sept. 6. This section as originally enacted re-enacted, in part, Sec. 8 of Ch. XII of Act 243 of 1881, being How. 1432;—CL 1897, 4187.

NOTE: This section provided for election of overseers, now obsolete, at the town meeting, and poundmasters.

233.7-233.13 Repealed. 1958, p. 83, Act 77, Eff. Sep. 13.

Sections regulated use of trees on land to be used for highway, provided for collection of penalties and their distribution; provided for execution of judgments, defined "commissioner" and "overseer", and provided for care of tools and machinery and for liability for damage resulting from negligence or willful injury.

233.14 Ferry landings; deemed public highways.

Sec. 14. Ferry landings shall be deemed public highways, and may be laid out, constructed, maintained, altered, or discontinued in the same manner, and shall in all respects be subject to the same regulations, so far as they may be applicable, as other public highways and bridges; and any public highways along the border of, or terminating upon the waters of any stream, river, or other body of water across which a ferry is licensed, may be used as a landing for such ferry, subject to such rules and regulations as the authorities having control over highways may establish and such use shall be deemed a proper use thereof as a highway.

HISTORY: CL 1915, 4490;—CL 1929, 4116;—CL 1948, 233.14.

For similar provisions, see Compilers' § 255.12.

233.15 Repealed. 1958, p. 83, Act 77, Eff. Sep. 13.

Section authorized acquisition of gravel lands by highway commissioner.

CHAPTER XIV.—HIGHWAY TAXES AND THE ASSESSMENT THEREOF.

234.1-234.18 Repealed.

234.1-234.18 Repealed. 1958, p. 83, Act 77, Eff. Sep. 13.

Sections required township clerk to give supervisors certain tax information, provided tax assessment and collection procedure, and provided for township bonds.

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CHAPTER XV.—DRAINS.

235.1 Drain in public highway; release of right-of-way, damages.
235.2 Drain in public highways; bridges and culverts; construction strength, apportionment and payment of cost, maintenance by property owner.
235.3 Open drain in highways; consent of commissioner, location, disposition of earth.
235.4 Open drain in highway; drain commissioner to apportion costs.
235.5 Drain across adjacent land; acquisition of right-of-way, approval of board, deed.
235.6 Report to township electors; contents; highway drain fund, use of surplus.
235.7 Report on construction; contents, filing; powers limited to highway drainage.
235.8 Failure to secure right-of-way; application to drain commissioner, procedure; jurisdiction.
235.8a Detour roads; expense.

235.1 Drain in public highway; release of right-of-way, damages.

Sec. 1. Drains may be laid along and within the limits of or across any public highway: Provided, That when it is proposed to construct a drain in whole or in part along a public highway, the owners of the land abutting on the side of the highway along which such drain is proposed to be laid, shall be considered as still owning the fee of such land, and it shall be necessary for the county drain commissioner to obtain from them severally a release of their rights to so much of said highway as is necessary and proposed to be taken for the right of way of said drain, and for all damages on account thereof. In case such release is not executed within the time (a) prescribed in section 4 of chapter 3, such release (b) shall be obtained in the same manner as is provided in this act for obtaining private lands.

HISTORY: CL 1915, 4510;—CL 1929, 4139;—CL 1948, 235.1.

NOTE: Sec. 4 of Ch. III, above referred to, is undoubtedly Sec. 4 of Ch. III of Act 254 (drain law) of 1897 which has been superseded by Compilers' § 264.5.

DRAIN CODE OF 1956: See Compilers' § 280.1 et seq.

235.2 Drain in public highways; bridges and culverts; construction strength, apportionment and payment of cost, maintenance by property owner.

Sec. 2. When any drain crosses a highway, the necessary bridge or culvert shall be constructed on the center line of the highway as located by survey, and in accordance with plans and specifications which shall be approved by the county, township or district highway commissioner having jurisdiction, or by the state highway commissioner if such road is a trunk line road, and such bridge or culvert shall be of a permanent nature and of sufficient strength to safely carry a 15 ton moving load. The cost of constructing the necessary bridge or culvert shall be charged in the first instance as part of the cost of construction of such drain after which such bridge or culvert shall be maintained as a part of the highway: Provided, however, That if such highway is a trunk line road, or is a county road, the state highway commissioner, or the board of county road commissioners, as the case may be, may assume and bear such proportion of the cost as may be agreed on between the drain commissioner and state highway commissioner or board. In such case however the contract for the construction of the bridge shall not be let by the drain commissioner without the written consent of the state highway commissioner or the board of county road commissioners. Any such expense assumed by the state shall be met out of any funds appropriated for the state highway department that may be available therefor; and the proportion of the cost of any bridge to be borne by the board of county road commissioners shall be paid out of moneys in the county road fund not otherwise appropriated. When a drain passes along a highway, there shall be constructed at least 1 bridge or passageway across such drain connecting the highway with each enclosed field and with each farm entrance,

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which bridge or passageway shall also be charged in the first instance as a part of the construction of such drain, after which such bridge or passageway shall be maintained by the owner of the land.

HISTORY: Am. 1915, p. 137, Act 75, Eff. Aug. 24;—CL 1915, 4511;—Am. 1921, p. 668, Act 367, Eff. Aug. 18;—CL 1929, 4140;—CL 1948, 235.2.

235.3 Open drain in highways; consent of commissioner, location, disposition of earth.

Sec. 3. Before an open drain shall be laid along a public highway, the highway commissioner of the township in which the drain is located shall be consulted and his consent as to the proposed location of the drain shall be obtained in writing, stipulating that no excavation may be made nearer than 1 rod to the center line of the highway and stating what disposition shall be made of all material excavated. It shall be the duty of the drain commissioner to level down all materials placed in the roadway.

HISTORY: Am. 1915, p. 137, Act 75, Eff. Aug. 24;—CL 1915, 4512;—Am. 1917, p. 198, Act 121, Eff. Aug. 10;—CL 1929, 4141;—CL 1948, 235.3.

235.4 Open drain in highway; drain commissioner to apportion costs.

Sec. 4. The county drain commissioner shall apportion the per centum of the cost of construction of such drain which any township traversed or benefited thereby shall be liable to pay by reason of the benefit to the public health, convenience or welfare, or as the means of improving any highway, and he shall also apportion the per centum of benefits to accrue to any piece or parcel of land by reason of the construction of such drain, over and above the per centum assessed against such township as aforesaid, which per centum of benefits shall be apportioned upon and assessed against the lands benefited according to such assessment of benefits and which apportionments he shall announce at the time and place of letting, as provided in chapter 4. Such assessment of per centum for benefits shall thereupon be subject to review and correction, and may be appealed from in the manner hereinafter provided.

HISTORY: CL 1915, 4513;—CL 1929, 4142;—CL 1948, 235.4.

NOTE: Ch. 4, above referred to, was undoubtedly Ch. IV of 254 of 1897, being CL 1915, 4902-4905, which has been superseded by Chs. VI-IX of Act 316 of 1923, being Compilers' §§ 266.1 to 269.8.

235.5 Drain across adjacent land; acquisition of right-of-way, approval of board, deed.

Sec. 5. Whenever it is necessary or more convenient for the proper drainage of any highway in this state that the surplus water be taken onto or across the land adjacent thereto, the highway commissioner of the township in which said highway is situated, may secure the right of way and may open such drain or outlet for the water, and for these purposes may use any highway moneys of the township not otherwise appropriated, and such sums as may be voted for that use by the electors of the township. The highway commissioner shall secure the right of way for any such drain by gift or purchase from the owners of the land to be crossed by such drain; but in case of purchase the purchase price must be approved by the township board before any money be paid thereon. Such right of way shall be acquired by deed duly executed by the owner or owners of the lands sought to be crossed by the said drain, and shall be taken in the name of the township wherein the same is located, and filed in the office of the register of deeds of the county before any highway money shall be expended in opening such drain outside the highway limits.

HISTORY: CL 1915, 4514;—CL 1929, 4143;—CL 1948, 235.5. This section supersedes Sec. 1 of Act 56 of 1903;—As Am. 1905, p. 171, Act 123, Eff. Sept. 16.

235.6 Report to township electors; contents; highway drain fund, use of surplus.

Sec. 6. The highway commissioner shall report to the electors of the township at their annual meeting the amount of money expended by him during the year for such highway drainage, specifying the amount expended on each drain. He shall also re-

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commend the raising of such sums as he may deem necessary for opening drains from the highway during the coming year, specifying each proposed drain and the probable amount needed for securing the right of way and opening the same. The money voted for this purpose by the electors of the township shall constitute a special highway drain fund, and shall be used for no other purpose. In case any money be left in the fund, after opening the drain for which it was raised, it may be used in opening any other highway drain in the township, or in cleaning out, when necessary, those already opened.

HISTORY: CL 1915, 4515;—CL 1929, 4144;—CL 1948, 235.6. This section re-enacts Sec. 2 of Act 56 of 1903.

235.7 Report on construction; contents, filing; powers limited to highway drainage.

Sec. 7. On the completion by the highway commissioner of any drain constructed under the provisions of this act, it shall be the duty of said highway commissioner to file in the office of the county drain commissioner a detailed report of the construction of such drain, giving the date of construction, the termini and general course thereof, together with a copy of the deed by which the right of way therefor was secured. Nothing in the provisions of the preceding sections shall be construed as giving to highway commissioners power to lay out and construct drains having any other purpose than the drainage of highways.

HISTORY: CL 1915, 4516;—CL 1929, 4145;—CL 1948, 235.7. This section re-enacts Sec. 3 of Act 56 of 1903.

235.8 Failure to secure right-of-way; application to drain commissioner, procedure; jurisdiction.

Sec. 8. In case the highway commissioner cannot secure the right of way across adjacent lands for the construction of any drain by agreement with the owner or owners of the land through which it will pass, he may make under his name of office an application to the drain commissioner of the county in which the proposed drain is situated, to lay out and establish the said drain. Such application shall conform to the law regulating applications for the construction of drains, and shall require no other signature than his own as highway commissioner. Such application shall have the same force and effect and be subject in other respects to the same laws and regulations that govern other applications for the establishment of drains, and shall confer jurisdiction and authority on the county drain commissioner to lay out and establish such drain under and by virtue and in pursuance of the law governing the location and establishment of other drains. It shall not be necessary to submit to the township board or boards of the township or townships crossed or affected by such drain the question of the necessity thereof or whether the same shall be conducive to health, convenience and welfare.

HISTORY: CL 1915, 4517;—Am. 1921, p. 645, Act 354, Eff. Aug. 18;—CL 1929, 4146;—CL 1948, 235.8. This section as originally enacted re-enacted Sec. 4 of Act 56 of 1903.

235.8a Detour roads; expense.

Sec. 8a. In case it shall be deemed necessary by the state highway commissioner or by the county road commissioners of any county where such drain or other public improvement is under construction to lay out and maintain a detour road for the safety and convenience of public travel, it shall be lawful, except in cities, that the full cost therefor shall be borne as part of the main project whether it be a drain, a road or a highway project.

HISTORY: Add. 1921, p. 645, Act 354, Eff. Aug. 18;—CL 1929, 4147;—CL 1948, 235.8a.

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CHAPTER XVI.—POWERS AND DUTIES OF BOARDS OF SUPERVISORS.

236.1, 236.5-236.9, 236.11 Repealed.

236.1, 236.5-236.9, 236.11 Repealed. 1958, p. 83, Act 77, Eff. Sep. 13.

Sections defined powers and duties of boards of supervisors relating to the general highway law.

CHAPTER XVII.—TOLL ROADS.

Secs. 1-27.

HISTORY: CL 1929, 4157-4183;—Rep. 1939, p. 411, Act 219, Eff. Sep. 29.

This chapter provided for toll roads. For antecedent history to this chapter see notes to CL 1929, 4157-4183.

CHAPTER XVIII.—HIGHWAY ORDERS.

238.1-238.4 Repealed.

238.1-238.4 Repealed. 1958, p. 83, Act 77, Eff. Sep. 13.

Sections stated procedure for payment of highway orders, required report of nonpayment because of lack of funds, and precluded drawing orders for sums in excess of funds voted.

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CHAPTER XIX.—CULVERTS, OR CATTLE-PASSES AND HEDGES.

239.1 Culverts or cattle-passes; construction, permission, cost.
239.2 Culverts or cattle-passes; material of construction.
239.3 Culverts or cattle-passes; failure to repair, removal, cost.
239.4 Culverts or cattle-passes; record.
239.5 Hedges; care, removal of brush; cities excepted.
239.6 Hedges; penalty for neglect.

239.1 Culverts or cattle-passes; construction, permission, cost.

Sec. 1. It shall be lawful for all persons owning land on opposite sides of any public highway to construct culverts or cattle-passes under such highways: Provided, That formal application is made to, and permission obtained from the commissioner of highways of the township in which said land is situated, for such construction: Provided further, That such construction and maintenance shall be wholly at the expense of such applicant, his heirs and assigns.

HISTORY: CL 1915, 4560;—CL 1929, 4195;—CL 1948, 239.1. This section re-enacts Sec. 1 of Act 16 of 1883, being How. 1455a;—CL 1897, 4220, with minor changes in form.

BRIDGES: See Compilers' § 254.1 et seq.

239.2 Culverts or cattle-passes; material of construction.

Sec. 2. Such culverts or cattle-passes, when constructed, shall be of such material and according to such plan as the commissioner of highways shall direct.

HISTORY: CL 1915, 4561;—CL 1929, 4196;—CL 1948, 239.2. This section re-enacts Sec. 2 of Act 16 of 1883, being How. 1455b;—CL 1897, 4221.

239.3 Culverts or cattle-passes; failure to repair, removal, cost.

Sec. 3. In case any such applicant, heirs or assigns shall fail to keep his culvert or cattle-pass already constructed, or hereafter to be constructed, in good repair, it shall be the duty of such highway commissioner to remove such culvert or cattle-pass from such highway at the expense of such applicant, or owner, heirs or assigns, such expense to be collected by suit in the name of such commissioner of highways in an action of trespass on the case before any justice of the peace of such township.

HISTORY: CL 1915, 4562;—CL 1929, 4197;—CL 1948, 239.3. This section re-enacts Sec. 3 of Act 16 of 1883, being How. 1455c;—CL 1897, 4222.

239.4 Culverts or cattle-passes; record.

Sec. 4. A record of such culverts or cattle-passes, and of all proceedings relating thereto, shall be kept in the manner substantially as is provided for the record of private roads.

HISTORY: CL 1915, 4563;—CL 1929, 4198;—CL 1948, 239.4. This section re-enacts Sec. 4 of Act 16 of 1883, being How. 1455d;—CL 1897, 4223.

239.5 Hedges; care, removal of brush; cities excepted.

Sec. 5. It shall be the duty of every owner, occupant or person having charge of lands in this state, to cut or trim, or cause to be cut or trimmed, to a height not exceeding 4 ½ feet and a width not exceeding 3 feet, all hedges or hedge rows along or on the public highway or adjacent thereto in each and every year, except such hedges as shall have been set out for the protection of fruit trees and nursery stock. Trimmings or brush from such hedge rows shall not be left lying within the limits of the highway but shall be forthwith removed: Provided, That this section shall not apply to streets or highways within incorporated cities.

HISTORY: Am. 1913, p. 33, Act 24, Eff. Aug. 1;—CL 1915, 4564;—CL 1929, 4199;—CL 1948, 239.5. This section as originally enacted re-enacted Sec. 1 of Act 166 of 1907.

239.6 Hedges; penalty for neglect.

Sec. 6. Any owner, occupant or person having charge of lands who shall fail to comply with the provisions of this act, on conviction before a court of competent jurisdiction, shall be punished by a fine not more than 10 dollars, together with the cost of

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prosecution, and in default of payment of the same shall be imprisoned in the county jail of the county where the land is situated, for a period not exceeding 20 days.

HISTORY: CL 1915, 4565;—CL 1929, 4200;—CL 1948, 239.6. This section re-enacts Sec. 2 of Act 166 of 1907.

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CHAPTER XX.—STATE ROADS.

240.1-240.5 Repealed.

240.1-240.5 Repealed. 1958, p. 83, Act 77, Eff. Sep. 13.

Sections stated procedure in surveying state roads and ditches, apportioned survey expenses, and placed supervision of state roads within city or village limits in council or board of trustees.

CHAPTER XXI.—SIDEWALKS.

241.1-241.13 Repealed.

241.1-241.13 Repealed. 1949, p. 597, Act 300, Eff. Sep. 23;—1958, p. 83, Act 77, Eff. Sep. 13.

Sections authorized construction and maintenance of sidewalks and crosswalks in unincorporated villages, regulated width of sidewalks, stated procedure for establishing, altering, repairing, or discontinuing sidewalks, prohibited riding or driving on sidewalks, and imposed penalties for injuring sidewalks, rendering them impassable or dangerous, or otherwise violating act.

CHAPTER XXII.—RECOVERY OF DAMAGES.

242.1-242.8 Repealed.

242.1-242.8 Repealed. 1964, p. 225, Act 170, Eff. Jul. 1, 1965.

Sections made municipalities liable for injuries due to negligence in maintenance of highways, streets and sidewalks.

CHAPTER XXIII.—LAW OF THE ROAD.

243.1-243.9 Repealed.

243.1-243.9 Repealed. 1958, p. 83, Act 77, Eff. Sep. 13.

Sections stated law of the road in regard to horse drawn vehicles, and provided for fence viewers and their compensation.

CHAPTER XXIV.—NOXIOUS WEEDS.

244.1-244.10 Repealed.

244.1-244.10 Repealed. 1958, p. 83, Act 77, Eff. Sep. 13.

Sections gave highway commissioner and district overseer the duty of enforcing provisions of act and imposed penalty for failure to do so, required owners to cut weeds, gave commissioner right to enter land to destroy weeds on public lands, required railroads to destroy weeds, and required county prosecuting attorney to prosecute violations.

CHAPTER XXV.

Secs. 1-59.

HISTORY: Add. 1913, p. 507, Act 266, Eff. Aug. 14;—Secs. 20, 30 and 39 Am. 1915, p. 6, Act 2, Eff. Aug. 24;—CL 1915, 4612-4670; Sec. 19 Am. 1921, p. 574, Act 309, Eff. Aug. 18;—CL 1929, 4255-4313;—Rep. 1939, p. 411, Act 219, Eff. Sept. 29.

This chapter provided for an overseer of highways, now an obsolete office, and for a township highway labor system, now obsolete. For antecedent history to this chapter see notes to CL 1929, 4255-4313.

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CHAPTER 247. HIGHWAYS—SUPPLEMENTAL CHAPTER

CONSOLIDATION TOWNSHIP AND COUNTY ROAD SYSTEMS
Act 130 of 1931

247.1-247.13 Repealed.

SNOW REMOVAL, COUNTY ROADS
Act 1 of 1937, (Ex. Ses.)

247.21-247.25 Repealed.

WATERWAYS ON OVERFLOWED LANDS
Act 174 of 1921

247.31-247.33 Repealed.

HIGHWAY BORDERING LAKE OR STREAM, DISCONTINUANCE
Act 341 of 1927

247.41 Highway bordering on lake or stream; discontinuance.
247.42 Highway bordering on lake or stream; application signed by freeholders.
247.43 Highway bordering on lake or stream; hearing; notice, publication, posting, personal service.
247.44 Highway bordering on lake or stream; court order.
247.45 Highway bordering on lake or stream; review by certiorari.
247.46 Adjacent; definition.

NOXIOUS WEEDS OR SEEDS
Act 184 of 1917

247.51 Noxious weeds or seeds; unlawful use.
247.52 Violation of Act; misdemeanor, penalty.

COMMISSIONERS OF NOXIOUS WEEDS
Act 359 of 1941

247.61 Commissioner of noxious weeds; appointment, term, removal, report.
247.62 Noxious weeds; definition.
247.63 Noxious weeds; eradication; duty of commissioner.
247.64 Noxious weeds; eradication; duty of owner, commissioner and municipality; notice; contents; penalty.
State-owned lands.
247.64a Noxious weeds; notice to owner, alternative; costs; railroads.
247.65 Noxious weeds; means of eradication; limitation of expense.
247.66 Noxious weeds; prosecution of violators of act.
247.67 Commissioner; annual report, contents.
247.68 Department of agriculture; duty to enforce law; cooperation with commissioners.
247.69 Board of supervisors; auditing accounts of commissioner; payment.
247.70 Board of supervisors; appropriations, penalties.
247.71 Railroads; failure to comply, penalty.
247.72 Highways; noxious weeds; duty of officials to prevent growth.

ABOLITION BOARD OF COUNTY ROAD COMMISSIONERS
Act 227 of 1933

247.101-247.103 Repealed.

PLATTED PORTIONS OF UNINCORPORATED VILLAGES
Act 217 of 1925

247.111 Repealed.

TRANSFERS FROM GENERAL FUND
Act 253 of 1917

247.121 Transfer of funds.

TOWNSHIP ROADS
Act 202 of 1925

247.131-247.142 Repealed.

STATE REWARD ROAD BONDS
Act 220 of 1925

247.151 Repealed.

LIMITATION ON PAYMENT OF STATE REWARD
Act 195 of 1929

247.161 Repealed.

OBSTRUCTIONS AND ENCROACHMENTS; USE OF HIGHWAY BY PUBLIC UTILITIES
Act 368 of 1925

247.171 Encroachments; removal order, service; temporary permit.
247.172 Encroachments; removal by commissioner, penalty, expense charged to occupant, collection by tax; limitation.
247.173 Encroachments; denied, notice to commissioner; trespass action.
247.174 Trespass action; brought by commissioner.
247.175 Trespass action; pleadings and trial.
247.176 Trespass action; trial and verdict.
247.177 Trespass action; trial and appeal.
247.178 Encroachment; removal by commissioner; penalty on owner or occupant for neglect.
247.179 Encroachment; removal, interference, penalty.
247.180 Loose obstructions, logs, or wood; notice to remove; removal; removal by commissioner, sale; proceeds, disposition.
247.181 Loose obstructions, logs, or wood; no value, compensation for removing.
247.182 Obstructions; road fence if dangerous, penalty.
247.183 Public utility; right-of-way; consent of municipal authorities.
247.184 Public utility; consent of county and state authorities.
247.185 Public utility; construction and maintenance, rights of public, law construed.
247.186 Public utility; placing poles, fixtures, wires, or cables.
247.187 Encroachments; removal, expense of removal by commissioner.
247.188 Obstructions to traffic; moving; permit, bond; penalty.
247.189 Obstructions to traffic; left in roadway, penalty.
247.190 Width of highway; encroachment does not give right to land.

PRIVATE ROADS
Act 393 of 1913

247.201 Private roads; ingress and egress, application.

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ROADS TO ISOLATED LANDS
Act 172 of 1915

247.211 Isolated lands; road established, width, record.

TEMPORARY HIGHWAYS
Act 283 of 1921

247.221 Temporary road for transportation of forest products.

PLANTING OF TREES
Act 36 of 1919

247.231 Tree planting by state; rules, ownership, cost, trees now growing.
247.232 Planting; appropriation by municipalities, expenditure.
247.233 Planting; bounty to owner of land used; care of trees.
247.234 Trees; securing and supplying.
247.235 Trees; destroying or injuring; penalty, civil liability.

TREES AND SHRUBS
Act 2 of 1921 (1st Ex. Ses.)

247.241 Trees or shrubs; unlawful cutting, destruction; penalty.
247.242 Trees or shrubs; planting and protection.

CLAIMS FOR LABOR AND MATERIALS
Act 357 of 1913

247.251 Repealed.

TOWNSHIP HIGHWAY AND BRIDGE FUNDS
Act 75 of 1929

247.261-247.264 Repealed.

MARKING HIGHWAYS; SIGNS
Act 108 of 1925

247.271-247.274 Repealed.
247.275 Advertising and other signs; approval and restrictions, bus shelters; reflector signs.
247.276 Advertising and other signs; obstruction of view prohibited.
247.277 Unlawful signs; penalty for erection.
247.278 Unlawful signs; removal, expense.
247.279 Unlawful signs; removal, action to recover expense.
247.280, 247.281 Repealed.

ROADS UNDER CONSTRUCTION OR REPAIR
Act 165 of 1917

247.291 Closing highways or bridges for construction or repair; barriers; highway, definition.
247.292 Closing of highways or bridges for construction or repair; detours, notices, removal of barriers on completion of work.
247.293 Refusal to provide barriers; penalty.

TRAFFIC SIGNS, SIGNALS AND GUIDE POSTS
Act 186 of 1937

247.301-247.306 Repealed.

MECHANICALLY OPERATED BARRICADING DEVICES
Act 295 of 1937

247.311 Highways; definition.
247.312 Barricading devices mechanically operated; authority to install, approval of public utilities commission.
247.313 Barricading devices on highway; automatic; warning signs, size, wording, distance.
247.314 Barricading devices; expense.

DRIVEWAYS, BANNERS AND PARADES
Act 200 of 1969

247.321 Driveways, banners and parades on highways; definitions.
247.322 Permit; requirement, local ordinances.
247.323 Permit; issuance, requirements.
247.324 Permit; driveways; rules.
247.325 Rules; local adoption.
247.326 Permits; issuance, revocation.
247.327 Existing driveways; exceptions, corrections.
247.328 Construction of act.
247.329 State trunk lines; permits, local issuance.

BUS PASSENGER SHELTERS
Act 96 of 1959

247.331 Bus passenger shelters; definitions.
247.332 Bus passenger shelters; construction on highways, municipal consent.
247.333 Bus passenger shelters; county and state highways, consent.
247.334 Bus passenger shelters; construction, municipal supervision.
247.335 Bus passenger shelters; convenience of public.
247.336 Bus passenger shelters; advertisements, approval.

HIGHWAYS WITHIN TOWNSHIPS
Act 111 of 1956

247.351 Highways within townships; contracts, structures included.
247.352 Highways within townships; contracts, contents; approval by electors, board of county road commissioners; execution.
247.353 Highways within townships; funds.
247.354 Highways within townships; bonds, short term notes, terms, interest, limitations.
247.355 Highways within townships; general obligation bonds.
247.356 Townships and boards of county road commissioners; enlargement of powers.

SNOW REMOVAL FROM PRIVATE WAYS
Act 387 of 1965

247.361 Snow removal from private ways; contract; Upper Peninsula.
247.362 Snow removal; service charges, determination; reimbursement of county.
247.363 Snow removal; advance payment, disposition of funds.

MAINTENANCE OF PRIVATE ROADS
Act 234 of 1968

247.371 Maintenance of private roads; special assessment districts.
247.372 Maintenance of private roads; agreements; allocation of costs among property owners.
247.373 Maintenance of private roads; contracts with county road commission, charges, determination.
247.374 Maintenance of private roads; contracts; terms.
247.375 Maintenance by local government; costs.

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NATURAL BEAUTY ROADS
Act 150 of 1970

247.381 Natural beauty roads; definitions.
247.382 Petition for designation; hearing, notice, resolution.
247.383 Designation; petition requesting withdrawal, board action.
247.384 Guidelines and procedures for native vegetation preservation; rights of public utilities.
247.385 Citizens' advisory committee; creation.

ASSESSMENT DISTRICTS—COVERT ACT
Act 59 of 1915

ASSESSMENT.

247.415-247.417 Repealed.
247.418 Review of roll; notice, posting, publishing, service.
247.419 Hearing of objections; adjournment; roll, approval, filing of copy.
247.420 Yearly roll for divided improvement.
247.421 Rolls; computation of cost, total.
247.422 Rolls; tax assessment, certification, collection of tax; township exemption.
247.422a Lands assessed for Covert road; purchase of part or interest; apportionment of assessment, procedure; expenses.
247.423 Rolls; division, interest; prepayment of tax; notice of taxes paid and unpaid; direction for payment of installments.
247.424 Rolls; annual assessment; interest; lien.
247.425 Moneys collected, disposition, disbursement; interest on bank deposits.
247.426, 247.427 Repealed.
247.428 Certification of sums to be paid.
247.429 Deficiency assessments; surplus, crediting, transfer.
247.431 Orders on improvement fund; payment, limitation.
247.432 Donation of money; application, return.
247.433 Taxes; interest charges, collection, powers of collecting officers, return as delinquent, lien.
247.434 Taxes; Rejected, reassessment.
247.435 Taxes; apportionment on parcels, notice of hearing, correction of roll.
247.436 Legality of proceedings, evidence; finality of determination.

STATE HIGHWAY COMMISSIONER.

247.437 Petition for improvement; transmission to proper authorities.
247.438 Deputy; acting for commissioner, legal effect.
247.440 Jurisdiction over highways in more than one county.

REVIEW OF ASSESSMENTS.

247.441 Appeal by municipality; application for board of review, limitations; authorized representative.
247.442 Appeal by municipality; hearing, notice; board of review or joint board; appointment, meeting, notice, duties.
247.443 Board of review; duty, limitation, oath.
247.444 Board of review; hearing, view of lands, correction of errors, additions; hearing of objections on change; decision, preparation and finality.
247.445 Costs of appeals.
247.446 Appeal by land owner; application for board of review; bond, liability, costs.
247.447 Appeal by land owner; board of review, appointment, eligibility, notice; hearing, notice; assessment district in more than one county.
247.448 Apportionment final; hearing, duties of board; boundaries of districts.
247.449 Hearing; adjournment.
247.450 Determination; certification, finality.
247.451 Vacancy on board; filling.
247.452 Assessment rolls; spread and collection; delayed report of rolls, subsequent installments.

MISCELLANEOUS.

247.453 Tax set aside; new proceedings.
247.454 Apportionment based on benefits; description of lands.
247.456 Drainage; petition of commissioner.
247.457 Legal and clerical service, expenses.
247.458 Record of proceedings; supplies.
247.459 County road commissioners; annual report.
247.460 County road commissioners; administrative board.
247.461 County road commissioners; procedure if disqualified.
247.462 Repealed.
247.463 Estimates and certificates of completed work; payments on contracts, prerequisites, portion withheld.
247.464 Repealed.
247.465 Contracts under $500; payments.

ACTIONS AND HEALING PROVISIONS.

247.466 Certiorari; notice, hearing, bond; proceedings, setting aside; costs; postponement in letting of contracts.
247.467 Tax assessment; irregularities not prejudicial; presumptions; prima facie evidence; absent or omitted records; signing of papers; deeds.
247.468 Limitation of actions, tax payment under protest; suit against county.
247.469 Injunction restricted.
247.470 Faulty proceedings; collection of tax, new proceedings.
247.471 Delinquent tax; collection.
247.472 Tax set aside; parties to action.
247.473 Tax set aside; new proceedings.
247.474 Proceedings; recommencement, notice of hearing; credit for tax paid.
247.476 Saving clause.
247.477 Clerical errors; correction.
247.478 Clerical errors; notice of review and correction.
247.479 Clerical errors; correction of omissions, descriptions, acreage, apportionment of benefits.
247.480 Correction of tax in next assessment roll.
247.481 Change in apportionment or tax; restriction.
247.482-247.487 Repealed.

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ADVANCEMENT TO COUNTIES

Act 59 of 1944 (1st Ex. Ses.)

247.601-247.603 Repealed.

STATE TRUNK LINE HIGHWAY SYSTEM

Act 51 of 1951

247.651 State trunk line highway system; additions and deletions.

247.651a State trunk line highway system; construction, maintenance, improvement; control of state highway commissioner; change in line of road.

247.651b State trunk line highway system; maintenance, costs included; freeway lighting.

247.651c State trunk line highway system; apportionment of costs.
Participation by cities and villages.
Costs includable.
Width attributable to needs of 20-year period.
Extra width.

247.651d Contract for joint participation in cost; approval; renegotiation; local taxation; bonds; special assessment.

247.651e Contract with city or village for joint participation in cost; assumption by board of county road commissioners, approval.

247.651f State trunk lines; cancellation of municipal obligations; assumption by state.

247.652 Tentative system of county primary roads; selection and certification, approval; official name.

247.653 Tentative system of county primary roads; roads included or deleted.

247.654 Tentative system of county primary roads; roads under jurisdiction of county road commissioners; certification and review.

247.655 Tentative system of county primary roads; official name; establishment, certification, and approval.

247.656 Tentative system of streets; selection and certification; approval.

247.657 Tentative system of streets; included or deleted.

247.658 Tentative system of streets; streets not included, certification and approval.

247.659 Tentative system of streets; official name; establishment and certification.

247.659a Study of highway conditions and deficiencies; continuation.

247.660 Motor vehicle highway fund; establishment, deposits; apportionments; distribution.

247.660a Turnpike authority reserve fund; creation, limit.

247.661 Transfer to state trunk line fund; priority of purpose.
Limited access highways.
Highway construction bonds; series I.
Future issues.
State department operating expenses.
State trunk line highways and bridges; maintenance.
Construction, reconstruction.
Contracts with local units; joint participation in costs.

247.662 County allocation; uses.
Registered professional engineers; snow removal.
County primary road systems.
County local road systems.
Bond payments.
County primary and local road system funds, emergency uses.
Construction of new and existing highways.
Roadside parks and motor parkways.
Separate account for county road fund deposits; interest.
Board of county road commissioners; duties.
Contracts with other units, state highway commission.
County local roads, matched moneys.

247.662a County allocation; snow removal; distribution of funds.

247.663 City and village allocation; uses, population, determination of mileage.
Major street system, roadside parks and motor parkways.
Local street systems.
Matched funds.
Amounts transferable from and to major street system uses.
Street administrator.
Contracts with county and state highway commission.

247.663a Right-of-way; acquisition.

247.664 Motor vehicle highway fund; administration and use; programs submitted to state highway commissioner; separate accounts; records; annual report to governor, contents.

247.665 Reports to state highway commissioner; contents.

247.666 Forfeiture of funds.

247.667 Motor vehicle and gasoline taxes; deposits to motor vehicle highway fund; distribution; advances to local units.
State highway commissioner's report to legislature and governor as to revenues and disbursements.

247.668 Repealed.

247.668a Motor vehicle highway fund; use of moneys, distribution.

247.668b Motor vehicle highway fund; state highway commissioner bonds; issuance, pledge.

247.668c County highway bonds; issuance, pledge of motor vehicle highway fund receipts.

247.668d Joint contract bonds; approval, issuance, bids.
Limitation on pledge.

247.668e Bonds; maturities, interest, redemption, registration.

247.668f Bonds; county, approval; public sale.

247.668g Bonds; protection of outstanding bonds.

247.668h Bonds; negotiability; payment, exemption from taxation.

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247.668i Cumulative authority of act.
247.668j Revenues subject to pledge; successive borrowings.
247.669 Roads, streets, and alleys taken over as county roads.
247.670 Unexpended balances of township funds; appropriation for local road maintenance or improvement; additional powers; snow removal in Marquette county townships.
247.671 Repeal.
247.672 Effective date of act.
247.673 Effective upon passage of certain act.

MOTOR VEHICLE FUND; BORROWING POWER OF CITIES AND VILLAGES
Act 175 of 1952

247.701 Motor vehicle highway fund; borrowing power of cities and villages; refunding bonds.
247.702 Authorization of bonds; cities and villages; resolution, approval, publication, contents.
247.703 Local bonds; maturities; interest rate; payment; redemption; additional security.
247.704 Issuance of bonds for highway purposes; cities and villages; successive borrowing.
247.705 Revenues set aside; source.
247.706 Approval or denial by municipal finance commission; sale.
247.707 Prohibition of pledges.

HIGHWAY SURVEYS ON PUBLIC AND PRIVATE PROPERTY
Act 208 of 1959

247.751 Highway surveys on public and private property; liability.

STATE HIGHWAY DEPARTMENT ORGANIZATION ACT
Act 286 of 1964

247.801 State highway department organization act; definitions.
247.802 Abolishment of state highway commissioner office; transfer of powers to state highway commission.
247.803 State highway commission; appointment, terms, vacancies, bonds.
247.804 State highway commission; officers, quorum, transaction of business.
247.805 State highway commission; appointment of director, duties.
247.806 State highway commission; transitional powers.
247.807 State highway commission; administrative powers and duties.
247.808 State highway commission; bylaws.
247.809 State highway commission; rules and regulations.
247.810 State highway commission; issuance and execution of documents and instruments.
247.811 State highway commission; compensation, expenses, meetings, offices.
247.812 State highway commission; conflict of interest.
247.813 State highway commission; records of acts, proceedings and transactions.
247.814 Ex officio membership.
247.815 Repeal.
247.816 Effective date of certain sections.

ACTION UNDER FEDERAL HIGHWAY SAFETY ACT
Act 213 of 1967

247.841 Governor's cooperation to obtain benefits granted in federal highway safety act; acceptance and use of federal funds.

TRANSFER OF JURISDICTION OVER HIGHWAYS
Act 296 of 1969

247.851 Transfer of jurisdiction over highways; definitions.
247.852 Transfer of jurisdiction; consent required; agreement, contents; effective date.
247.853 Transfer of jurisdiction; non-consent, proceedings to determine question; time for granting.
247.854 Determination board; membership appointment.
247.855 Hearing of board; date; notice; quorum; vacancy.
247.856 Determination of board; factors.
247.857 Final determination of board; time; notice; effect of denial; effective date.
247.858 Determination of board; contents; transferor's duties; renovation, costs.
247.859 Compensation and expenses of board; payment.
247.860 Transfers not subject to act.
247.861 Laws superseded; exception.

247.1-247.13 Repealed. 1951, p. 62, Act 51, Eff. Jun. 1.
Sections authorized consolidation of township and county road systems.

247.21-247.25 Repealed. 1951, p. 62, Act 51, Eff. Jun. 1.
Sections provided for continuing appropriation for counties having large snowfalls.

247.31-247.33 Repealed. 1958, p. 83, Act 77, Eff. Sep. 13.
Sections declared waterways on overflowed lands owned by state to be public highways and within benefits of general highway laws.

Act 341, 1927, p. 833; Eff. Sep. 5.

AN ACT to prevent the abandonment, discontinuation or alteration of the course of any public highway which borders upon, or is adjacent to any lake, or to the general course of any stream, or the course of any portion of such a highway, or bordering upon a lake or general course of any stream, by the public authorities of any township,

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village or city, until after the approval thereof by the circuit court of the county in which said highway is situated; and to provide for a notice of application therefor, and a method of hearing in such court, and the method for review of orders made thereon.

The People of the State of Michigan enact:

247.41 Highway bordering on lake or stream; discontinuance.

Sec. 1. No public highway which borders upon, or is adjacent to any lake, or the general course of any stream, or crosses any stream, nor any portion of such highway so bordering upon a lake or general course of any stream, shall be discontinued by the order or action of any official or officials of any township, city or incorporated village in this state, until an order authorizing the same shall have been made by the circuit court of the county in which such highway is situated in the manner as hereinafter provided.

HISTORY: CL 1929, 3950;—CL 1948, 247.41.

247.42 Highway bordering on lake or stream; application signed by freeholders.

Sec. 2. Whenever the official or officials having jurisdiction over the highways of any township, village or city in this state shall desire to abandon, discontinue or alter the course of any public highway mentioned in the preceding section, before any action shall be taken by the said public authority or authorities of any township, village or city, an application signed by not less than 7 freeholders of the township, village or city in which such highway is situated, shall be made to the circuit court for the county in which such highway is located, setting forth the particular circumstances of the case, an accurate description of the highway proposed to be abandoned, discontinued or altered, together with the reasons therefor, which application shall be verified by 1 or more of the persons so signing.

HISTORY: CL 1929, 3951;—CL 1948, 247.42.

247.43 Highway bordering on lake or stream; hearing; notice, publication, posting, personal service.

Sec. 3. Upon the filing of such application it shall be the duty of the presiding circuit judge to make an order fixing a day of hearing thereon, which shall not be less than 30 days from the date of filing such application. Notice of the pendency of such application and the time of hearing thereon shall be given by publishing the same once in each week for 3 successive weeks, in a newspaper printed and circulated in said county, unless it shall be made to appear by affidavit filed in such case that no such newspaper is published in such county, such notice to contain an accurate description of the highway described in the application and a brief recital of the reasons for its abandonment, discontinuance or alteration. A copy of such notice shall also be posted up in 3 of the most public places in the township, city or village in which such highway is situated, at least 20 days before the date of hearing fixed thereon, and a copy thereof shall be personally served upon the supervisor of the township or the mayor, president or chief executive officer of the township, city or village in which such highway is situated and upon the state highway commissioner at least 20 days before the date fixed for hearing thereon. Proof by affidavit of such publication, posting and service shall be filed in said cause before the date of hearing.

HISTORY: CL 1929, 3952;—Am. 1931, p. 54, Act 40, Eff. Sept. 18;—CL 1948, 247.43.

247.44 Highway bordering on lake or stream; court order.

Sec. 4. Upon the day of hearing of such application or any adjournment thereof, testimony shall be taken on the part of the petitioner and any person or persons interested in such application, and if it shall satisfactorily appear to the court that there is

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no reasonable objection thereto, and that it is necessary for the best interest and welfare of the public that such highway be abandoned, discontinued or altered as to its course, as prayed for in such application, or if it shall appear to the court that such highway or any part thereof should remain as then established, an order shall be made and entered in the record of the court in accordance with such determination.

HISTORY: CL 1929, 3953;—CL 1948, 247.44.

247.45 Highway bordering on lake or stream; review by certiorari.

Sec. 5. The proceedings therein shall be subject to review by certiorari upon application of any taxpayer of such township, village or city, as the case may be. Notice of such application for review shall be served upon the persons making such application and the supervisor of the township or the mayor, president or chief executive officer of the city or village in which such highway is situate, within 10 days from the date of such order and further proceedings thereon shall be in the same manner provided by law for review by certiorari of judgments of the circuit court.

HISTORY: CL 1929, 3954;—CL 1948, 247.45.

247.46 Adjacent; definition.

Sec. 6. The term "adjacent" as used herein, shall be construed to include any highway, or portion thereof, lying within 5 rods of the shore of any lake or the general course of any stream.

HISTORY: Am. 1929, p. 525, Act 204, Eff. Aug. 28;—CL 1929, 3955;—CL 1948, 247.46.

Act 184, 1917, p. 367; Eff. Aug. 10.

AN ACT to prohibit the scattering or depositing of noxious weeds, wild grass, or foul seeds along or on any public highway or in any of the streams, lakes or other inland waters within this state and providing penalties for violations.

The People of the State of Michigan enact:

247.51 Noxious weeds or seeds; unlawful use.

Sec. 1. Hereafter it shall be unlawful for any person or persons to intentionally scatter or deposit any noxious weeds, wild grass, or foul seeds along or on any public highway or in any of the streams, lakes or other inland waters within this state.

HISTORY: CL 1929, 17114;—CL 1948, 247.51.

247.52 Violation of Act; misdemeanor, penalty.

Sec. 2. Any person or persons violating the provisions of this act shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than 5 dollars nor more than 25 dollars, or by imprisonment in the county jail for not less than 5 days nor more than 30 days, or by both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1929, 17115;—CL 1948, 247.52.

Act 359, 1941, p. 631; Eff. Jan. 10, 1942.

AN ACT for the purpose of controlling and eradicating certain noxious weeds within the state, to permit townships, villages and cities to have a lien for expenses incurred in controlling and eradicating such weeds, to permit officials of counties and municipalities to appoint commissoners of noxious weeds, to define their powers, duties and compensation, and to repeal certain acts and parts of acts. Am. 1956, p. 169, Act 81, Eff. Aug. 11.

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The People of the State of Michigan enact:

247.61 Commissioner of noxious weeds; appointment, term, removal, report.

Sec. 1. The governing body of any city, village or township may appoint a competent person to be the commissioner of noxious weeds who shall take the oath required of township, city or village officers, and shall hold office for the term of 2 years and until a successor is appointed and qualified, and he shall receive for his compensation such sum as may be fixed by the appointing body. The body so appointing may, at any time, for good cause remove such commissioner from office and appoint his successor to serve the remaining portion of his term. The appointing body shall report the name and address of the person so appointed to the state department of agriculture within 10 days after making such appointment.

HISTORY: CL 1948, 247.61;—Am. 1962, p. 11, Act 10, Eff. Mar. 28, 1963.

247.62 Noxious weeds; definition.

Sec. 2. For the purpose of this act, "noxious weeds" shall include Canada thistle (Circium arvense), dodders (any species of Cuscuta), mustards (charlock, black mustard and Indian mustard, species of Brassica or Sinapis), wild carrot (Daucus carota), bindweed (Convolvulus arvensis), perennial sowthistle (Sonchus arvensis), hoary alyssum (Berteroa incana), ragweed (ambrosia elatior l.) and poison ivy (rhus toxicodendron), poison sumac (toxicodendron vernix) or other plant which in the opinion of the governing body of any county, city, or village, coming under the provisions of this act is regarded as a common nuisance.

HISTORY: Am. 1947, p. 153, Act 114, Eff. Oct. 11;—CL 1948, 247.62.

247.63 Noxious weeds; eradication; duty of commissioner.

Sec. 3. The commissioner of noxious weeds shall diligently inquire concerning the introduction and existence of noxious weeds in his township, city or village and if any are found growing therein, he shall take charge of all such growing and take care that they do not go to seed or otherwise spread, or become a detriment to the public health, and he shall carefully seek and learn, so far as practicable, the best methods of their destruction, and he shall persistently apply in proper time such remedy or treatment as shall be best calculated to prevent their spread and to eradicate the same.

HISTORY: Am. 1947, p. 153, Act 114, Eff. Oct. 11;—CL 1948, 247.63.

247.64 Noxious weeds; eradication; duty of owner, commissioner and municipality; notice; contents; penalty.

Sec. 4. It shall be the duty of all owners of lands on which noxious weeds are found growing, to destroy the same before they reach a seed bearing stage and to prevent such weeds from perpetuating themselves, or to prevent such weeds becoming a detriment to public health. The commissioner shall notify by certified mail with return receipt requested, the owner, agent or occupant of any lands on which noxious weeds are found growing. Such notice shall contain methods of treating and eradicating such noxious weeds and a summary of the provisions of section 4 of this act. Failure of the commissioner to give such notice shall not, however, constitute a defense to any action to enforce the payment of any penalty provided for or debt created under the provisions of this act. In case any such owner, agent or occupant shall refuse to destroy such noxious weeds or cause the same to be destroyed, it shall be the duty of the commissioner to enter upon such lands and to destroy such noxious weeds or cause the same to be destroyed. Express power to so enter upon such lands and destroy such noxious weeds is hereby conferred upon such commissioner. Any expense incurred in such destruction shall be paid by the owner or owners of such lands, and the township, city or village of which such commissioner is an officer, as the case may be, shall have a lien

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against such lands for such expense, which lien shall be enforced in the manner now provided by law for the enforcement of mechanics' liens. Any village or city, or township having a population in excess of 5,000 shall have power, whether so provided in its charter or not, to provide in any ordinance enacted for the purpose of controlling and eradicating such weeds in subdivided lands, that in the event the owner, agent or occupant of any subdivided land in any subdivision in which buildings have been erected on 60% of the lots included in that subdivision, or the owners, agents or occupants of lots along all improved streets in common usage, for a depth of 10 rods or the depth of the lots, whichever is the lesser, has failed, after 10 days notice as provided herein, to destroy such weeds or cause the same to be destroyed, then any official, inspector or other agent authorized by the governing body of the township, village or city may enter upon such subdivided lands or lots and destroy by cutting with or without mechanical equipment which will not damage the property or the sidewalk adjacent thereto, any such weeds, and all expenses incurred in such destruction shall be paid by the owner or owners of such subdivided lands. The township, village or city shall have a lien upon such subdivided lands or lots for such expense, such lien to be enforced in the manner prescribed in any charter, by the general laws of the state providing for the enforcement of tax liens, or by ordinance duly passed by the governing body of any such township, village or city. Any owner who shall refuse to destroy such noxious weeds, as provided for in this section, shall be subject to a fine of not more than $100.00; said fine when collected to be paid to the supervisor and shall become a part of the "noxious weed control fund" of the township, village or city, as the case may be. Nothing in this act shall apply to weeds in fields devoted to growing any small grain crop such as wheat, oats, barley or rye. In the case of easement, property or properties such as abandoned subdivisions, strip mines, gravel pits, and public properties such as forest preserves and all other lands where definite ownership is not known to the commissioner and cannot be established, it shall be the duty of the board of supervisors to cause the destruction of noxious weeds in accordance with the provisions of this act.

State-owned lands.

In case the board of supervisors of any county of this state shall pass a resolution to participate under the provisions of this act, the commissioner of noxious weeds shall notify the department of conservation in case there are lands in such county belonging to the state of Michigan under the jurisdiction of said department of conservation. It shall be the duty of the department of conservation to cut all noxious weeds growing on any lands under their jurisdiction within 10 rods of any privately owned improved property, upon receipt of such notification. In case the department of conservation shall fail to cut such weeds, it shall be the duty of the commissioner of noxious weeds to enter upon such lands and to destroy such noxious weeds or cause the same to be destroyed, the expense thereof to be a proper charge against the department of conservation, and may be recovered in an action therefor in the state court of claims.

HISTORY: Am. 1947, p. 153, Act 114, Eff. Oct. 11;—CL 1948, 247.64;—Am. 1956, p. 169, Act 81, Eff. Aug. 11;—Am. 1962, p. 23, Act 29, Eff. Mar. 28, 1963.

247.64a Noxious weeds; notice to owner, alternative; costs; railroads.

Sec. 4a. In lieu of the notice required by section 4, the township, city or village may publish a notice in a newspaper of general circulation in the county during the month of March that weeds not cut by June 1 of that year will be cut by the township, village or city and the owner of the property charged with the cost under the provisions of section 4. The publication shall also contain all other information required of the notice provided for in section 4. The township, city or village may cut weeds as many times as is necessary and charge the cost to the property owner. The provisions of this section relative to entering of property for the cutting of weeds shall not be applicable

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to railroads which shall continue to be subject to the provisions of section 11 of this act.

HISTORY: Add. 1969, p. 349, Act 172, Eff. Mar. 20, 1970.

247.65 Noxious weeds; means of eradication; limitation of expense.

Sec. 5. The commissioner shall apply the best known means, and use the utmost diligence, in eradicating noxious weeds; but he shall not have power to expend in work or materials more than $25.00 on any 1 infested tract, without the advice and consent, in writing, of the supervisor of the township.

HISTORY: CL 1948, 247.65.

247.66 Noxious weeds; prosecution of violators of act.

Sec. 6. It shall be the duty of the commissioner to prosecute or complain to the proper authorities of any person or corporation who may violate any law now existing, or which may hereafter be passed, on the subject of noxious weeds.

HISTORY: CL 1948, 247.66.

247.67 Commissioner; annual report, contents.

Sec. 7. The commissioner shall, annually, before the first day of December, make a written report to the department of agriculture and to the body by whom he was appointed, as the case may be. Said report shall be made out upon blank forms furnished by the department of agriculture and shall contain such information with reference to the existence and growth of noxious weeds as said department may require.

HISTORY: CL 1948, 247.67.

247.68 Department of agriculture; duty to enforce law; cooperation with commissioners.

Sec. 8. The department of agriculture is authorized and it shall be its duty to assist in the enforcement of this law. The department shall cooperate with the various commissioners of noxious weeds in carrying out the provisions of this act and shall advise them from time to time of the most effective methods of treating and eradicating noxious weeds.

HISTORY: CL 1948, 247.68.

247.69 Board of supervisors; auditing accounts of commissioner; payment.

Sec. 9. The board of supervisors or other official body appointing any commissioner shall audit the accounts of the commissioner, both for his services and for the money expended or labor employed by him; and they shall provide for their payment as they now do for other county or municipal expenses.

HISTORY: CL 1948, 247.69.

247.70 Board of supervisors; appropriations, penalties.

Sec. 10. The boards of supervisors may make appropriations from the county treasury to aid in destroying the noxious weeds in any 1 or more towns or precincts of the county; and in case they deem it expedient, they may assume control over any 1 tract or of all the noxious weeds in the county, and make such provisions as they may deem necessary, and impose penalties, not exceeding $100.00 for each offense, for a violation of any provision made by them on this subject, to be sued for by the commissioner, in the name and for the use of the proper county, before any justice of the peace having jurisdiction. Whenever the board of supervisors shall decide to assume control, and so long as they exercise it, their jurisdiction shall be superior to that of the commissioner.

HISTORY: CL 1948, 247.70.

247.71 Railroads; failure to comply, penalty.

Sec. 11. If any company, association or person owning, controlling or operating a railroad shall refuse or neglect to dig up and destroy, or take other certain means of ex-

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terminating noxious weeds that may at any time be growing upon the right of way or other lands of such roads, or appertaining thereto, they shall be fined for each offense not less than $50.00 nor more than $200.00.

HISTORY: CL 1948, 247.71.

247.72 Highways; noxious weeds; duty of officials to prevent growth.

Sec. 12. It shall be the duty of the state highway commissioner to prevent all noxious weeds as defined in this act from growing within the right of way of any highways under his jurisdiction. It shall be the duty of each county road commission to prevent all noxious weeds as defined in this act from growing within the right of way of any highways under their jurisdiction.

HISTORY: CL 1948, 247.72.

Sec. 13. (This was a repeal section.)

HISTORY: Rep. 1945, p. 409, Act 267, Imd. Eff. May 25.

ACT REPEALED: Act 66, 1919, CL 1929, 4245-4254.

247.101-247.103 Repealed. 1958, p. 84, Act 77, Eff. Sep. 13.

Sections abolished board of county road commissioners in certain counties.

247.111 Repealed. 1958, p. 84, Act 77, Eff. Sep. 13.

Sections required township highway commissioners to expend for highway purposes in the platted portions of any unincorporated villages at least 50% of township highway funds raised in such portions.

Act 253, 1917, p. 528; Eff. Aug. 10.

AN ACT to authorize the transfer of moneys from the general fund of counties, in certain instances, to the county road fund of said counties, to be used in the construction, maintenance and repair of highways.

The People of the State of Michigan enact:

247.121 Transfer of funds.

Sec. 1. When in any county, operating under the county road system of the state, there is a surplus of moneys in the general fund, the board of supervisors of such county may, by resolution, direct the transfer of a part of such surplus from the general fund to the county road fund, to be used for the construction, maintenance and repair of highways under the supervision and direction of the board of county road commissioners: Provided, however, That in no case shall moneys raised by general taxes, levied on the real and personal property of such county, be diverted under the provisions of this act.

HISTORY: CL 1929, 4005;—CL 1948, 247.121.

247.131-247.142 Repealed. 1958, p. 83, Act 77, Eff. Sep. 13.

Sections provided for construction, improvement and maintenance of township roads by boards of county road commissioners.

247.151 Repealed. 1958, p. 84, Act 77, Eff. Sep. 13.

Section provided for expenditure on township roads of unexpended balances of moneys raised, or authorized to be raised, by board, for state reward roads in townships.

247.161 Repealed. 1958, p. 84, Act 77, Eff. Sep. 13.

Section provided that payments should not be made upon state reward roads not completed by June 30, 1930.

Act 368, 1925, p. 714; Eff. Aug. 27.

AN ACT to prohibit obstructions and encroachments on public highways, to provide for the removal thereof, to prescribe the conditions under which telegraph, telephone, power and other public utility companies and municipalities may enter upon, construct and maintain telegraph, telephone or power lines, pipe lines, wires, cables,

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poles, conduits, sewers and like structures upon, over, across or under public roads, bridges, streets and waters and to provide penalties for the violation of this act.

The People of the State of Michigan enact:

247.171 Encroachments; removal order, service; temporary permit.

Sec. 1. In every case where a public highway has been or shall be encroached upon by any fence, building, or other encroachment, the commissioner or commissioners having jurisdiction over the road may make an order under his or their hand requiring the owner or occupant of the land through or by which such highway runs, and of which such fence, building, or other encroachment forms a part of the enclosure, to remove such encroachment from such highway within 30 days. A copy of such order shall be served upon such owner or occupant, and every such order shall specify the width of the road, the nature of the encroachment and its location with relation to the center line of the road, and the township, section and fraction thereof in which it may be: Provided, The commissioner or commissioners having the matter in charge may issue temporary permits for fences for the protection of improvements on the adjacent land.

HISTORY: CL 1929, 4041;—CL 1948, 247.171. This section partially supersedes Sec. 1 of Ch. VII of Act 283 of 1909, being CL 1915, 4401.

247.172 Encroachments; removal by commissioner, penalty, expense charged to occupant, collection by tax; limitation.

Sec. 2. If such encroachment shall not be removed within 30 days after the service of a copy of such order, such owner or occupant shall forfeit the sum of 1 dollar for every day after the expiration of that time during which such encroachment shall continue unremoved, to be recovered in an action of trespass before any justice of the peace of the township, or of an adjoining township in the same county, and the commissioner or commissioners may proceed to remove such encroachment in such manner as to cause the least damage to the property or loss to the owner, and the person at fault shall be liable for the costs and expenses of such removal. The highway commissioner or commissioners shall keep an accurate account of the expenses incurred by him or them in carrying out the provisions hereof and shall present a full and complete statement thereof, verified by oath, together with a full and legal description of the lands entered upon, to the occupants of such lands, requiring the said occupant to pay the amount therein set forth; and in case such owner or occupant shall refuse or neglect to pay the same within 30 days after such notice and demand, the highway commissioner or commissioners shall present a duly verified copy of said statement to the township clerk of the township in which such expense was incurred, and thereupon the amount of all such costs and expenditures shall be certified to the supervisor and shall be assessed and levied on the lands described in the statement of the commissioner or commissioners, and shall be collected in the same manner as other taxes are collected, but no person shall be required to remove any fence under the provisions of this section between the first day of May and the first day of September unless such fence shall have been made within 3 months next before the making of the order for the removal thereof, or interferes with the construction, improvement or maintenance of the road.

HISTORY: CL 1929, 4042;—CL 1948, 247.172. This section supersedes, in part, Sec. 2 of Ch. VII of Act 283 of 1909, being CL 1915, 4402.
GENERAL TAX LAW: See Compilers' § 211.1 et seq.

247.173 Encroachments; denied, notice to commissioner; trespass action.

Sec. 3. If the person upon whom the copy of such order shall be served at any time before the expiration of said 30 days, by a written notice served upon the commissioner or commissioners, deny such encroachment either in whole or in part, or shall

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deny the existence of a highway where such encroachment is claimed to exist, the commissioner or commissioners, instead of proceeding to remove such encroachment, shall commence an action of trespass against the person upon whom the copy of such order was served, as hereinafter provided.

HISTORY: CL 1929, 4043;—CL 1948, 247.173. This section supersedes in substance part of Sec. 2 of Ch. VII of Act 283 of 1909, being CL 1915, 4402.

247.174 Trespass action; brought by commissioner.

Sec. 4. Such action shall be brought by the commissioner or commissioners in his or their name of office, claiming nominal damages only in the sum of 6 cents, before any justice of the peace of the township, or of any adjoining township in the same county. The summons in such action may be in the same form, and shall be issued and served, and a jury shall be impaneled when demanded, and all proceedings had as near as may be, as in cases of personal actions of trespass, and full costs shall be taxed by the justice and paid by the losing party, except that if the commissioner or commissioners demand a jury he or they shall not be required to advance the jury fee.

HISTORY: CL 1929, 4044;—CL 1948, 247.174. This section supersedes parts of Secs. 3 and 4 of Ch. VII of Act 283 of 1909, being CL 1915, 4403 and 4404.

247.175 Trespass action; pleadings and trial.

Sec. 5. The declaration in such action shall follow the order required by section 1 of this chapter, in describing such encroachment. The defendant may plead denying the encroachment in whole or in part, and may also deny the existence of a highway where such encroachment is claimed to be, but otherwise the legal existence of the highway shall not be questioned on the trial, and the fact of such encroachment, and where the true line of the highway is, shall only be tried.

HISTORY: CL 1929, 4045;—CL 1948, 247.175. This section supersedes part of Sec. 3 of Ch. VII of Act 283 of 1909, being CL 1915, 4403.

247.176 Trespass action; trial and verdict.

Sec. 6. The trial of said action may be adjourned for not to exceed 10 days. The jury shall specify in their verdict, if they find the defendant guilty of causing or maintaining the encroachment as charged, and the extent thereof, and if the existence of the highway has been denied, they shall also specify, if they find a highway to exist, whether it be such by public use or by having been regularly laid out and established as a public highway. In the trial of any cause involving the existence of any highway, the burden of proof shall be upon the contestants to show that the same has not been regularly laid out and established as a public highway, or has not become such by public use.

HISTORY: CL 1929, 4046;—CL 1948, 247.176. This section supersedes in substance part of Sec. 4 of Ch. VII of Act 283 of 1909, being CL 1915, 4404.

247.177 Trespass action; trial and appeal.

Sec. 7. Either party may appeal to the circuit court of the proper county in the same manner that appeals are taken from justices' courts in other cases, but in case of an appeal taken by the commissioner or commissioners, he or they shall not be required to pay the costs or furnish an appeal bond. In case of such appeal, trial shall be had on the issue joined in the justice court, and in case of a judgment in any court against the commissioner or commissioners no execution shall issue, but the judgment shall be certified to the proper supervisor and the amount thereof assessed and collected as in case of judgments against townships and counties.

HISTORY: CL 1929, 4047;—CL 1948, 247.177. This section supersedes Sec. 5 of Ch. VII of Act 283 of 1909, being CL 1915, 4405.

247.178 Encroachment; removal by commissioner; penalty on owner or occupant for neglect.

Sec. 8. In all cases of final judgment against any person for causing or maintaining an encroachment, the commissioner or commissioners may proceed to remove the same within 10 days after such judgment, in the same manner that he may do under

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section 2 of this chapter, where the encroachment or the existence of the highway is not denied, and the penalty prescribed in section 2 shall attach and continue from and after the expiration of the 30 days mentioned therein, until such encroachment be removed.

HISTORY: CL 1929, 4048;—CL 1948, 247.178. This section supersedes part of Sec. 6 of Ch. VII of Act 283 of 1909, being CL 1915, 4406.

247.179 Encroachment; removal, interference, penalty.

Sec. 9. In all cases of final judgment against any person or persons for causing or maintaining an encroachment or obstruction upon a highway, if such person shall, subsequent to such final judgment, by force or otherwise, interfere with any commissioner or commissioners in the performance of his or their duties under this chapter, or if such person shall replace or cause to be replaced any of the encroachments or obstructions which had been removed, or in any way interfere with the said highway, he shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding 100 dollars, or by imprisonment in the county jail not exceeding 3 months, or by both such fine and imprisonment, in the discretion of the court.

HISTORY: CL 1929, 4049;—CL 1948, 247.179. This section supersedes part of Sec. 6 of Ch. VII of Act 283 of 1909, being CL 1915, 4406.

247.180 Loose obstructions, logs, or wood; notice to remove; removal; removal by commissioner, sale; proceeds, disposition.

Sec. 10. In case any saw logs, cordwood, or other loose obstruction shall be upon any highway, the commissioner or commissioners may notify the owner, if known, to remove the same within 2 days, and if not so removed, or the owner is unknown, the commissioner or commissioners may remove such obstruction to some convenient place, and if it has a value he or they shall hold it for 30 days subject to the order of the owner upon payment of the necessary expenses of removal, after which time he or they may sell the property removed, and such sale, notice of sale and application of the proceeds thereof shall be the same as is now required by law of constables' sale under execution, and the expense of removal, care of property and sale shall be deducted from the proceeds of sale, and the balance paid to the owner of such property, or deposited with the township clerk to be by him paid to the owner.

HISTORY: CL 1929, 4050;—CL 1948, 247.180. This section supersedes in substance part of Sec. 11 of Ch. VII of Act 283 of 1909, being CL 1915, 4411.

247.181 Loose obstructions, logs, or wood; no value, compensation for removing.

Sec. 11. In case the article or thing have no value or is not of sufficient value to pay for the removal, the commissioner or commissioners shall be entitled to compensation for the expense of removing it, and the expense of removal may be recovered from the owner in the name of the commissioner or commissioners in an action of assumpsit, or the same may be assessed upon any property of such owner and collected in the same manner as is provided in section 2 hereof.

HISTORY: CL 1929, 4051;—CL 1948, 247.181. This section supersedes in substance part of Sec. 11 of Ch. VII of Act 283 of 1909, being CL 1915, 4411.

247.182 Obstructions; road fence if dangerous, penalty.

Sec. 12. It shall hereafter be unlawful for any person, firm or corporation to erect a fence along any road, of any material which, by reason of its construction or otherwise, is dangerous in itself or by reason of causing an obstruction to the highway. Any person violating the provisions hereof shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than 15 dollars, nor more than 50 dollars, or by imprisonment in the county jail for a period not exceeding 30 days or by both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1929, 4052;—CL 1948, 247.182. This section supersedes part of Sec. 13 of Ch. VII of Act 283 of 1909, being CL 1915, 4413.

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247.183 Public utility; right-of-way; consent of municipal authorities.

Sec. 13. Telegraph, telephone, power and other public utility companies and municipalities are authorized to enter upon, construct and maintain telegraph, telephone or power lines, pipe lines, wires, cables, poles, conduits, sewers and like structures upon, over, across, or under any public road, bridge, street or public place and across or under any of the waters in this state, with all necessary erections and fixtures therefor: Provided, That every such telegraph, telephone, power and other public utility company and municipality, before any of the work of such construction and erection shall be commenced, shall first obtain the consent of the duly constituted authorities of the city, village, or township through or along which said lines and poles are to be constructed and erected.

HISTORY: CL 1929, 4053;—CL 1948, 247.183.

247.184 Public utility; consent of county and state authorities.

Sec. 14. In case it is proposed to construct a telegraph, telephone or power line, pipe lines, wires, cables, poles, conduits, sewers, or like structures upon, over or under a county road or bridge, the consent of the board of county road commissioners shall be obtained before the work of such construction shall be commenced; and in case it is proposed to construct a telegraph, telephone or power line, pipe line, wires, cables, poles, conduits, sewers or like structures, upon, over or under a state trunk line highway, or upon, over or under any bridge that the state has participated in constructing, the consent of the state highway commissioner shall be obtained before the work of such construction shall be commenced.

HISTORY: CL 1929, 4054;—CL 1948, 247.184.

247.185 Public utility; construction and maintenance, rights of public, law construed.

Sec. 15. The construction and maintenance of all such telegraph, telephone and power lines, pipe lines, wires, cables, poles, conduits, sewers and like structures shall be subject to the paramount right of the public to use such public places, roads, bridges and waters, and shall not interfere with other public uses thereof and nothing herein contained shall be construed to authorize any telegraph, telephone, power or other public utility company or municipality to cut, destroy, or in anywise injure any tree or shrub planted within any highway right of way or along the margin thereof, or purposely left there for shade or ornament or to bridge across any of the waters of this state. Nor shall anything in this or the next 2 sections preceding be construed to grant any rights whatsoever to any public utilities whatsoever, nor to impair anywise any existing rights granted in accordance with the constitution or laws of this state, but shall be construed as a regulation of the exercise of all such rights.

HISTORY: CL 1929, 4055;—CL 1948, 247.185.

247.186 Public utility; placing poles, fixtures, wires, or cables.

Sec. 16. In no case shall any poles or other structures be placed above the ground or road grade between the curb or road shoulder lines, or closer than 15 feet from the center line of the roadway; and in no case shall any wires, cables or other fixtures be placed, or be permitted to remain, at less height than 15 feet above any part of the traveled portion of the road.

HISTORY: CL 1929, 4056;—CL 1948, 247.186. This section supersedes Sec. 8 of Ch. VII of Act 283 of 1909, being CL 1915, 4408.

247.187 Encroachments; removal, expense of removal by commissioner.

Sec. 17. Any person or persons, firm, corporation or municipality violating any of the provisions of this chapter, shall, upon written demand of the commissioner or commissioners having jurisdiction over the road, remove such encroachments, pipe lines, wires, cables, poles, conduits, sewers and like structures. If removal be not made within 30 days thereafter, then the said commissioner or commissioners shall have the

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right to remove the same and the person, persons, firm or corporation or municipality so violating, shall be liable for the amount of expense incurred in making such removal, to be collected in an action of assumpsit, or assessed upon the property of such person, persons, firm or corporation and collected in the same manner as other taxes are assessed and collected.

HISTORY: CL 1929, 4057;—CL 1948, 247.187. This section supersedes Sec. 9 of Ch. VII of Act 283 of 1909, being CL 1915, 4409.

247.188 Obstructions to traffic; moving; permit, bond; penalty.

Sec. 18. No building, or other obstruction to traffic shall be moved across, upon or along any road without consent being first obtained from the commissioner or commissioners having jurisdiction over the road, and without first executing to such commissioner or commissioners, a bond in an amount sufficient to cover all possible damage to the road on account of such moving, to be determined by the commissioner or commissioners aforesaid, and conditioned for the payment of all such damage or injury to the road on account of such moving. Any person violating the provisions hereof shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed 100 dollars or by imprisonment in the county jail for not to exceed 30 days or by both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1929, 4058;—CL 1948, 247.188.

247.189 Obstructions to traffic; left in roadway, penalty.

Sec. 19. If any building or other obstruction as aforesaid shall, in the process of moving, be left in the highway so as to interfere with the travel thereon, the commissioner or commissioners may notify the person at fault to remove the same within 2 days, such notice to be either verbal or in writing, and if such building or obstruction be not removed pursuant to such notice the person at fault shall be liable to a penalty of 5 dollars per day for each day that the same shall remain unremoved, and after 5 days the commissioner or commissioners may proceed to remove it at the expense of the owner or owners thereof.

HISTORY: CL 1929, 4059;—CL 1948, 247.189. This section supersedes Sec. 10 of Ch. VII of Act 283 of 1909, being CL 1915, 4410.

247.190 Width of highway; encroachment does not give right to land.

Sec. 20. All public highways for which the right of way has at any time been dedicated, given or purchased, shall be and remain a highway of the width so dedicated, given or purchased, and no encroachments by fences, buildings or otherwise which may have been made since the purchase, dedication or gift nor any encroachments which were within the limits of such right of way at the time of such purchase, dedication or gift, and no encroachments which may hereafter be made, shall give the party or parties, firm or corporation so encroaching, any title or right to the land so encroached upon.

HISTORY: CL 1929, 4060;—CL 1948, 247.190.

Sec. 21. (This was a repeal section.)

HISTORY: CL 1929, 4061;—Rep. 1945, p. 406, Act 267, Imd. Eff. May 25.
ACT REPEALED: Ch. 7, Act 283, 1909, CL 1915, 4401-4414.

Act 393, 1913, p. 751; Eff. Aug. 14.

AN ACT to permit passage ways to lands adjoining at a single point.

The People of the State of Michigan enact:

247.201 Private roads; ingress and egress, application.

Sec. 1. When lands owned in different descriptions by the same person, copartnership or corporation, and are contiguous at the corners or as more fully described at the points of intersection of description lines projected, a private road may be secured

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across the adjacent lands, not to exceed 12 feet on each side of the point of intersection, or a passage way of 24 feet permitting ingress and egress. Application for such easement shall be made by the owner of such land contiguous at the corners, in writing to the highway commissioner of the township who shall act on such application in the manner prescribed in chapter 9 of Act No. 283 of the Public Acts of 1909, entitled "An act to revise, consolidate and add to the laws relating to the establishment, opening, improvement, maintenance and use of the public highways and private roads, the condemnation of property and gravel therefor; the building, repairing and preservation of bridges; setting and protecting shade trees, drainage, cutting weeds and brush within this state, and providing for the election and defining the powers, duties and compensation of state, county, township and district highway officials."

HISTORY: CL 1915, 4860;—CL 1929, 4073;—CL 1948, 247.201.

NOTE: Ch. 9 of Act 283 of 1909, above referred to, is Compilers' §§ 229.1 to 229.11.

Act 172, 1915, p. 284; Imd. Eff. May 11.

AN ACT to provide for the opening of roads to certain isolated lands.

The People of the State of Michigan enact:

247.211 Isolated lands; road established, width, record.

Sec. 1. Owners of isolated lands, where the same are platted or subdivided into lots for residence purposes or lake resort homes and where said plat or subdivision shall have been duly recorded in the office of the register of deeds of the county wherein such lands are located, shall have the right to acquire in the same manner as provided by Act No. 283 of the Public Acts of 1909, for the establishment, opening and maintenance of private or public roads, a roadway leading to the streets on said plat from the nearest public highway across the lands adjacent to said plat or subdivision by the most feasible route. Said roadway shall be not less than 2 rods wide and when so acquired may be dedicated to the public for use as a highway by the owner or owners of said plat or subdivision. The survey or conveyance showing title to said roadway shall be recorded in the office of the register of deeds of the county wherein said land lies.

HISTORY: CL 1915, 4861;—CL 1929, 4074;—CL 1948, 247.211.

NOTE: Act 283 of 1909 above referred to, is Compilers' § 220.1 et seq. See in particular Compilers' § 224.11 et seq.

Act 283, 1921, p. 528; Eff. Aug. 18.

AN ACT to provide for the laying out, construction, and use of a temporary highway.

The People of the State of Michigan enact:

247.221 Temporary road for transportation of forest products.

Sec. 1. Whenever any owner of any timber, logs, lumber, wood, poles, bark, ties or other forest products shall wish to have a temporary highway laid out for the purpose of hauling said timber, logs, lumber, wood, poles, bark, ties or other forest products to a place for manufacture, shipment or sale, he may, in writing, make application for such road to the owner or owners of said lands and in case said lands are unoccupied, to the agent or agents having charge of the same, and if the owner of said lands is a non-resident of the county and no known agent in charge, then application may be made to the commissioner of highways of the township in which said lands are situated. If the party desiring said road and the owner of said lands, his agent or representative, may agree on the amount of damages then he may forthwith enter upon said

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lands, lay out, prepare and use said highway, or if unable to agree upon the amount of damages, then said applicant for such road may have the commissioner of highways, the supervisor or some other suitable person in said township, under oath, appraise the damages to said lands on account of such highway, which said appraisal and application shall be filed in the office of the clerk of the circuit court for the county in which said lands are located and shall pay to the clerk the sum of 50 cents as a filing fee and thereupon said applicant may enter upon said premises, lay out, prepare and use said highway at any time after the first day of December of any year to and including the first day of April of the ensuing year, upon making, executing and delivering to the clerk of the county a bond in the penal sum of not less than 100 dollars and at least 5 times the amount of the appraised damages with sufficient surety in the name of the owner of the said lands, or if unknown, in the name of the highway commissioner and to his successors in office, to be approved by the county clerk of said county to secure the payment of all damages sustained by the owner of said lands on account of said highway: Provided, however, That said road does not go through the door yard or barn yard of the owner of said lands.

HISTORY: CL 1929, 4075;—CL 1948, 247.221.

PLANTING AND PROTECTION: See Compilers' §§ 247.241 and 247.242.

TEMPORARY HIGHWAY: See also Compilers' § 229.7 et seq.

Sec. 2. (This was a repeal section.)

HISTORY: CL 1929, 4076;—Rep. 1945, p. 406, Act 267, Imd. Eff. May 25.

Act 36, 1919, p. 62; Eff. Aug. 14.

AN ACT to regulate the planting of ornamental, nut bearing or other food producing trees along the highways of the state of Michigan, or in public places, and for the maintenance, protection and care of such trees and to provide a penalty for injury thereof, or for stealing the products thereof.

The People of the State of Michigan enact:

247.231 Tree planting by state; rules, ownership, cost, trees now growing.

Sec. 1. The state highway commissioner and the state board of agriculture, acting jointly hereunder, shall have authority and it shall be their duty to select and plant, by seed, scions or otherwise, ornamental, nut bearing, or other food producing trees, (to be supplied by the public domain commission, or the Michigan agricultural college, as may be recommended or approved by the division of agriculture of said college,) suitable for shade trees, along the state trunk line highways and all other highways of the state of Michigan, upon which state reward has been paid or earned: Provided, That in no case shall such trees be planted except by and with the consent of the owner of the property adjoining such highway. The state highway commissioner shall establish rules and regulations for uniform planting or proper placing of all trees under the provisions of this act, and all such trees shall belong to the state, but the products thereof shall belong to the owners of the adjacent land. Nothing herein contained shall authorize the state highway commissioner, or the state board of agriculture to cut down or interfere with shade trees now growing along any such highway, without permission in writing from the owner of the adjoining property. All expenses incurred in carrying out the provisions of this section shall be paid out of any moneys in the state highway fund that may be available therefor.

HISTORY: CL 1929, 4090;—CL 1948, 247.231.

PUBLIC DOMAIN COMMISSION: Abolished; powers and duties transferred to the conservation department, see Compilers' § 299.2.

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247.232 Planting; appropriation by municipalities, expenditure.

Sec. 2. Counties, townships, cities and villages may annually appropriate money to be used in planting, pruning and protecting, and whenever necessary in acquiring shade, nut bearing and ornamental trees to be placed along and within public highways within the respective limits of said municipalities. The expenditure of any such fund shall be vested in the highway commissioner of the township upon township roads, in the county highway commissioner in the case of county roads, and in the proper highway authorities of the city or village as the case may be.

HISTORY: CL 1929, 4091;—CL 1948, 247.232.

247.233 Planting; bounty to owner of land used; care of trees.

Sec. 3. The owner of any real estate in the state of Michigan that borders upon a legal highway upon which state reward has not been paid, shall have the right to plant said approved ornamental, nut bearing, or other food producing trees along the line of said highway adjoining said land, and shall receive annually a credit of 5 cents upon his highway repair tax for each tree so planted by him and growing in good order, not less than 6 feet in height when planted and not less than 20 and not more than 40 feet apart. All of said trees and their products shall belong to the owner of said land: Provided, That no bounty shall be paid or deduction allowed under the provisions of this section upon any 1 tree or row of trees for a longer period than 5 years. The owner of such trees shall have the care thereof and shall have the duty and responsibility for the trimming, spraying and cultivation thereof.

HISTORY: CL 1929, 4092;—CL 1948, 247.233.

247.234 Trees; securing and supplying.

Sec. 4. The Michigan agricultural college and public domain commission are hereby authorized to grow and acquire suitable seeds, scions or trees for planting under the provisions of this act, and to establish proper rules and regulations for distributing the same at nominal cost, or otherwise, to counties, townships, cities, villages, and citizens of the state for the aforesaid purposes, and also for state parks or other public places.

HISTORY: CL 1929, 4093;—CL 1948, 247.234.

247.235 Trees; destroying or injuring; penalty, civil liability.

Sec. 5. It shall be unlawful to cut, destroy, injure, deface or break any ornamental, nut bearing, food producing or shade tree upon any public highway or place, except where such trees shall interfere with the proper construction or maintenance of such highways. It shall be unlawful to affix to any such tree any picture, announcement, play-bill, notice or advertisement, or to paint or mark such tree, except for the purpose of protecting it, or to negligently permit any animal to break down, injure or destroy any such tree within the limits of any public highway. Any person violating any of the provisions of this act shall be guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not less than 1 dollar or more than 25 dollars, and in default of payment of any such fine may be imprisoned in the county jail for a period not exceeding 30 days. Such person shall be liable to the owner of the trees for treble the amount of damages sustained.

HISTORY: CL 1929, 4094;—CL 1948, 247.235.

Act 2, 1921 (1st Ex. Ses.), p. 763; Eff. Sep. 19.

AN ACT to provide for the protection and care of certain trees and shrubs within the limits of public highways within the state of Michigan and for the planting of trees and shrubs as a part of the maintenance of the road in certain cases.

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The People of the State of Michigan enact:

247.241 Trees or shrubs; unlawful cutting, destruction; penalty.

Sec. 1. It shall be unlawful to cut, destroy or otherwise injure any shade or ornamental tree or shrub growing within the limits of any public highway within the state of Michigan without the consent of the authorities having jurisdiction over such road. In the case of a trunk line or federal aided road the state highway commissioner shall be deemed to have such jurisdiction in all cases. It shall also be unlawful to affix to any such tree or shrub any picture, announcement, notice or advertisement or to negligently permit any animal to break down or injure the same. Any person violating any of the provisions of this act shall be deemed to be guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not more than 100 dollars or by imprisonment in the county jail for a period not exceeding 30 days, or by both such fine and imprisonment within the discretion of the court.

HISTORY: CL 1929, 4095;—CL 1948, 247.241.

SIMILAR PROVISIONS: See Compilers' §§ 230.6 and 247.235.

HEDGES: See Compilers' §§ 239.5 and 239.6.

247.242 Trees or shrubs; planting and protection.

Sec. 2. The state highway commissioner is hereby authorized and empowered as a part of the maintenance of trunk line and federal aided roads to protect trees and shrubs set out along and within the limits of such roads and to set out such trees and shrubs as may be furnished to him by the Michigan agricultural college, the department of conservation, or by any other state department or institution, or obtained from neighboring lands without cost, for the use and benefit of the public. The care of such trees shall be deemed to be a part of the road maintenance work. Boards of county road commissioners and township highway authorities shall likewise have power to set out and maintain such trees along, and within the limits of, roads under their respective jurisdictions.

HISTORY: CL 1929, 4096;—CL 1948, 247.242.

PLANTING AND PROTECTION: See Compilers' § 247.231 et seq.

247.251 Repealed. 1958, p. 83, Act 77, Eff. Sep. 13.

Section provided for payment of claims presented to township board.

247.261-247.264 Repealed. 1958, p. 84, Act 77, Eff. Sep. 13.

Sections provided manner of ordering disbursements of township highway and bridge funds.

Act 108, 1925, p. 146; Imd. Eff. Apr. 30.

AN ACT to provide for the marking of public highways; and to regulate the erecting and maintaining of signs, guide posts, markers and advertising devices on or along public highways.

The People of the State of Michigan enact:

247.271-247.274 Repealed. 1958, p. 83, Act 77, Eff. Sep. 13.

Sections provided for marking of public highways.

247.275 Advertising and other signs; approval and restrictions, bus shelters; reflector signs.

Sec. 5. No person, firm or corporation shall erect or cause to be erected on or along any highway, except upon duly authorized structures designed to provide shelter for common motor carrier passengers, any sign, guide post, marker or advertising device without the approval of the commissioner or commissioners having jurisdiction over such highway; and, except for signs or advertising devices erected upon duly authorized structures designed to provide shelter for common motor carrier passengers, no

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sign, marker or advertising device shall be painted upon, attached to, or made to form a part of any fence, building, rock or other surface that marks, or is on the line of the highway right of way, except to advertise a business conducted upon the property abutting on the highway at the place where the advertisement is situated. No sign, marker or advertising device containing any reflector buttons, reflex reflector or any similar device, and which depends for its effectiveness wholly or in part upon the action of the headlight beam spread of a motor vehicle, except official signs and guide posts erected by the proper highway authorities, shall be erected or maintained on or along any highway or within 200 feet of the center line thereof.

HISTORY: CL 1929, 4612;—Am. 1935, p. 215, Act 136, Imd. Eff. June 4;—CL 1948, 247.275;—Am. 1959, p. 102, Act 97, Imd. Eff. Jun. 30.

247.276 Advertising and other signs; obstruction of view prohibited.

Sec. 6. In no case shall any sign, marker or advertising device, except signs and guide posts erected by or with the approval of the proper highway commissioner or commissioners, or upon duly authorized structures designed to provide shelter for common motor carrier passengers, be erected, painted or maintained within 500 feet from any highway intersection or railroad or railway crossing, or so as to obstruct the view of any such intersection or crossing or of a turn or sharp change of alignment in the highway, or in any manner dangerous to the public.

Prohibited advertising.

No advertising, political or pertaining to intoxicating beverages, shall be permitted under this act.

HISTORY: CL 1929, 4613;—CL 1948, 247.276;—Am. 1959, p. 102, Act 97, Imd. Eff. Jun. 30.

247.277 Unlawful signs; penalty for erection.

Sec. 7. Any person who shall erect or cause to be erected any sign, guide post, marker or advertising device, in violation of the provisions hereof, or who shall remove, deface, injure or destroy any sign or guide post lawfully placed or maintained along a highway, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not more than 100 dollars, or by imprisonment in the county jail for not more than 30 days, or by both such fine and imprisonment, in the discretion of the court.

HISTORY: CL 1929, 4614;—CL 1948, 247.277.

247.278 Unlawful signs; removal, expense.

Sec. 8. The proper commissioner or commissioners shall cause to be removed all signs, guide posts, markers and advertising devices that have not been duly authorized. Any person, firm or corporation who erects or maintains, or causes to be erected or maintained, any sign, guide post, marker or advertising device in violation of the provisions hereof, or who injures, defaces or removes any sign or guide post erected or maintained by the proper highway commissioner or commissioners, or with his or their consent, shall be liable for the expense occasioned by such unlawful act.

HISTORY: CL 1929, 4615;—CL 1948, 247.278.

247.279 Unlawful signs; removal, action to recover expense.

Sec. 9. An action of assumpsit to recover such expense may be brought by the commissioner or commissioners having the matter in charge, and any moneys recovered shall be paid into the treasury, and shall then be credited to the highway fund of the state, county or township as the case may be.

HISTORY: CL 1929, 4616;—CL 1948, 247.279.

247.280, 247.281 Repealed. 1958, p. 83, Act 77, Eff. Sep. 13.

Sections provided for payment of costs of highway signs and for cooperation with federal authorities.

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Act 165, 1917, p. 296; Eff. Aug. 10.

AN ACT to authorize highway officials to close roads under construction, improvement or repair, or any portion of a highway whereon a bridge is being constructed or repaired; to require such officials to place in good repair and to mark by proper signs suitable detours around roads, or portions of roads, which are closed hereunder; to provide suitable barriers, and lights shall be maintained at the end of such roads or portions of roads which are thus closed and at the intersections thereof with other roads; to require the removal of signs and barriers located and placed hereunder; and to provide a penalty for a violation of the provisions hereof.

The People of the State of Michigan enact:

247.291 Closing highways or bridges for construction or repair; barriers; highway, definition.

Sec. 1. The officials in charge of constructing, improving or repairing highways may close any highway or portion thereof, which is under process of construction, improvement or repair or upon which is located any bridge which is being constructed or repaired. No highway shall be closed under the provisions of this act until suitable barriers have been erected at the ends of the highway or of the closed portion thereof, and also at the point of intersection of such highway or portion thereof with other highways. Suitable barriers are those which conform to the manual of uniform traffic control devices adopted pursuant to section 608 of Act No. 300 of the Public Acts of 1949, being section 257.608 of the Compiled Laws of 1948. For the purposes of this act "highway" includes roads and streets.

HISTORY: CL 1929, 4626;—CL 1948, 247.291;—Am. 1966, p. 199, Act 176, Imd. Eff. Jul. 1.

247.292 Closing of highways or bridges for construction or repair; detours, notices, removal of barriers on completion of work.

Sec. 2. No highway shall be closed under the provisions of this act until suitable detours around the same, or the closed portion thereof, are provided and are placed in reasonably safe and passable condition for traffic. Notices in the form of plainly legible signs shall be placed by the highway officials having such work in charge at either end of the closed highway or portion of highway and at such intermediate points along the detour, or detours, as may be necessary to plainly mark the same. Upon the completion of the work of construction, improvement or repair and as soon as the highway or bridge constructed, improved or repaired shall be in suitable condition for public travel, all barriers, marks and signs whatsoever erected under the provisions hereof shall be at once removed by the officials erecting or placing the same.

HISTORY: CL 1929, 4627; CL 1948, 247.292;—Am. 1966, p. 199, Act 176, Imd. Eff. Jul. 1.

247.293 Refusal to provide barriers; penalty.

Sec. 3. Any highway official who shall neglect or refuse to provide suitable barriers and suitable detours or to remove barriers and signs as herein provided, or any person who wilfully enters upon the closed portion of any highway or removes the barriers therefrom, or who removes, obliterates or defaces any sign or mark, or who extinguishes or removes any light placed or maintained hereunder, except by permission of the highway officials in charge, is guilty of a misdemeanor.

HISTORY: CL 1929, 4628;—CL 1948, 247.293;—Am. 1966, p. 199, Act 176, Imd. Eff. Jul. 1.

247.301-247.306 Repealed. 1949, p. 597, Act 300, Eff. Sep. 23.

Sections provided for uniformity of traffic signs, signals and guide posts.

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Act 295, 1937, p. 550; Eff. Oct. 29.

AN ACT to promote the safety of persons and property at intersections of highways with other highways, at bridge approaches in highways, and at intersections of highways with railroads; to authorize public authorities having jurisdiction over highways to install, operate and maintain automatic or mechanically operated barricading devices in the highways; and to provide for civil liability and a penalty for damage to such devices.

The People of the State of Michigan enact:

247.311 Highways; definition.

Sec. 1. The word "highways" as used in this act shall include without limitation all state, county and township highways and roads and all highways, streets, avenues, boulevards and alleys in cities and villages, and any place wheresoever situated in this state which is dedicated to the use of public vehicular traffic.

HISTORY: CL 1948, 247.311.

247.312 Barricading devices mechanically operated; authority to install, approval of public utilities commission.

Sec. 2. The public authorities having jurisdiction and control over any highway in this state, whenever they shall deem that the safety of persons and property require the installation of the devices herein provided for at any intersection of such highway with any other highway, or at any bridge approach in such highway, or at any intersection of such highway with a railroad, are hereby authorized to construct, install, operate and maintain at each such place automatic or mechanically operated barricading devices, which, when giving warning, shall rise from a bed in the highway and become a barrier in such highway: Provided, That before any such device is constructed, installed, operated and maintained at any such railroad intersection, the detailed plans of such device, a description of the proposed mode of operation thereof, and a map showing the proposed location thereof shall be submitted to, and approved by, the Michigan public utilities commission.

HISTORY: CL 1948, 247.312.

247.313 Barricading devices on highway; automatic; warning signs, size, wording, distance.

Sec. 3. Whenever such barricading device shall be constructed, installed, operated or maintained, the public authorities having jurisdiction and control over the highway at any such place shall install and maintain at the side of such highway, immediately adjacent to such device, reflectorized warning signs with the words "automatic barrier" in letters not less than 3 inches high. Whenever such device is located at a railroad intersection, additional reflectorized warning signs, of a design to be prescribed by the state highway commissioner, shall be installed and maintained on both sides thereof at a distance not less than 400 feet therefrom when such intersection is located on a highway where vehicular traffic is permitted to travel at speeds in excess of 30 miles per hour, and not less than 200 feet therefrom when such intersection is located on a highway where vehicular traffic is permitted to travel at speeds not in excess of 30 miles per hour, and such device and warning signs shall be in lieu of all other protection at such intersection. The advance warning signs required by any other law of this state shall also be installed and maintained.

HISTORY: CL 1948, 247.313;—Am. 1964, p. 79, Act 77, Eff. Aug. 28.

247.314 Barricading devices; expense.

Sec. 4. The public authorities, or the political subdivision of the state, having jurisdiction and control over any highway, in which such device is constructed, installed,

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operated and maintained, shall bear the expense thereof, unless the parties in interest agree otherwise in writing.

HISTORY: CL 1948, 247.314.

Act 200, 1969, p. 382; Imd. Eff. Aug. 6.

AN ACT to regulate driveways, banners and parades upon and over highways.

The People of the State of Michigan enact:

247.321 Driveways, banners and parades on highways; definitions.

Sec. 1. As used in this act:

(a) "Driveway" means a driveway, lane, road or any other way providing vehicular access to or from the highway from or to property adjoining the highway but does not mean a city or village street or other highway covered by the provisions of Act No. 288 of the Public Acts of 1967, being sections 560.101 to 560.293 of the Compiled Laws of 1948.

(b) "Highway" means a state trunk line highway or a county road including the entire right of way.

(c) "Highway authority" means the department of state highways in the case of state trunk line highways, and the board of county road commissioners in the case of county roads.

HISTORY: New 1969, p. 382, Act 200, Imd. Eff. Aug. 6.

247.322 Permit; requirement, local ordinances.

Sec. 2. No driveway, banner or parade is lawful except pursuant to a permit issued in accordance with this act unless otherwise provided. Nothing in this act shall be construed to prevent the application of the provisions of any other statute of this state or any local ordinance which is more restrictive than this act nor to preclude any city or village from requiring city or village permits with respect to any street or highway within its corporate limits. No permit shall be issued pursuant to this act unless there is compliance with other provisions of law or ordinances.

HISTORY: New 1969, p. 382, Act 200, Imd. Eff. Aug. 6.

247.323 Permit; issuance, requirements.

Sec. 3. Permits to temporarily close a highway, or a portion of the highway, for a parade, celebration, festival or similar activity, and permits for banners, decorations or similar objects to overhang the traveled way of a highway, may be issued by the highway authority only if requested by an authorized official designated by resolution of the governing body of a city, incorporated village or township. Requests for temporary closing of highways shall indicate the time and date the highway is to be closed to traffic, the date and time the highway is to be reopened to traffic, and such other information as the highway authority may require. No permit shall be issued for the partial or complete closing of a highway unless the highway authority is satisfied that adequate arrangements have been made for the handling of highway traffic during such closure. Permits for banners, decorations or similar objects over the traveled way of a highway shall require that they be securely fastened and be at least 18 feet above the surface of the traveled way.

HISTORY: New 1969, p. 382, Act 200, Imd. Eff. Aug. 6.

247.324 Permit; driveways; rules.

Sec. 4. Permits for driveways shall be granted in conformity with rules promulgated by the highway authority which shall be consistent with the public safety and based upon the traffic volumes, drainage requirements and the character of the use of land

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adjoining the highway and other requirements in the public interest. Rules shall prescribe reasonable standards for the design and the location of driveways and may require that driveways shall be hard-surfaced. The provisions of this section shall not be deemed to deny reasonable access to a nonlimited access highway.

HISTORY: New 1969, p. 382, Act 200, Imd. Eff. Aug. 6.

247.325 Rules; local adoption.

Sec. 5. The department of state highways shall make rules necessary for the administration of this act in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948. The boards of county road commissioners may adopt by reference the rules, in whole or in part, of the department of state highways or may adopt its own rules after a public hearing of which notice has been given by publication at least twice in a newspaper circulated in the county not more than 30 days nor less than 7 days prior to the hearing.

HISTORY: New 1969, p. 382, Act 200, Imd. Eff. Aug. 6.

247.326 Permits; issuance, revocation.

Sec. 6. No permit shall be issued unless all the requirements of this act, and of rules made in accordance with section 5, are met. A permit may be revoked by the highway authority issuing it if at any time the permitted object, use or activity fails to meet the requirements of this act or rules made in accordance with section 5.

HISTORY: New 1969, p. 383, Act 200, Imd. Eff. Aug. 6.

247.327 Existing driveways; exceptions, corrections.

Sec. 7. The provisions of this act shall not apply to driveways in existence on the effective date of this act. Any driveway which is constructed or reconstructed after the effective date of the rules issued pursuant to this act and which is in violation of the rules shall be corrected by the owner within a period of time, not less than 30 days, specified in the notice of violation sent by certified mail to the owner. If not so corrected within the period required by the notice, the highway authority or its agents may perform the necessary correction and the owner shall reimburse the highway authority for the reasonable cost of correction.

HISTORY: New 1969, p. 383, Act 200, Imd. Eff. Aug. 6.

247.328 Construction of act.

Sec. 8. Nothing in this act shall limit the right of the highway authority in the exercise of its authority to acquire property for highway purposes or to widen, relocate, reconstruct, improve or maintain any highways.

HISTORY: New 1969, p. 383, Act 200, Imd. Eff. Aug. 6.

247.329 State trunk lines; permits, local issuance.

Sec. 9. The state highway commission by resolution may authorize any city or village to issue on behalf of the state the permits required by this act with respect to state trunk line highways within the corporate limits of the city or village provided the permits are issued in accordance with this act and rules promulgated pursuant to this act, subject to such conditions as the commission may prescribe and subject to acceptance of such authority by the governing body of the city or village.

HISTORY: New 1969, p. 383, Act 200, Imd. Eff. Aug. 6.

Act 96, 1959, p. 101; Imd. Eff. Jun. 30.

AN ACT to prescribe the conditions under which persons, firms, corporations and municipalities may enter upon, construct and maintain bus passenger shelters upon

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public highways within the corporate limits of municipalities; to permit the posting of advertisements thereon; and to provide for the regulation thereof.

The People of the State of Michigan enact:

247.331 Bus passenger shelters; definitions.

Sec. 1. As used in this act:

(1) "Advertisement" means any writing, printing, picture, painting, display, emblem, drawing, sign or similar device which is posted or displayed outdoors on real property and is intended to invite or to draw the attention or to solicit the patronage or support of the public to any goods, merchandise, property, real or personal, business, services, entertainment or amusement, manufactured, produced, bought, sold, conducted, furnished or dealt in by any person or for any political party or for the candidacy of any individual for any nomination or office; and the term shall also include any part of an advertisement recognizable as such.

(2) "Bus passenger shelter" means any rigid structure situated upon or attached to real property outdoors, primarily or principally for the purpose of furnishing a waiting room or shelter for the use and convenience of the passengers of common motor carriers, but suitable for the purpose of furnishing a background, base or support upon which an advertisement may be posted.

(3) "Highway" means every way or place of whatever nature open to the use of the public for purposes of vehicular travel in this state.

(4) "Municipality" means any city or incorporated village.

(5) "Post" means post, display, print, paint, burn, nail, paste or otherwise attach.

(6) "Real property" means any property physically attached or annexed to real estate in any manner whatsoever.

HISTORY: New 1959, p. 101, Act 96, Imd. Eff. Jun. 30.

247.332 Bus passenger shelters; construction on highways, municipal consent.

Sec. 2. Persons, firms, corporations and municipalities may enter upon, construct and maintain bus passenger shelters with all necessary erections and fixtures therefor upon that portion of any highway lying within the corporate limits of municipalities. Every person, firm, corporation and municipality before any of the work of construction and erection is commenced shall obtain the consent of the duly constituted authorities of the municipality.

HISTORY: New 1959, p. 101, Act 96, Imd. Eff. Jun. 30.

247.333 Bus passenger shelters; county and state highways, consent.

Sec. 3. If it is proposed to construct a bus passenger shelter on that portion of a county road lying within the corporate limits of any municipality, the consent of the board of county road commissioners both as to location and duration shall also be obtained before the construction is commenced. If it is proposed to construct a bus passenger shelter upon that portion of a state trunkline highway lying within the corporate limits of any municipality, the consent of the state highway commissioner both as to location and duration shall be obtained before the construction is commenced.

HISTORY: New 1959, p. 101, Act 96, Imd. Eff. Jun. 30.

247.334 Bus passenger shelters; construction, municipal supervision.

Sec. 4. The municipalities in which bus passenger shelters are proposed to be erected shall have the exclusive power to prescribe the size, shape and nature of the bus passenger shelters, and to supervise their construction and maintenance.

HISTORY: New 1959, p. 101, Act 96, Imd. Eff. Jun 30.

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247.335 Bus passenger shelters; convenience of public.

Sec. 5. The construction and maintenance of all such bus passenger shelters shall be deemed to be for the use and convenience of the public, but nothing in this section or in sections 2, 3 or 4 shall be construed to grant any rights whatsoever to any person, firm, corporation or municipality whatsoever or to impair in any way any existing rights granted in accordance with the constitution or laws of this state, but shall be construed as a regulation of the exercise of all such rights.

HISTORY: New 1959, p. 101, Act 96, Imd. Eff. Jun. 30.

247.336 Bus passenger shelters; advertisements, approval.

Sec. 6. Advertisements of such size, shape and nature as the municipality in which such advertisements are proposed to be posted shall approve may be posted in such quantity and upon such portions of duly authorized bus passenger shelters as such municipality shall approve.

HISTORY: New 1959, p. 102, Act 96, Imd. Eff. Jun. 30.

Act 111, 1956, p. 216; Imd. Eff. Apr. 13.

AN ACT to provide for the acquisition, construction, establishment, opening, altering, improving and maintaining of highways; authorizing contracts between townships and boards of county road commissioners for the same; authorizing townships to finance their share of the cost of the same from its contingent fund, special assessments, and bonds or short term notes issued in anticipation of the receipt of sales tax moneys or general obligation bonds; and to prescribe procedures and conditions relative to the issuance of said bonds or short term notes.

The People of the State of Michigan enact:

247.351 Highways within townships; contracts, structures included.

Sec. 1. The township board of any township and the board of county road commissioners in which said township is located are hereby authorized and shall have power to enter into a contract to provide for the acquisition, construction, establishment, opening, altering, improving and maintaining of any highways within the township. Said highways shall be deemed to include such bridges, culverts, storm sewers and other drainage structures, and traffic control and regulatory devices, as may be necessary to provide a complete highway.

HISTORY: New 1956, p. 216, Act 111, Imd. Eff. Apr. 13.

247.352 Highways within townships; contracts, contents; approval by electors, board of county road commissioners; execution.

Sec. 2. Said contract shall provide that all engineering with respect to such highways be performed by, and that all construction including the award of contracts therefor be under the supervision of, and in accordance with the plans and specifications therefor prepared by, the board of county road commissioners. The cost of engineering and supervision shall be deemed a part of the cost of the highway. Said contract shall provide that all or part of the cost of the highway improvement be allocated to the township as the township and the board of county road commissioners may agree, and shall approve the plans, specifications and estimates of cost of the highway improvement. Said contract may be executed by the township board after a majority of the legal voters of such township, voting upon said proposition, at a township meeting, a general election or a special election called by the township board for that purpose, shall vote in favor thereof, and by the board of county road commissioners after approval thereof by a resolution adopted by a majority vote of the members of said

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board. The contract shall be executed on behalf of the township by the supervisor and on behalf of the county road commissioners by the chairman of said board. The execution of said contract by the board of county road commissioners shall not require the approval of the board of supervisors.

HISTORY: New 1956, p. 217, Act 111, Imd. Eff. Apr. 13.

247.353 Highways within townships; funds.

Sec. 3. For the purpose of obtaining funds to carry out the provisions of this act the township board of any township which is a party to such a contract is hereby authorized to pay its allocable share of the cost of any such highway improvements from any, all, or any combination of, the following methods of raising money therefor: (a) From the contingent fund of the township; (b) from the proceeds of special assessments levied on property benefited by the highway improvement, the procedures relative to making and collecting said special assessments to conform to the procedures provided by Act No. 188 of the Public Acts of 1954, being sections 41.721 to 41.737, inclusive, of the Compiled Laws of 1948: Provided, That when a contract has been duly executed as authorized by this act no petition shall be required to authorize the levy and collection of special assessments; (c) from proceeds of sale of bonds or short term notes which the township is hereby authorized to issue in anticipation of sales tax moneys to be returned to the township pursuant to section 23 of article 10 of the state constitution; or (d) from the proceeds of sale of general obligation bonds of the township which the township is hereby authorized to issue.

HISTORY: New 1956, p. 217, Act 111, Imd. Eff. Apr. 13.

247.354 Highways within townships; bonds, short term notes, terms, interest, limitations.

Sec. 4. Bonds issued under the provisions of this act in anticipation of sales tax moneys to be returned to the township shall be serial bonds with annual maturities, the aggregate of which shall not exceed 15, the first of which shall fall due not more than 2 years from the date of issuance, and no maturity after 2 years from date of issuance shall be less than 1/3 of the amount of any subsequent maturity. Short term notes issued under the provisions of this act in anticipation of sales tax moneys to be returned to the township shall have a due date not more than 9 months after date of issuance. The said bonds or short term notes shall bear interest at a rate or rates not exceeding 5% per annum, may be made redeemable on such terms and conditions as shall be provided by the bond or short term note authorizing resolution and may be made registerable as to principal only under such terms and conditions as may be determined by the township board. The principal of and interest on said bonds or short term notes shall be payable primarily from the proceeds of revenues derived from sales tax moneys collected by the state and returned to the township pursuant to section 23 of article 10 of the state constitution. As additional security for the payment of said bonds the township board may submit to the qualified electors of the township the question of pledging the full faith and credit of the township for the payment of said bonds, as provided in section 5 of this act; and if a majority of the qualified electors voting on the issue shall favor the same, the township board may pledge the full faith and credit of the township for the payment of said bonds, in which event, if the sales tax moneys are not sufficient therefor, said bonds and the interest thereon shall be payable from any moneys in the contingent fund of the township or from ad valorem taxes which the township shall levy within the limitations prescribed by section 21 of article 10 of the state constitution, and the property tax limitation act. The township board in said resolution shall make an irrevocable pledge and appropriation of an amount sufficient for payment of the principal of and interest upon said bonds or short term notes from revenues derived from sales tax moneys collected by the state and returned to the town-

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ship pursuant to section 23 of article 10 of the state constitution. The township board may not pledge for annual debt service requirements in any future calendar year on said bonds or short term notes an amount in excess of 50% of the average revenues derived from sales tax moneys collected by the state and returned to the township pursuant to section 23 of article 10 of the state constitution in the 3 calendar years next preceding the borrowing. Nothing herein contained shall be construed as a prohibition against successive borrowings so long as the total amount of revenues pledged for annual debt service requirements shall not exceed the applicable percentage above described. The municipal finance commission may approve or deny, in whole or in part, such borrowing and the issuing of said bonds or short term notes therefor, in accordance with Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2, inclusive, of the Compiled Laws of 1948.

HISTORY: New 1956, p. 217, Act 111, Imd. Eff. Apr. 13.

247.355 Highways within townships; general obligation bonds.

Sec. 5. General obligation bonds issued under the provisions of this act shall be issued only after their issuance has been authorized by a majority vote of the qualified electors of the township voting on the proposition of issuing said bonds at a general or special township election and only after the qualified electors of the township have voted an increase in the tax rate limitation imposed by section 21 of article 10 of the state constitution, in an amount and for a period of time necessary to permit the collection of taxes in an amount sufficient to meet the principal and interest requirements on the proposed bonds. No township may issue general obligation bonds under this act for an amount greater than 5% of the total assessed valuation of the township, as last equalized by the state, nor shall the last maturity of said bonds fall due more than 15 years from the date of issuance thereof. Said general obligation bonds shall be issued and sold subject to and in accordance with the provisions of Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2, inclusive, of the Compiled Laws of 1948.

HISTORY: New 1956, p. 218, Act 111, Imd. Eff. Apr. 13.

247.356 Townships and boards of county road commissioners; enlargement of powers.

Sec. 6. The powers herein granted shall be deemed an enlargement of any power granted to townships and boards of county road commissioners.

HISTORY: New 1956, p. 218, Act 111, Imd. Eff. Apr. 13.

Act 387, 1965, p. 782; Imd. Eff. Oct. 19.

AN ACT to authorize county road commissions to contract for snow removal from private ways; and to provide for the disposition of funds received.

The People of the State of Michigan enact:

247.361 Snow removal from private ways; contract; Upper Peninsula.

Sec. 1. Upon request by the county board of supervisors, the board of county road commissioners of any county in the upper peninsula may contract with the owners or their agents whereby the board of county road commissoners will remove snow from driveways and roads situated on private property within the county and the property owner will pay the whole cost of the removal expenses. The contract shall include specific terms holding and saving the county free from damages resulting from the snow removal work.

HISTORY: New 1965, p. 782, Act 387, Imd. Eff. Oct. 19.

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247.362 Snow removal; service charges, determination; reimbursement of county.

Sec. 2. Before entering into the contracts, the board of county road commissioners shall determine the charges to be made for snow removal service, which charges shall be sufficient to completely reimburse the county road commission for all expenses of whatsoever nature incurred in the performance of snow removal.

HISTORY: New 1965, p. 782, Act 387, Imd. Eff. Oct. 19.

247.363 Snow removal; advance payment, disposition of funds.

Sec. 3. Upon entering into the contract, the board of county road commissioners shall demand and receive sufficient payment from the property owners to fully pay for the services to be rendered for at least 30 days in advance. All payments shall be turned over to the county treasurer, who shall credit them to the county road fund.

HISTORY: New 1965, p. 783, Act 387, Imd. Eff. Oct. 19.

Act 234, 1968, p. 358; Imd. Eff. Jun. 26.

AN ACT authorizing township boards to provide for the maintenance of private roads; and to create special assessment districts.

The People of the State of Michigan enact:

247.371 Maintenance of private roads; special assessment districts.

Sec. 1. In any township, the township board may create special assessment districts for the maintenance of private roads.

HISTORY: New 1968, p. 358, Act 234, Imd. Eff. Jun. 26.

CITED IN OTHER SECTIONS: Sections 247.371 to 247.375 are cited in § 41.257.

247.372 Maintenance of private roads; agreements; allocation of costs among property owners.

Sec. 2. The township board of any township may enter into agreements with the owners of private property upon or along private roads in platted recorded subdivisions to provide for the maintenance of said private roads. The agreements shall provide for the allocation of cost among the property owners and such other conditions as may be requested by the township.

HISTORY: New 1968, p. 358, Act 234, Imd. Eff. Jun. 26.

247.373 Maintenance of private roads; contracts with county road commission, charges, determination.

Sec. 3. Whenever arrangements shall have been made for maintenance of a private road either by special assessment or agreement, the township board may contract with the board of county road commissioners to provide such maintenance. Before entering into such a contract, the county road commission shall determine the charges to be made for the maintenance of such private roads, which charges shall be sufficient to completely reimburse the county road commission for all expenses of whatsoever nature incurred in the performance of maintaining the private road.

HISTORY: New 1968, p. 358, Act 234, Imd. Eff. Jun. 26.

247.374 Maintenance of private roads; contracts; terms.

Sec. 4. The contract provided for in section 3 shall include specific terms holding and saving the county free from damages resulting from the maintenance of such private roads.

HISTORY: New 1968, p. 358, Act 234, Imd. Eff. Jun. 26.

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247.375 Maintenance by local government; costs.

Sec. 5. Notwithstanding any provisions of the law to the contrary, the governing board of the local unit of government within which the private platted road lies may maintain any private road in a platted subdivision, existing and in use on or before January 1, 1968, and shall assess the total cost thereof to the owners of lands benefitted thereby.

HISTORY: New 1968, p. 358, Act 234, Imd. Eff. Jun. 26.

Act 150, 1970, p. 489; Imd. Eff. Aug. 1.

AN ACT to designate certain roads as Michigan natural beauty roads; to provide certain powers and duties; and to provide for the development of guidelines and procedures.

The People of the State of Michigan enact:

247.381 Natural beauty roads; definitions.

Sec. 1. As used in this act:

(a) "Board" means a board of county road commissioners.

(b) "Department" means the department of natural resources.

(c) "Native vegetation" means an original or indigenous plant of this state including trees, shrubs, vines, wild flowers, aquatic plants or ground cover.

(d) "Natural" means in a state provided by nature without man-made changes, wild or uncultivated.

(e) "County local road" means a county local road as defined in section 4 of Act No. 51 of the Public Acts of 1951, being section 247.654 of the Compiled Laws of 1948.

HISTORY: New 1970, p. 489, Act 150, Imd. Eff. Aug. 1.

247.382 Petition for designation; hearing, notice, resolution.

Sec. 2. (1) Twenty-five or more freeholders of a township may apply by petition to their board for designation of a county local road or portion thereof as a natural beauty road.

(2) Within 6 months after a petition is received, the board shall hold a public hearing to consider designating the described road as a natural beauty road. The hearing shall be held at a suitable place within the township in which the proposed natural beauty road is located. At the hearing a party or interested person shall be given an opportunity to present his support for or objections to the proposed designation. Notice of the hearing shall be given by the board by causing a notice thereof to be published at least once in each week for 2 successive weeks in a newspaper of general circulation in the county, and by posting 5 notices within the limits of the portion of the road to be designated, in public and conspicuous places therein. The posting shall be done and at least 1 publication in the newspaper shall be made not less than 10 days before the hearing.

(3) Within 30 days after the hearing, if the board deems the designation desirable, it shall file with the county clerk a true copy of its resolution designating the portion of the county local road as a natural beauty road.

HISTORY: New 1970, p. 490, Act 150, Imd. Eff. Aug. 1.

247.383 Designation; petition requesting withdrawal, board action.

Sec. 3. (1) If the board designates a road as a natural beauty road, the property owners of record of 51% or more of the lineal footage along the natural beauty road may submit within 45 days after the road is so designated a petition to the board requesting

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that the natural beauty road designation be withdrawn and if the petition is valid, the designation as a natural beauty road shall be withdrawn.

(2) A designation of a natural beauty road may be withdrawn or revoked by the board after the board holds a public hearing in accordance with the procedure described in subsection (2) of section 2. Within 30 days after a hearing, if the board by majority vote determines the revocation necessary, it shall file with the county clerk a notice of its determination and publish the notice in a newspaper of general circulation, once in each week for 2 successive weeks. After publication of the notice, the road previously designated shall revert to its former status.

HISTORY: New 1970, p. 490, Act 150, Imd. Eff. Aug. 1.

247.384 Guidelines and procedures for native vegetation preservation; rights of public utilities.

Sec. 4. (1) The department shall develop uniform guidelines and procedures which may be adopted by the board to preserve native vegetation in a natural beauty road right of way from destruction or substantial damage by cutting, spraying, dusting, salting, mowing or by other means. No guidelines and procedures adopted under the authority of this act shall prohibit the application of accepted principles of sound forest management in a natural beauty road right of way.

(2) The department may advise and consult with the board on the application of the guidelines and procedures.

(3) The board shall provide for a public hearing before an act is permitted which would result in substantial damage to native vegetation in the right of way.

(4) Nothing in this act shall affect the right of a public utility to control vegetation in connection with the maintenance, repair or replacement of public utility facilities, which were constructed in a road prior to its designation as a natural beauty road, or in connection with the construction, maintenance, repair or replacement of public utility facilities crossing a natural beauty road.

HISTORY: New 1970, p. 490, Act 150, Imd. Eff. Aug. 1.

247.385 Citizens' advisory committee; creation.

Sec. 5. The department may establish a citizen's advisory committee to assist in the formulation of proposals for guidelines and procedures.

HISTORY: New 1970, p. 491, Act 150, Imd. Eff. Aug. 1.

Act 59, 1915, p. 88; Eff. Aug. 24.

AN ACT to provide for the construction, improvement and maintenance of highways; for the levying, spreading and collecting of taxes and of special assessments therefor; to authorize the borrowing of money and the issuance of bonds under certain restrictions, regulations and limitations; to prescribe the powers and duties of certain officers with reference thereto; and to validate certain proceedings heretofore taken.

The People of the State of Michigan enact:

Secs. 1-14.

HISTORY: CL 1915, 4671-4684;—Am. 1917, p. 204, Act 125, Imd. Eff. April 25;—Am. 1919, p. 183, Act 107, Eff. Aug. 14;—Am. 1921, p. 34, Act 22, Imd. Eff. March 31;—Am. 1921, p. 364, Act 182, Eff. Aug. 18;—Am. 1923, p. 335, Act 213, Eff. Aug. 30;—Am. 1925, p. 269, Act 187, Eff. Aug. 27.—Am. 1927, p. 271, Act 170, Eff. Sept. 5;—CL 1929, 4314-4329;—Am. 1931, p. 114, Act 68, Imd. Eff. May 5.— Am. 1932, 1st Ex. Ses., p. 59, Act 39, Imd. Eff. May 14;—Rep. 1933, p. 350, Act 221, Imd. Eff. July 6.

Title Am. 1917, p. 201, Act 125, Imd. Eff. April 25.

These sections provided for Covert roads, which cannot now be layed out.

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ASSESSMENT.

247.415-247.417 Repealed. 1958, p. 83, Act 77, Eff. Sep. 13.

Sections provided for payment of assessments in installments; creation of special assessment districts; and cost apportionment.

247.418 Review of roll; notice, posting, publishing, service.

Sec. 18. On the completion of the roll, apportioning the per cent of benefits to be paid by the respective parties and municipalities, the county road commissioners or the state highway commissioner shall give notice by advertising and posting, of a review of said roll. Notice of such hearing shall be given by publishing a notice thereof, at least 2 insertions in some newspaper published and of general circulation in the county, if there is one. Such notice shall be so published at least once not less than 10 days prior to the hearing. If there is no such newspaper within the county, then the publishing of such notice will not be necessary. The county road commissioners or the state highway commissioner shall also give notice of such hearing by posting notices thereof in 5 conspicuous and public places in each township where the special assessment district is located, within the limits of said district at least 10 days prior to such hearing. They shall also serve notice of such hearing upon each township or city to be assessed, and upon the county, in case the same is operating under the county road system, at least 10 days prior to such hearing. Such notice may be served upon the clerks of the county or townships, respectively, as notice to such county or townships.

HISTORY: CL 1915, 4688;—Am. 1917, p. 209, Act 125, Imd. Eff. April 25;—Am. 1919, p. 186, Act 107, Eff. Aug. 14;—Am. 1921, p. 37, Act 22, Imd. Eff. March 31;—CL 1929, 4333;—CL 1948, 247.418.

CITED IN OTHER SECTIONS: Sections 247.418 to 247.481 are cited in § 41.283.

247.419 Hearing of objections; adjournment; roll, approval, filing of copy.

Sec. 19. At such review the said county road commissioners or the state highway commissioner shall appear and hear all objections to the proposed apportionment of benefits, and equalize the same, and may make such changes and corrections in such rolls as they shall deem just and equitable. Such hearing may be adjourned from time to time as may be necessary in the judgment of the county road commissioners or the state highway commissioner, by giving legal notice of the time and place. After hearing objections, the county road commissioners or the state highway commissioner shall sign and approve such apportionment of benefits roll, and shall file a copy thereof with the county clerk of the county, and with the township clerk of each township within which the improvement is located, or within which any lands assessed a per cent of benefits therefor are situate, or where any township at large is to be assessed a per cent of benefits on such improvement. In any case where a city is liable to an assessment at large on account of such improvement a copy of the roll aforesaid shall be filed with the clerk of said city and shall be by said clerk placed before the legislative body of the city at the next meeting thereof.

HISTORY: CL 1915, 4689;—Am. 1917, p. 210, Act 125, Imd. Eff. April 25;—Am. 1919, p. 186, Act 107, Eff. Aug. 14;—CL 1929, 4334;—CL 1948, 247.419.

247.420 Yearly roll for divided improvement.

Sec. 20. In case the proposed improvement is divided into sections for letting in separate years, as heretofore provided, then this roll shall be for the first section only, and a new roll shall be prepared each succeeding year for each succeeding section. Each such assessment roll shall be equalized in the manner herein provided.

HISTORY: CL 1915, 4690;—Am. 1917, p. 210, Act 125, Imd. Eff. April 25;—CL 1929, 4335;—CL 1948, 247.420.

247.421 Rolls; computation of cost, total.

Sec. 21. If the rolls are made before the contracts for the construction of the improvement are let the total amount of such rolls shall be the estimates heretofore referred to, to which estimates the county road commissioners or the state highway commissioner shall add such further sum, not exceeding 10 per cent, as shall be deemed necessary to cover contingent expenses. If the rolls are not made until after the letting of the contracts for the improvement, the county road commissioners or the state high-

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way commissioner shall take the contract price for such improvement, to which they shall add the incidental expenses to the time of making the roll, and to this total such further sum, not exceeding 10 per cent, as shall be deemed necessary to cover contingent expenses. Such rolls shall show the total sums exclusive of interest, which shall be paid by the county, the townships at large, and the lands benefited, and also the sums that may be payable hereunder by any cities assessed at large.

HISTORY: CL 1915, 4691;—Am. 1917, p. 210, Act 125, Imd. Eff. April 25;—Am. 1919, p. 187, Act 107, Eff. Aug. 14;—CL 1929, 4336;—CL 1948, 247.421.

247.422 Rolls; tax assessment, certification, collection of tax; township exemption.

Sec. 22. After the time for appeal from said roll has expired, or after an appeal shall have been decided, the county road commissioners or the state highway commissioner shall then prepare a tax assessment roll for the first year, for the collection of taxes and shall certify the same to the several township boards, to the legislative body of any city assessed at large, and to the county clerk of the county, on or before the first day of the annual meeting of the boards of supervisors; and the several boards of supervisors shall order such taxes collected at the same time, and in the same manner as are county, state and township taxes. All provisions of law with respect to the collection of said county, state and township taxes, shall apply to these special taxes. Said board of supervisors shall also order spread on the county at large, such sum, if any, as is apportioned thereto, which sum shall be entered upon the assessment rolls with the other county taxes but in a separate column. The legislative body of any city assessed at large hereunder shall order spread and collected in the same manner as other general taxes are spread and collected the amount that may be apportioned to such city: Provided, however, That any township that is entitled to the return of the county road tax paid thereby under the provisions of section 26 of chapter 4 of Act No. 283 of the Public Acts of 1909, as amended, shall be exempt from the payment of any portion of the tax spread at large upon the county under the provisions thereof, and such tax shall be apportioned among the other townships and cities of such county.

HISTORY: CL 1915, 4692;—Am. 1917, p. 211, Act 125, Imd. Eff. April 25;—Am. 1919, p. 187, Act 107, Eff. Aug. 14;—CL 1929, 4337;—CL 1948, 247.422.

NOTE: Sec. 26 of Ch. IV of Act 283 of 1909, above referred to, is Compilers' repealed § 224.26.

COLLECTION OF TAXES: See Compilers' § 211.44 et seq.

247.422a Lands assessed for Covert road; purchase of part or interest; apportionment of assessment, procedure; expenses.

Sec. 22a. Any person who has, or shall become the owner of, any interest, less than the whole, in any lands subject to the special assessments for road purposes as provided in this act, and the acquiring of said interest occurred or shall occur subsequent to the time for appeal from the roll as referred to in section 22 of this act, may pay on the part thus acquired and owned, its proportionate share of said road assessments, by paying an amount having the same relation to the whole assessment as the area of the part on which payment is made has to the whole area originally assessed: Provided, That anyone desiring to so pay shall make application in writing to the county road commission or the state highway commissioner, as the case may be, setting forth fully and correctly a description of the part or parcel of land upon which the applicant desires to pay the assessment and also setting forth therein the interest of the applicant in such part or parcel. It shall be the duty of the county road commission or the state highway commissioner, as the case may be, to cause the description and claimed ownership to be checked, and if satisfied that the applicant is the owner of the interest claimed, said county road commission or state highway commissioner shall make a certificate over the signature of the proper officers and official seal, setting forth the proportion of the road assessment to be borne by the parcel, parcels or interest of the applicant and file the same in the office of the county treasurer of the county in which

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the lands in question lie and shall thereafter, and shall so long as any assessments under this act remain unpaid, prepare the annual rolls as provided in this act in accordance with any such division or divisions of such road assessment: Provided, That the actual costs incurred by said county road commission or state highway commissioner, as the case may be, shall be paid by such applicant, which cost, in the case of platted lands, of which a plat is of record in the county where the lands lie, shall not exceed $10.00 per lot and in the case of unplatted lands shall not exceed $50.00. These costs shall be paid before the filing of the certificate aforesaid in the office of the county treasurer.

HISTORY: Add. 1941, p. 429, Act 253, Eff. Jan. 10, 1942;—CL 1948, 247.422a.

247.423 Rolls; division, interest; prepayment of tax; notice of taxes paid and unpaid; direction for payment of installments.

Sec. 23. Exclusive of interest, the roll for the total cost of such improvement shall be divided into as many equal parts as the county road commissioners or the state highway commissioner have heretofore determined the number of years in which the total assessment was to be paid. The roll prepared for the first year's collection shall contain an interest charge at the rate of 6 per cent per annum upon the total assessment from the date of the confirmation of the roll until the taxes carried on said roll are due and payable; the roll for the next year shall contain an interest charge of 6 per cent upon the whole amount unpaid; and each succeeding roll shall likewise contain an interest charge of 6 per cent for the whole amount unpaid for the preceding year. Any taxpayer may pay his full tax at any time after the completion of the assessment roll and when taxes are due and save interest thereon so far forth. Upon the expiration of the time for collecting taxes hereunder it shall be the duty of the township treasurer to notify the board of county road commissioners, or the state highway commissioner, as the case may be, of all taxes paid in full under the provisions hereof, specifying the names of the parties so paying, the dates when paid, and the amounts paid by each; and the said treasurer shall likewise give notice of all delinquent taxes. The electors of a township at any regular annual meeting thereof, may, by resolution, provide for the payment of any tax spread against such township at large, in anticipation of installments thereafter to become due. The board of supervisors of any county that is subject to the payment of such annual installments, may likewise, at any regular or special meeting thereof, direct the present payment of the installments to be due at some future time, it being the intent hereof to extend to the township and to the county, the same privilege with respect to anticipation of installments and the consequent saving of interest hereinbefore granted to individual taxpayers.

HISTORY: CL 1915, 4693;—Am. 1917, p. 211, Act 125, Imd. Eff. April 25;—Am. 1919, p. 188, Act 107, Eff. Aug. 14;—CL 1929, 4338;—CL 1948, 247.423.

247.424 Rolls; annual assessment; interest; lien.

Sec. 24. After the first installment of the assessment aforesaid, the succeeding annual installments of all taxes and moneys to be paid shall draw interest at the rate of 6 per cent per annum. The commissioners or commissioner shall prepare their successive annual tax rolls or assessments in proper time each year. After the first installment, the rolls for the successive installments shall be delivered to the county, city, and township clerks, as heretofore provided, and collected in the same manner as state, county, city and township taxes are collected, as heretofore provided. No hearing of objections shall be deemed necessary in the case of the several installment rolls. From and after the confirmation of the original assessment roll hereinbefore provided for, all installments of taxes together with the interest and other charges thereon, shall be a lien on the land against which the same are assessed.

HISTORY: CL 1915, 4694;—Am. 1917, p. 212, Act 125, Imd. Eff. April 25;—Am. 1919, p. 188, Act 107, Eff. Aug. 14;—CL 1929, 4339;—CL 1948, 247.424.

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247.425 Moneys collected, disposition, disbursement; interest on bank deposits.

Sec. 25. The moneys collected on account of such improvement shall be paid over to the county treasurer, and placed to the credit of the special assessment district. Such moneys shall be paid out on the order of the board of county road commissioners or the state highway commissioner, only for the purposes of this act. It shall be the duty of said county treasurer to deposit all moneys in his custody belonging to any such body so that the same shall draw interest, in some bank or banks approved by the board of supervisors or by the state highway commissioner. The interest so drawn shall accrue to and become a part of the fund. In any case where the improvement is carried on by and under the direction of the state highway commissioner he shall have the sole right to designate in what depositaries the money shall be placed.

HISTORY: CL 1915, 4695;—Am. 1917, p. 212, Act 125, Imd. Eff. April 25;—Am. 1919, p. 189, Act 107, Eff. Aug. 14;—CL 1929, 4340;—CL 1948, 247.425.

247.426, 247.427 Repealed. 1958, p. 83, Act 77, Eff. Sep. 13.

Sections regulated borrowing in anticipation of proceeds and imposed limitation on indebtedness.

247.428 Certification of sums to be paid.

Sec. 28. The county road commissioners or the state highway commissioner shall certify to the county treasurer of the county, the various sums to be paid by the county at large, townships at large, and lands benefited in each township, and shall also certify to the treasurer of any city assessed at large the amount to be paid by such city.

HISTORY: CL 1915, 4698;—Am. 1917, p. 213, Act 125, Imd. Eff. April 25;—Am. 1919, p. 190, Act 107, Eff. Aug. 14;—CL 1929, 4343;—CL 1948, 247.428.

247.429 Deficiency assessments; surplus, crediting, transfer.

Sec. 29. If the sum ordered raised shall not be enough to complete the improvement or to pay in full outstanding indebtedness with the interest thereon, whether such insufficiency is due to the anticipation of installments as provided in section 25 or otherwise, then the county road commissioners or the state highway commissioner shall raise such additional sums as may be necessary, in the same proportion as the original roll was made. Such shortage may be raised and collected in 1 installment, for which the county road commissioners or the state highway commissioner shall make their special assessment roll. Such roll shall be collected at the same time state, county and township taxes are collected. In case there is a surplus after completing the improvement amounting to 3 per cent or more of the cost of the improvement, such surplus shall be refunded or credited on the next installment of the assessment pro rata according to their assessments whether due from individuals or municipalities; where the surplus is less than 3 per cent and more than 1 per cent such surplus shall be credited to the road fund to which it belongs and applied to reducing the payments on the last annual installment, or if there is more money than is required to pay the last installment it shall be applied to reducing the last preceding installment or installments pro rata to their assessments whether due from individuals or municipalities; but any surplus less than 1 per cent shall constitute a maintenance fund to be expended under the direction of the county road commissioners or the state highway commissioner as the case may be, for the proper maintenance and repair of such road, and the state highway commissioner or the board of county road commissioners, as the case may be, shall make such refund or give such credit in all cases of roads heretofore built in which such funds may not already have been expended under the provisions of this act prior to this amendment: Provided, however, That in case such surplus amounts to $15,000.00 or less on roads already constructed under the provisions of this act, and where said road is being maintained by the county road commissioners, such surplus may be transferred by the county road commissioners to a fund to be established as a

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general Covert fund and to be used for the maintenance of all Covert roads, including bridges, in said county.

HISTORY: CL 1915, 4699;—Am. 1917, p. 213, Act 125, Imd. Eff. April 25;—Am. 1919, p. 190, Act 107, Eff. Aug. 14;—Am. 1921, p. 38, Act 22, Imd. Eff. March 31;—CL 1929, 4344;—Am. 1931, p. 116, Act 68, Imd. Eff. May 5;—Am. 1939, p. 464, Act 250, Eff. Sept. 29;—CL 1948, 247.429.

COLLECTION OF TAXES: See Compilers' § 211.44 et seq.

Sec. 30.

HISTORY: CL 1915, 4700;—Am. 1917, p. 213, Act 125, Imd. Eff. April 25;—Am. 1921, p. 38, Act 22, Imd. Eff. March 31;—CL 1929, 4345;—Rep. 1931, p. 116, Act 68, Imd. Eff. May 5.

This section provided for payment of state reward money.

247.431 Orders on improvement fund; payment, limitation.

Sec. 31. Orders on the improvement fund of any special assessment district created and existing hereunder, shall be drawn by the state highway commissioner or by the chairman of the board of county road commissioners on the majority vote of the members of said board, as the case may be, and countersigned by the county clerk. In no event shall any order or orders be drawn in excess of the amount raised or directed to be raised on account of any particular improvement. Such order shall be payable by any county treasurer having in custody any portion of the funds of such special assessment district or out of such funds. In any case where the special assessment district is situated in 2 or more counties, no orders shall be drawn upon the treasurer of either of said counties payable out of the funds of said district in excess of the amounts that will come into his custody as a part of said fund under the provisions hereof.

HISTORY: CL 1915, 4701;—Am. 1917, p. 213, Act 125, Imd. Eff. April 25;—CL 1929, 4346;—CL 1948, 247.431.

247.432 Donation of money; application, return.

Sec. 32. Donations of money may be received by either the state highway commissioner or the county road commissioners for the benefit of any road sought to be improved in accordance with the provisions of this act. Such money shall be paid to the treasurer of the county in which such special assessment district, or the greater portion thereof, is situated. Donations received before the preparation of the assessment roll shall be so applied as to decrease proportionately special assessments apportioned against individual property owners. In the event that the proposed improvement is not made, money so donated shall be returned to the donor on the warrant of the state highway commissioner or the board of county road commissioners as the case may be.

HISTORY: CL 1915, 4702;—Am. 1917, p. 214, Act 125, Imd. Eff. April 25;—CL 1929, 4347;—CL 1948, 247.432.

247.433 Taxes; interest charges, collection, powers of collecting officers, return as delinquent, lien.

Sec. 33. All taxes assessed under the provisions of this act, shall be subject to the same interest and charges as are state and other general taxes. When the rolls are delivered to the township boards, they shall be collected in the same manner as state and other general taxes are collected. Collecting officers are hereby vested with the same power and authority in the collection of such taxes, as are, or may be conferred by law for collecting general taxes. All taxes not collected, shall be returned to the county treasurer, as are state and other general taxes, and may be paid to such officer. All uncollected taxes shall, by the county treasurer, be returned, together with the lands upon which they were levied, at the same time, and in the same manner as lands are returned for state, county and township taxes, and such taxes shall follow such lands the same as all other taxes, and all the general provisions of law now existing or that may be hereafter enacted for enforcing the payment of state, county and township taxes, shall apply to these special taxes, and to lands returned delinquent therefor, in

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the same manner, and with like effect. All taxes levied under the provisions of this act, with all lawful costs, interest and charges, shall be, and remain a perpetual lien upon the lands upon which they are assessed, and a personal claim against the owner of such lands, until they are paid.

HISTORY: CL 1915, 4703;—CL 1929, 4348;—CL 1948, 247.433.

GENERAL TAX LAW: See Compilers' § 211.1 et seq.

247.434 Taxes; Rejected, reassessment.

Sec. 34. In case any tax assessed under the provisions of this act shall be rejected because of an error in the description of the premises sought to be charged, the same shall be ordered charged back by the board of supervisors, and re-assessed upon the lands in the same manner that unpaid or rejected taxes may be charged back by the auditor general, and re-assessed under the general provisions of law applicable to state, county and township taxes.

HISTORY: CL 1915, 4704;—CL 1929, 4349;—CL 1948, 247.434.

247.435 Taxes; apportionment on parcels, notice of hearing, correction of roll.

Sec. 35. In case 2 or more parcels of land owned by different persons shall be assessed as 1 parcel and the frontage of the different parcels upon the improvement are not relatively the same, the county road commissioners or the state highway commissioner, when the same is discovered, or any one of the several owners, may thereupon require the county road commissioners or the state highway commissioner to apportion this tax between the said several parcels, upon the principle of benefits derived. The county road commissioners or the state highway commissioner shall give the parties in interest 5 days' notice of their hearing, by posting a notice thereof, in a conspicuous place on each of such premises. On apportioning the tax as aforesaid, the county road commissioners or the state highway commissioner shall change their roll in accordance therewith, and if any rolls have been delivered to the county or township clerks, or to collecting officers, shall certify such change to them, who shall forthwith correct the roll in their hands, and collection shall be made accordingly. Such change may be made at any time before final decree is taken by the auditor general of the state, for the sale of such lands for delinquent taxes.

HISTORY: CL 1915, 4705;—Am. 1917, p. 214, Act 125, Imd. Eff. April 25;—CL 1929, 4350;—CL 1948, 247.435.

247.436 Legality of proceedings, evidence; finality of determination.

Sec. 36. All special assessment rolls and copies of rolls heretofore required to be delivered to county or township clerks under this act shall be prima facie evidence of the regularity and legality of all proceedings had to levy such tax. Any determination herein required to be made by the state highway commissioner or by the board of county road commissioners shall be deemed to be final and conclusive as to the existence of the facts therein involved.

HISTORY: CL 1915, 4706;—Am. 1917, p. 214, Act 125, Imd. Eff. April 25;—CL 1929, 4351;—CL 1948, 247.436.

STATE HIGHWAY COMMISSIONER.

247.437 Petition for improvement; transmission to proper authorities.

Sec. 37. In case a petition is presented to the state highway commissioner where authority to act is hereby vested in the board of county road commissioners of the county wherein such road is situated, such petition shall be immediately transmitted to said board and action thereon is hereby authorized as though the said petition had been properly addressed and presented in the first instance. Should a petition be presented to these county road commissioners for the improvement of any highway, in any county, and in the judgment of the county road commissioners, there should be lands liable to an assessment for benefits situate in any other county, then the county road

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commissioners shall certify such petition to the state highway commissioner, who shall thereupon proceed to act upon the same as though the said petition had been addressed to him in the first instance.

HISTORY: CL 1915, 4707;—Am. 1917, p. 214, Act 125, Imd. Eff. April 25;—CL 1929, 4352;—CL 1948, 247.437.

247.438 Deputy; acting for commissioner, legal effect.

Sec. 38. Any act or proceeding herein directed or authorized to be performed or conducted by the state highway commissioner, may be done by said commissioner in person, or by 1 of his deputies or by any other person generally or specifically deputized by him for the doing of such work. Any determination made by such deputy, or any hearing or other proceeding conducted by him shall be deemed to be for the purpose of this act, and have the same legal force and significance as though personally performed by said commissioner.

HISTORY: CL 1915, 4708;—Am. 1917, p. 215, Act 125, Imd. Eff. April 25;—CL 1929, 4353;—CL 1948, 247.438.

Sec. 39.

HISTORY: CL 1915, 4709;—Am. 1917, p. 215, Act 125, Imd. Eff. April 25;—CL 1929, 4354;—Rep. 1931, p. 116, Act 68, Imd. Eff. May 5.

This section provided for improvements in counties not under county road system.

247.440 Jurisdiction over highways in more than one county.

Sec. 40. All highways improved under the provisions of this act by the county road commissioners, or by the state highway commissioner, where more than 1 county is affected, that are parts of county roads shall be and remain under the jurisdiction of the county road commissioners of the county in which such highway is situate. Any township road improved hereunder shall be and remain subject to the jurisdiction or authority of the proper township officials after such improvement: Provided, however, That in all cases, the jurisdiction of the county and township officials shall be subject to the right to make proper repairs out of the maintenance fund, if any, hereinbefore provided for. In any highways improved along a county line, jurisdiction over the portion improved shall remain the same as though no improvement had been made upon such highway.

HISTORY: CL 1915, 4710;—Am. 1917, p. 215, Act 125, Imd. Eff. April 25;—CL 1929, 4355;—CL 1948, 247.440.

REVIEW OF ASSESSMENTS.

247.441 Appeal by municipality; application for board of review, limitations; authorized representative.

Sec. 41. The county or city at large, or any township at large assessed a per cent for any benefit for the improvement of any highway by the county road commissioners, or by the state highway commissioner, may within 10 days after the final hearing of the review heretofore provided for, appeal therefrom, and for such purpose make an application to the probate court of the proper county for the appointment of a board of review, as hereinafter provided. Townships shall appear by their respective supervisors; and counties shall appear by their clerk and prosecuting attorney; cities shall appear by their chief executive officers or by the city attorney, under the direction of the legislative body of such city. The supervisor shall act upon the direction of his township board. The clerk and prosecuting attorney shall act upon the direction of their board of supervisors, or of a committee of that board to whom may have have been referred by the whole board, questions pertaining to the highway improvements. Only 1 application for a board of review shall be entertained by the probate court to review any special assessment.

HISTORY: CL 1915, 4711;—Am. 1917, p. 215, Act 125, Imd. Eff. April 25;—Am. 1919, p. 190, Act 107, Eff. Aug. 14;—CL 1929, 4356;—CL 1948, 247.441.

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247.442 Appeal by municipality; hearing, notice; board of review or joint board; appointment, meeting, notice, duties.

Sec. 42. The probate court upon the receipt of any such application for appeal, shall forthwith notify the county road commissioners or the state highway commissioner in writing of such an appeal. The probate court shall thereupon make an order appointing the day of hearing upon such application, and shall require notice of such hearing to be given the county at large, if subject to assessment hereunder, to the several township boards of the townships interested, and to any city liable to an assessment at large, and the county road commissioners, or the state highway commissioner, at least 3 days before such hearing. Such notice may be served on the clerk of the board of supervisors, on the city clerk and upon the township clerks of the respective townships. At such hearing, the probate court shall thereupon make an order, appointing 3 disinterested and competent freeholders of such county, not residents or freeholders of the township or townships affected or assessed for the proposed improvement, as members of a board of review. The persons so appointed shall constitute the board of review. The court shall thereupon immediately fix a time and place where the said board of review shall hold its first meeting to review such assessments, which time shall not be less than 5, nor more than 15 days from the date of such hearing. The county road commissioners, or the state highway commissioner, shall thereupon give notice to the persons so appointed of their appointment, and of the time and place of their first meeting, and shall give notice of such first meeting by posting notices in at least 5 public and conspicuous places in each township within the assessment district affected by such assessment, and by giving notice to the prosecuting attorney in the county, in all cases where the state is an interested party. Said notice shall be served and posted at least 10 days before the meeting: Provided, That if the road to be improved, or the assessment district, shall lie in 2 or more counties, the application referred to in the preceding section shall be presented simultaneously to the probate court in each of said counties. Thereupon each said court, proceeding as above set forth, shall appoint a disinterested and competent freeholder of such county as a member of the board of review. Upon certification to him of such appointment the state highway commissioner shall fix the time and place of the first meeting thereof and shall give notice as above provided, to the members so appointed, of the time and place of such meeting. If but 2 counties are concerned, and if the members appointed therefrom are unable to agree, such members shall select a third member of the board, who shall be a competent and disinterested freeholder from another county of the state. Notice of such appointment shall be given to the state highway commissioner who shall notify the member so appointed thereof and thereupon the members of the board shall proceed in the same manner as is herein provided in the case of a board appointed within 1 county by the probate court thereof. In case of the selection of a third member of the board as herein provided the state highway commissioner shall fix the time and place of meeting of the board to be held thereafter and shall notify all members accordingly.

HISTORY: CL 1915, 4712;—Am. 1917, p. 216, Act 125, Imd. Eff. April 25;—Am. 1919, p. 191, Act 107, Eff. Aug. 14;—Am. 1921, p. 39, Act 22, Imd. Eff. March 31;—CL 1929, 4357;—CL 1948, 247.442.

247.443 Board of review; duty, limitation, oath.

Sec. 43. At such hearing the board of review shall have the right, and it shall be their duty to review and equalize all assessments of per cent of benefits made by the county road commissioners, or the state highway commissioner, for such improvement upon the county at large, or upon any city, and the total assessment made upon the

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several townships, including the total per cent assessed upon lands benefited therein. Such board shall not review or equalize the assessment for benefits upon particular lands. The persons so appointed as such board of review shall be sworn to faithfully discharge the duties of such board of review.

HISTORY: CL 1915, 4713;—Am. 1917, p. 216, Act 125, Imd. Eff. April 25;—Am. 1919, p. 191, Act 107, Eff. Aug. 14;—CL 1929, 4358;—CL 1948, 247.443.

247.444 Board of review; hearing, view of lands, correction of errors, additions; hearing of objections on change; decision, preparation and finality.

Sec. 44. The board of review shall proceed to hear the proofs and allegations of the county, or of any city assessed at large, and of the several townships at large, in respect to the matter of the appeal, and shall proceed to view the lands benefited by such improvement, and to review the total per cent ordered to be paid by the county at large, and by each township, including the sum total per cent assessed upon lands benefited in such township, and if, in their judgment, there be manifest error or inequality in such assessment, they shall order, or make such changes therein within the limitations hereinbefore provided, as they may deem just and equitable. The board of review shall not equalize the assessment between the several tracts or parcels of land. Should the board of review find, upon personal examination, that there are lands liable to be assessed for the construction of such improvement, that were not included in the assessment district made by the county road commissioners, or the state highway commissioner, they shall add such lands to the assessment district for such improvement. Before adding any lands to such special assessment district not included in the final order of the county road commissioners, or the state highway commissioner, the said board of review shall give the same notice as hereinbefore provided to be given by the county road commissioners, or the state highway commissioner, in establishing a special assessment district. The board of review shall meet at the time and place mentioned in their notice, to hear objections from the persons interested with respect to change in such district. On hearing such objections, the board of review, should they still deem it just and equitable that additional lands be included in the district, shall make their order in accordance therewith. The action and decision of the board of review shall be final. The action and decision of such board shall be reduced to writing and signed by a majority making the same, and shall be delivered to the county road commissioners, or the state highway commissioner, together with all other papers relating thereto.

HISTORY: CL 1915, 4714;—Am. 1917, p. 216, Act 125, Imd. Eff. April 25;—Am. 1919, p. 192, Act 107, Eff. Aug. 14;—CL 1929, 4359;—CL 1948, 247.444.

247.445 Costs of appeals.

Sec. 45. In case the assessment of the county road commissioners, or the state highway commissioner, shall be sustained by such board of review, the appellant shall pay the whole cost and expense of the appeal. Such cost and expense shall be ascertained and determined by the judge of probate; and the amount so determined by said judge, or by the court on appeal therefrom, shall be paid by the county, city, or township appealing, to the county treasurer of said county, and placed to the credit of the road district. If the apportionment of the county road commissioners, or the state highway commissioner, is not sustained, the road district shall pay the cost of such appeal.

HISTORY: CL 1915, 4715;—Am. 1917, p. 217, Act 125, Imd. Eff. April 25;—Am. 1919, p. 192, Act 107, Eff. Aug. 14;—CL 1929, 4360;—CL 1948, 247.445.

247.446 Appeal by land owner; application for board of review; bond, liability, costs.

Sec. 46. The owner of any lands assessed a per cent for benefits for improving any highway, who may conceive himself aggrieved by the assessment made by the county road commissioners, or the state highway commissioner, may, within 10 days after the

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hearing of the review heretofore provided by the county road commissioners, or the state highway commissioner, appeal therefrom, and for such purpose make an application to the probate court of the county in which his land is situate, for a review of the per cent of benefits assessed for such improvement upon his land in any township. Said appellant shall file with the probate court a bond in the sum of 200 dollars, with 1 or more sureties, to be approved by said court, conditioned for the payment of all costs in case the assessment made by the county road commissioners, or the state highway commissioner, shall be sustained. In case the assessment of the per cent of benefits made by the county road commissioners, or the state highway commissioner, upon lands assessed in that township shall be sustained by the board of review, the appellant shall pay the whole cost of such appeal. Such cost and expenses shall be ascertained and determined by the probate court; and if not paid the appellant shall be liable on his bond for the full amount of such costs in an action in law to be brought by the county road commissioners, or the state highway commissioner, before any court having jurisdiction. If the assessments made by the county road commissioners, or the state highway commissioner, on lands in such townships shall be changed, the road districts shall pay the cost of such appeal.

HISTORY: CL 1915, 4716;—Am. 1917, p. 217, Act 125, Imd. Eff. April 25;—CL 1929, 4361;—CL 1948, 247.446.

247.447 Appeal by land owner; board of review, appointment, eligibility, notice; hearing, notice; assessment district in more than one county.

Sec. 47. On the receipt of such claim of appeal by the land owner and the giving of a bond as aforesaid, the probate court shall appoint a board of review to examine into and equalize the apportionment of the per cent of benefits assessed upon lands within the assessment district. Such board of review shall consist of 3 competent and disinterested freeholders selected from townships in the same county, adjoining the township where the land of the appellant is situated outside of the assessment district. Notice of the appointment of the board of review to review the apportionment of the per cent of benefits upon lands shall be given by posting a notice thereof in 5 public and conspicuous places in the special assessment district at least 5 days prior to the hearing in the probate court for the appointment of such board of review. Such board of review when appointed shall give notice of its hearing in the matter, and of the time and place when and where it will meet to review the apportionment of benefits upon the lands in the assessment district, by posting a notice thereof at least 5 days before the day of hearing in 5 public and conspicuous places within the special assessment district. Such board of review shall also cause a copy of such notice to be delivered to the appellant, or left at his place of residence, if his residence is within the said district. If the assessment district is situated in more than 1 county the application for the board of review and the appointment thereof shall be made in the same manner as is hereinbefore provided for the application for and the appointment of the board of review to equalize and review assessments made upon the counties at large, the several townships, and the assessment district in any such case. When so selected said board of review shall proceed to review the assessments upon all lands within the assessment district as provided in this section and in the following section.

HISTORY: CL 1915, 4717;—Am. 1921, p. 40, Act 22, Imd. Eff. March 31;—CL 1929, 4362;—CL 1948, 247.447.

ASSESSMENT DISTRICT: In more than one county, see Compilers' § 247.441.

247.448 Apportionment final; hearing, duties of board; boundaries of districts.

Sec. 48. The apportionment of benefits for the proposed improvements against the county at large, or against any city at large, and against the several townships at large, as made by the county road commissioners, or the state highway commissioner, or in case of appeal by the county or any township as made by the board of review hereinbefore provided for shall be final and conclusive and shall not be changed by the

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board of review herein appointed to review the apportionment of benefits upon lands. The board of review herein shall proceed at the time and place specified in their notice to hear the proofs and allegations of the parties in interest, and shall proceed to view the lands benefited by the proposed improvement, and to review all of the apportionments for benefits made by the county road commissioners or the state highway commissioner, on lands benefited in the assessment district on account of such improvement, and if in their judgment there be manifest error in any such apportionment upon lands benefited, they shall make such changes therein and equalize the same as they deem just and equitable. All boundaries of the special assessment district as made by the county road commissioners, or the state highway commissioner, or by the board of review hereinbefore mentioned, upon appeal shall be final and conclusive; the board of review appointed to review the apportionment of the per cent upon lands shall have no power to add additional lands to the special assessment district. But 1 appeal shall be acted upon to review the apportionment of the per cent of benefits assessed upon lands in the assessment district.

HISTORY: CL 1915, 4718;—Am. 1917, p. 218, Act 125, Imd. Eff. April 25;—Am. 1919, p. 193, Act 107, Eff. Aug. 14;—Am. 1921, p. 40, Act 22, Imd. Eff. March 31;—CL 1929, 4363;—CL 1948, 247.448.

247.449 Hearing; adjournment.

Sec. 49. The several boards of review may adjourn from time to time, for the hearing of appeals; and public announcement of such adjourning shall be given.

HISTORY: CL 1915, 4719;—CL 1929, 4364;—CL 1948, 247.449.

247.450 Determination; certification, finality.

Sec. 50. The several boards of review shall certify to the county road commissioners, or the state highway commissioner, their finding and determination upon any appeal, which finding and determination as to the per cent of benefits to be assessed upon particular tracts, or parcels of lands benefited, shall be final and conclusive.

HISTORY: CL 1915, 4720;—Am. 1917, p. 218, Act 125, Imd. Eff. April 25;—CL 1929, 4365;—CL 1948, 247.450.

247.451 Vacancy on board; filling.

Sec. 51. Should any person appointed on either of the boards of review as aforesaid, neglect or refuse to serve, or be unable to act, the county road commissioners, or the state highway commissioner, shall report the same to the probate court, who shall, upon like notice, as in the first instance, proceed to appoint others, or another, competent and disinterested person or persons, to act on said board of review. The person or persons so appointed shall have the same power and perform the same duties as herein provided for the board of review in the first instance.

HISTORY: CL 1915, 4721;—Am. 1917, p. 219, Act 125, Imd. Eff. April 25;—CL 1929, 4366;—CL 1948, 247.451.

247.452 Assessment rolls; spread and collection; delayed report of rolls, subsequent installments.

Sec. 52. All the assessment rolls under this act, reported to the board of supervisors at the annual meeting thereof, shall be ordered spread and collected by the board and they shall order any rolls reported to them, while they are in session, spread and collected. Rolls not reported before the final adjournment of such boards at their annual October meeting, shall stand over until the following year, notwithstanding they may have been ordered collected by the county road commissioners the prior year. Where the contract is let prior to the annual meeting of the board of supervisors in October, and by reason of delay occurring from appeals to review the apportionment of benefits taken, so that the assessment roll, as finally determined, cannot be laid before the meetings of the board of supervisors, such delay shall not affect the collection of the second installment of the assessment, but both the first and second installments shall be collected the next year.

HISTORY: CL 1915, 4722;—Am. 1917, p. 219, Act 125, Imd. Eff. April 25;—Am. 1919, p. 193, Act 107, Eff. Aug. 14;—CL 1929, 4367;—CL 1948, 247.452.

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MISCELLANEOUS.

247.453 Tax set aside; new proceedings.

Sec. 53. In case any tax assessed under the provisions of this act shall be set aside, except for the reason that the petition for the improvement does not confer jurisdiction to act, the county road commissioners, or the state highway commissioner, as the case may be, shall begin proceedings anew at the stage where they shall be correct.

HISTORY: CL 1915, 4723;—Am. 1917, p. 219, Act 125, Imd. Eff. April 25;—CL 1929, 4368;—CL 1948, 247.453.

SIMILAR PROVISIONS: See Compilers' § 247.473.

247.454 Apportionment based on benefits; description of lands.

Sec. 54. All apportionment for benefits under the provisions of this act, shall be upon the principle of benefits derived. All description of lands under the provisions of this act shall be made by bounding the same or by giving the local sub-divisions thereof; and it may be described by designations of the lot, or in some way by which it may be known and identified.

HISTORY: CL 1915, 4724;—CL 1929, 4369;—CL 1948, 247.454.

Sec. 55.

HISTORY: CL 1915, 4725;—Am. 1917, p. 219, Act 125, Imd. Eff. April 25;—Rep. 1917, p. 193, Act 116, Eff. Aug. 10;—CL 1929, 4370.

LEGISLATIVE HISTORY: This section was amended and repealed on the same day by two different acts with only one-half hour difference in time of approval.

Act 125 of 1917 amending Sec. 55 of Act 59 of 1915 was Senate Bill 166. Amendments of the house were concurred in and the bill ordered enrolled on April 11, presented to the Governor on April 17, and signed by him at 8:30 P. M. on April 25. It was given immediate effect.

Act 116 of 1917 repealing Sec. 55 of Act 59 of 1915 was House Bill 381, passed by the senate on April 11, ordered enrolled by the house on April 12, presented to the Governor on April 17, and signed by him at 9 P. M. on April 25. It was not given immediate effect.

Section 55, amendatory Act 125, 1917 reads as follows:

"Section 55. Part paid school and state lands shall be assessed their per cent for benefits, and the collection thereof shall be enforced as state and county taxes against such lands are collected and enforced. Notice of the portion assessed upon the state lands shall be reported by the county road commission, or the state highway commissioner, to the public domain commission within 10 days after the tax assessment shall have been made by the county road commissioners, or the state highway commissioner. The public domain commission shall enter upon their records against each description of said lands the amount of taxes assessed thereon, for such improvement, and shall certify the same to the auditor general, who shall draw his warrant on the state treasurer therefor, to be paid out of any funds in his hands not otherwise appropriated. Such amounts shall be forwarded by the public domain commission to the county treasurer of the county in question, on or before the fifteenth day of January, thereafter, and shall by him be credited to the fund of the road district in question. No patent shall issue to any person for such lands until all special assessments for highway improvements are paid within interest at the rate of 6 per cent per annum."

247.456 Drainage; petition of commissioner.

Sec. 56. In case the county road commissioners, or the state highway commissioner, shall deem it necessary for the proper drainage of the highway to be improved, that any drain or water course be laid out and established, deepened and widened, cleaned out, straightened or extended, they may petition the county drain commissioner for the same, and such petition shall have all the force and effect of the requisite petitions by freeholders to the county drain commissioner for the same purpose; and thereupon the county drain commissioner shall proceed to act upon such petition, and shall take the same steps that are provided for him to take under the drain laws of the state.

HISTORY: CL 1915, 4726;—Am. 1917, p. 220, Act 125, Imd. Eff. April 25;—CL 1929, 4371;—CL 1948, 247.456.

247.457 Legal and clerical service, expenses.

Sec. 57. The county road commissioner, or the state highway commissioner, acting under the provisions of this act, may employ all necessary clerks, and such clerk hire, and any legal expense shall be charged to the several road districts in behalf of which they shall be employed. They may likewise employ an attorney when they deem the same necessary. All incidental expenses shall be paid out of the first moneys collected.

HISTORY: CL 1915, 4727;—Am. 1917, p. 220, Act 125, Imd. Eff. April 25;—Am. 1919, p. 193, Act 107, Eff. Aug. 14;—CL 1929, 4372;—CL 1948, 247.457.

247.458 Record of proceedings; supplies.

Sec. 58. The county road commissioners, or the state highway commissioner, shall procure record books, and keep a record of all the proceedings had under this act, and they shall procure the necessary stationery and supplies, which expense shall be paid by the county, or by the state as the case may be.

HISTORY: CL 1915, 4728;—Am. 1917, p. 220, Act 125, Imd. Eff. April 25;—CL 1929, 4373;—CL 1948, 247.458.

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247.459 County road commissioners; annual report.

Sec. 59. The county road commissioners shall render an annual report to the board of supervisors, of their doings, showing itemized statements of all the sums ordered raised by them and expended by them. Such statements shall be filed on or before the first day of the annual meeting of the supervisors in October.

HISTORY: CL 1915, 4729;—CL 1929, 4374;—CL 1948, 247.459.

247.460 County road commissioners; administrative board.

Sec. 60. The county road commissioners shall work together as an administrative board in the performance of their work.

HISTORY: CL 1915, 4730;—CL 1929, 4375;—CL 1948, 247.460.

ADMINISTRATIVE BOARD: See also Compilers' § 224.9.

247.461 County road commissioners; procedure if disqualified.

Sec. 61. In case any county road commissioner shall be interested in the improvement of any highway, or for any reason disqualified to act thereon, then the remaining county road commissioner, or commissioners, shall proceed with the work; and the action of such county road commissioner or commissioners not interested shall be valid and effective. In case any county road commissioner is disqualified to act upon any proposed improvement, such facts shall be entered upon the records of the county road commissioners. In case all of the members of the board of county road commissioners are disqualified for any reason from acting on any such application, a special road commissioner may be appointed by the judge of probate. In the event of such disqualification it shall be the duty of any board of county road commissioners to whom a petition is addressed, to immediately transmit the same to the judge of probate with a certified statement as to the fact of such disqualification; or such petition, in case of disqualification aforesaid, may be submitted in the first instance to the judge of probate accompanied by a certified statement of some elector of the county as to such fact of disqualification, with a request that a special road commissioner be appointed for the purposes of the application. Thereupon it shall be the duty of the judge of probate to appoint a day for hearing on the question of making such appointment. Due notice of such hearing shall be printed in some newspaper of general circulation in the county, or counties, in which the special assessment district is located, not less than 10 days prior to the day of hearing. Such publication shall be all the notice required as to such hearing. On the appointed day, or on any subsequent day to which adjournment may be had, the said judge of probate shall determine whether or not all the members of the board of county road commissioners are in fact disqualified. If he finds such to be the case, he shall forthwith appoint a special road commissioner who shall be invested with all the rights, powers, duties, and obligations herein granted to or conferred upon the board of county road commissioners for the purposes of said application for the improvement of a highway under the provisions of this act. In case it is found on hearing, that all the members of the board of county road commissioners are not in fact disqualified to act, the judge of probate shall certify accordingly and shall at once transmit said application to the board of county road commissioners, and the said board or the members thereof not disqualified, shall proceed as hereinbefore provided. Any special road commissioner appointed in accordance with the provisions of this section, shall be required to give bond in such reasonable amount and with such sureties as the judge of probate may direct and approve. Such special commissioner shall receive such compensation for time actually expended by him, added to his reasonable expenses, out of the funds of the special assessment district as shall be fixed by the board of supervisors or by the board of county auditors, in counties having such board.

HISTORY: CL 1915, 4731;—Am. 1917, p. 220, Act 125, Imd. Eff. April 25;—CL 1929, 4376;—Am. 1933, p. 88, Act 75, Imd. Eff. May 8;—CL 1948, 247.461.

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247.462 Repealed. 1958, p. 83, Act 77, Eff. Sep. 13.
Section provided for employment of an engineer.

247.463 Estimates and certificates of completed work; payments on contracts, prerequisites, portion withheld.

Sec. 63. As the work of improvement progresses, the county road commissioners, or the state highway commissioner, shall cause written estimates to be made, and certificates of work done and materials furnished, according to specifications, and of the value of the work accomplished by the several contractors. These estimates and certificates shall be made and signed by a competent engineer. At the request of any contractor doing work, such estimate shall be made at least once in each month. The county road commissioners, or the state highway commissioner, shall make no payment on any contract without such written estimates and certificates that the work is done according to specifications where the total contract price shall be 500 dollars or over. Before the final completion of the work and its final acceptance, they shall not pay more than 80 per cent of the amount of such estimates and certificates: Provided, That upon satisfactory showing of the paying of outstanding indebtedness as hereinafter provided the amount retained on such estimates may be proportionately reduced in the discretion of the state highway commissioner or the board of county road commissioners as the work progresses. Before payment is made on any estimate or certificate aforesaid, the contractor shall file an affidavit showing, either that all labor and material so far used in the improvement has been paid for by him, or an itemized statement giving the several amounts and names of persons to whom anything is owing for labor and material used in the particular improvement contracted for by him, or he shall file releases from all persons unpaid for either labor or material used in such improvement. In case it appears from such affidavits that any labor or material is not paid for, the county road commissioners, or the state highway commissioner, shall deduct from any payment to be made by them such indebtedness for material and labor. The county road commissioners, or the state highway commissioner, out of money so retained by them, may pay any such indebtedness; and they shall pay such indebtedness out of such money on the request of any contractor. They shall not be obliged to pay on the request of a creditor until such creditor shall have put his claim into final judgment.

HISTORY: CL 1915, 4733;—Am. 1917, p. 221, Act 125, Imd. Eff. April 25;—Am. 1921, p. 41, Act 22, Imd. Eff. March 31;—CL 1929, 4378;—CL 1948, 247.463.

247.464 Repealed. 1963, p. 309, Act 213, Eff. Sep. 6.
Section required bond of successful bidder.

247.465 Contracts under $500; payments.

Sec. 65. The county road commissioners, or the state highway commissioner, may let contracts under 500 dollars without advertising. They may make payments on such contracts without the estimates and certificates above required.

HISTORY: CL 1915, 4735;—Am. 1917, p. 222, Act 125, Imd. Eff. April 25;—CL 1929, 4380;—CL 1948, 247.465.

ACTIONS AND HEALING PROVISIONS.

247.466 Certiorari; notice, hearing, bond; proceedings, setting aside; costs; postponement in letting of contracts.

Sec. 66. The proceedings herein provided for improving any highway, shall be subject to review upon certiorari. Notice of such certiorari shall be served upon the county commissioners, or 1 of them or upon the state highway commissioner, within 10 days after the making of their apportionment of benefits for such improvement has been filed with the county clerk in the same manner as notice is required to be given of certiorari for reviewing judgments returned by the justice of the peace, and the writ shall be issued and served, and the bond given and approved, and all subject matter

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brought to issue in the same way and manner as in such case provided, except that such certiorari may be heard by the court during term, or at chambers, upon 5 days' notice given to the opposing party; and the circuit court of the county shall hear and determine the same without *necessary delay; and if any material defect be found in the proceedings, such proceedings shall be set aside in so far as erroneous with consent to the county road commissioners, or the state highway commissioner, to proceed anew with their proceedings from the point where the defect occurs. The entire proceedings shall not be set aside except where the county road commissioners, or the state highway commissioner, are found to have no jurisdiction to act upon the petition presented. If the proceedings be sustained, the party bringing the certiorari shall be liable for the costs thereof; and if they be not sustained in whole, or in part, the parties petitioning for the proposed improvement, shall be liable for the costs. If no certiorari be brought within the time herein described, the improvements shall be deemed to have been legally ordered and established, and its legality shall not thereafter be questioned in any suit at law, or in equity. When such proceedings are brought, the county road commissioners, or the state highway commissioner, shall postpone the letting of contracts if they have not been let, and of all other proceedings until after the determination of the court.

HISTORY: CL 1915, 4736;—Am. 1917, p. 222, Act 125, Imd. Eff. April 25;—CL 1929, 4381;—CL 1948, 247.466.

*It is evident that the word "necessary" should be "unnecessary".

247.467 Tax assessment; irregularities not prejudicial; presumptions; prima facie evidence; absent or omitted records; signing of papers; deeds.

Sec. 67. No tax assessed under this act upon any property or sale therefor, shall be held invalid by any court of this state on account of any irregularity in any assessment, or on account of any tax roll not having been made, or proceeding had within the time required by law, or on account of the property having been assessed without the name of the owner, or in the name of any person other than the owner, or on account of any other irregularity, informality, omission, or want of any matter or form or substance in any proceeding that does not prejudice the property rights of the person whose property is taxed; and all proceedings in assessing and levying taxes, and in the sale and conveyance therefor, shall be presumed by all the courts of this state to be legal until the contrary is affirmatively shown. All records, statements and certificates herein provided for, shall be prima facie evidence of the facts therein set forth. The absence of any record of any proceeding or proceedings, or the omission of any mention in any record of any vote or proceeding, or mention of any matter in any statement or certificate that should appear therein under the provisions of this act, shall not affect the validity of any proceeding, tax, or title thereon, providing the fact that such vote or proceeding was had or tax authorized is shown by any other record, statement or certificate made evidence by the terms of this act or any other law of this state. No tax or sale of property for any tax, shall be rendered or held invalid by showing that any record, statement, affidavit, certificate, paper or return cannot be found in the proper office. Unless the contrary is affirmatively shown, the presumption shall be that such record was made, and that such certificate, statement, affidavit, paper, or return, was duly made and filed. Where any statement, certificate or record is required to be made or signed by the county road commissioners, such statement, certificate or record may be made and signed by the members of said commission, or a majority of them, and it shall not be necessary that other members be present when each signs the same. The provisions of this section shall not be construed to authorize any showing impeaching the validity of any deed executed by the auditor general under the provisions of this act, but such deed shall be held absolute and conclusive as provided in general tax laws of the state.

HISTORY: CL 1915, 4737;—CL 1929, 4382;—CL 1948, 247.467.

TAX DEEDS: See Compilers' §§ 211.72 and 211.73.

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247.468 Limitation of actions, tax payment under protest; suit against county.

Sec. 68. No suit shall be instituted to recover any tax or money paid, or for property therefor, or for damages on account thereof, unless brought within 30 days from the time of payment of such money to, or for the sale of such property by, the collecting officers; and if such tax be paid under protest, the reasons therefor shall be specified, and the same procedure observed as is, and may be required by the general tax law: Provided, That suits specified in this section shall be brought against the county at large.

HISTORY: CL 1915, 4738;—CL 1929, 4383;—CL 1948, 247.468.

PAYMENT UNDER PROTEST: See Compilers' § 211.53.

247.469 Injunction restricted.

Sec. 69. After any taxes shall have been assessed for the improvement of any highway under this act, no injunction shall issue to restrain the spreading of the same upon the tax roll, nor to restrain the collection thereof, nor shall the same be in any manner stayed, except as provided in provisions for certiorari unless the amount of such assessment shall be first paid to the county treasurer to be applied upon such taxes in case the court in which the suit upon which such injunction is tried, shall so order.

HISTORY: CL 1915, 4739;—CL 1929, 4384;—CL 1948, 247.469.

247.470 Faulty proceedings; collection of tax, new proceedings.

Sec. 70. The collection of no tax levied, or ordered to be levied for the payment of the improvement or construction of any highway laid out under this act shall be perpetually enjoined, or declared absolutely void in consequence of any error or informality appearing in the record of the proceedings under which any highway shall have been constructed or improved, nor on account of any irregularity or informality in the condemnation of the right of way, nor for want of any record thereof, but the court in which any action may be brought to recover any tax or assessment paid, or to declare void the highway proceedings, or to enjoin any tax or assessment levied or ordered to be levied for the payment of the labor and expenses of the improvement thereof, shall, if there be manifest error in the proceedings, allow the county road commissioners, or the state highway commissioner, to begin their proceedings anew at the stage prior to which the error occurred.

HISTORY: CL 1915, 4740;—Am. 1917, p. 223, Act 125, Imd. Eff. April 25;—CL 1929, 4385;—CL 1948, 247.470.

247.471 Delinquent tax; collection.

Sec. 71. Any taxes that may have been assessed and returned delinquent to the county treasurer upon any lands and by virtue of the provisions of this act and remaining unpaid, may be sued for, by the county road commissioners of the county in which such delinquent lands are situated, or by the state highway commissioner, in an action of assumpsit before any court of competent jurisdiction; or the county road commissioners, or the state highway commissioner, may file their bill in equity to enforce the lien of such tax against the real estate charged therewith, in the same manner as mortgages are foreclosed in chancery. The court may order the sale of such delinquent lands at any time after 6 months from the filing of such bill in chancery.

HISTORY: CL 1915, 4741;—Am. 1917, p. 223, Act 125, Imd. Eff. April 25;—CL 1929, 4386;—CL 1948, 247.471.

247.472 Tax set aside; parties to action.

Sec. 72. In case any suit shall be brought to set aside any tax assessed under the provisions of this act, or in any way attacking the legality of the proceedings had under this act, the county road commissioners, or the state highway commissioner, shall be made a party to such suit. The county in which such road district shall be situated, if

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operating under the county road system, shall likewise be made a party and process shall be served upon the clerk of such county.

HISTORY: CL 1915, 4742;—Am. 1917, p. 224, Act 125, Imd. Eff. April 25;—CL 1929, 4387;—CL 1948, 247.472.

247.473 Tax set aside; new proceedings.

Sec. 73. In case any tax assessed under the provisions of this act shall be set aside, except for the reason that the petition for the improvement does not confer jurisdiction to act, the county road commissioners, or the state highway commissioner, as the case may be, shall begin proceedings anew at the stage where they shall be correct.

HISTORY: CL 1915, 4743;—Am. 1917, p. 224, Act 125, Imd. Eff. April 25;—CL 1929, 4388;—CL 1948, 247.473.

247.474 Proceedings; recommencement, notice of hearing; credit for tax paid.

Sec. 74. Whenever the work of improving any highway has been wholly or partly completed, and payment for same has not been legally made, the county road commissioners, or the state highway commissioner, shall proceed without unnecessary delay to start such proceedings anew, providing the petition for the improvement confers jurisdiction upon the county road commissioners, or the state highway commissioner, at such a stage as may be correct; and the county road commissioners, or the state highway commissioner, shall proceed to take the necessary steps under the provisions of this act, and shall reassess upon the lands benefited by the improvement, the original cost thereof, together with all expense of completing the proceedings, and continue so to do, until such improvement has been legally constructed: Provided, That on such recording and legally completing the proceedings, it shall not be necessary to readvertise the letting or to make a new contract for the letting and constructing of the improvement, but the county road commissioners, or the state highway commissioner, shall advertise a day of review for benefits in the manner provided in the first instance: Provided further, That any person who has paid taxes for benefits assessed against him for such improvement, shall be allowed the amount so paid; and the collecting officer shall accept the receipt theretofore issued as cash, and the same shall be applied upon such new assessment.

HISTORY: CL 1915, 4744;—Am. 1917, p. 224, Act 125, Imd. Eff. April 25;—CL 1929, 4389;—CL 1948, 247.474.

Sec. 75. (This was a severing clause section.)

HISTORY: CL 1915, 4745;—CL 1929, 4390;—Rep. 1945, p. 413, Act 267, Imd. Eff. May 25.

247.476 Saving clause.

Sec. 76. All proceedings heretofore taken under this act shall not be defeated or nullified because of any irregularity therein if there has been a substantial compliance with the requirements of the said measure as hereby amended. Such proceedings heretofore commenced under said act shall not be invalidated either in whole or in part hereby, but may be completed under the provisions hereof.

HISTORY: Add. 1917, p. 224, Act 125, Imd. Eff. April 25;—CL 1929, 4391;—CL 1948, 247.476.

247.477 Clerical errors; correction.

Sec. 77. After the county road commissioners shall have made their apportionment of benefits, and held a review of the same, whether an appeal has been taken therefrom or not, but in case of appeal, then after such appeal shall have been decided, and it shall appear that any parcel of land has been omitted by clerical error within the boundaries of the district finally established, or that parcels of land have been misdescribed, or the acreage stated to be more or less than it really is or that the amount appearing on the roll as assessed against any parcel of land is erroneous because of a clerical error, the county road commissioners, or the state highway commissioner, as the case may be, may correct such errors in the manner herein provided.

HISTORY: Add. 1917, p. 225, Act 125, Imd. Eff. April 25;—Am. 1919, p. 194, Act 107, Eff. Aug. 14;—CL 1929, 4392;—CL 1948, 247.477.

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247.478 Clerical errors; notice of review and correction.

Sec. 78. The county road commissioners, or the state highway commissioner, on discovering any of the aforesaid errors, may make their order reciting the particular errors, or that there appears to be error in the designated descriptions, and give notice of the review and correction thereof in any road district affected in the same manner as is required for the review of the apportionment of benefits in the first instance, except that the county at large or townships at large need not be notified. The meeting of the county road commissioners or of the state highway commissioner to review and correct such errors shall be held at some place in the road district to be affected.

HISTORY: Add. 1917, p. 225, Act 125, Imd. Eff. April 25;—CL 1929, 4393;—CL 1948, 247.478.

247.479 Clerical errors; correction of omissions, descriptions, acreage, apportionment of benefits.

Sec. 79. At such meeting, the county road commissioners, or the state highway commissioner, shall correct the errors aforesaid. Such meeting may be adjourned from time to time, public announcement of such adjournment being made in each case. Where lands within the boundaries of the assessment district as established have been omitted by clerical mistake from the apportionment of benefits, or from the special assessment roll, they may be added thereto, and shall be assessed their proportionate share of the cost of the improvement. Where lands have been erroneously described, they shall be correctly described as near as may be. Where the acreage of any parcel is erroneously stated to be more or less than it really is, such acreage shall be correctly stated as near as may be. Where the apportionment of benefits has already been determined by the state highway commissioner, or by the appellate boards, upon an acreage basis, the tax or apportionment upon any parcel where the acreage was wrong in the first instance shall be increased or reduced as the case may be, proportionate to the increase or decrease of the acreage of that parcel. Where any parcel of land is charged on the roll with an assessment that is improper because of some clerical error, such assessment shall be corrected.

HISTORY: Add. 1917, p. 225, Act 125, Imd. Eff. April 25;—Am. 1919, p. 194, Act 107, Eff. Aug. 14;—CL 1929, 4394;—CL 1948, 247.479.

247.480 Correction of tax in next assessment roll.

Sec. 80. If a parcel of land shall have been erroneously assessed too high by reason of a mistake in the acreage of the parcel, and 1 or more years' tax shall have been paid thereon, the board of county road commissioners or the state highway commissioner, as the case may be, in their next assessment roll after the hearing herein provided, shall credit such parcel with the excessive tax theretofore paid or charged to it, and thereafter shall place the same upon the assessment roll as equalized under this act. If a parcel of land theretofore has been assessed too low by reason of a mistake of the acreage of such parcel, the board of county road commissioners or the state highway commissioner, as the case may be, in the aforesaid next roll, shall charge such parcel with the additional tax which said parcel did not pay or was not charged with on prior rolls by reason of the mistake aforesaid, and thereafter shall place such parcel upon the assessment roll as equalized under this act. If any parcel of land has been erroneously omitted from the apportionment of benefits of the tax roll, the board of county road commissioners or the state highway commissioner, as the case may be, in their next assessment roll shall add such parcel to the roll and charge the same with all taxes theretofore omitted, as well as the tax it should regularly bear on that roll, and thereafter shall place the same upon the assessment roll as equalized under this act. It shall be assessed its just proportion of the cost of the same. Where the tax upon any parcel of land as shown by the roll is improper because of some clerical error the same shall be corrected, and the county road commissioners or the state highway commissioner, as the case may be, in their next assessment roll shall charge such parcel with the tax

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found to have been omitted, or credit said parcel with the amount of tax theretofore charged in excess of what it should have been; and thereafter they shall place said parcel upon the assessment roll as equalized under this act.

HISTORY: Add. 1917, p. 226, Act 125, Imd. Eff. April 25;—Am. 1919, p. 194, Act 107, Eff. Aug. 14;—CL 1929, 4395;—CL 1948, 247.480.

247.481 Change in apportionment or tax; restriction.

Sec. 81. The county road commissioners or the state highway commissioner, as the case may be, shall have no power to change the apportionment or tax upon any parcels of land except for the errors as in this act provided, or has been provided in said Act No. 59 of the Public Acts of 1915.

HISTORY: Add. 1917, p. 226, Act 125, Imd. Eff. April 25;—CL 1929, 4396;—CL 1948, 247.481.

NOTE: Act 59 of 1915, above referred to, is this act, to which Sec. 81 was added by Act 125 of 1917.

247.482-247.487 Repealed. 1958, p. 83, Act 77, Eff. Sep. 13.

Sections provided for construction or widening of highway into city and for a refunding plan for special assessments.

247.601-247.603 Repealed. 1958, p. 84, Act 77, Eff. Sep. 13.

Sections created revolving fund for advances to state highway department of moneys for planning and construction purposes.

Act 51, 1951, p. 54; Eff. Jun. 1.

AN ACT to provide for the classification of all public roads, streets and highways in the state of Michigan, and for the revision of such classification and for additions to and deletions from each classification; to set up and establish the motor vehicle highway fund and to provide for the deposits therein of specific taxes on motor vehicles and motor vehicle fuels; to provide for the allocation of funds therefrom and the use and administration thereof for highway purposes; to provide for the continuing review of highway needs within the state; to authorize the state highway commissioner, counties and incorporated cities and villages to borrow money, issue bonds and make pledges of funds for highway construction purposes; to authorize counties to advance funds for the payment of deficiencies necessary for the payment of bonds issued under the provisions of this act; to provide for the limitations, payment, retirement and security of such bonds and pledges; and to provide for appropriations and tax levies by counties and townships for county roads and to authorize contributions by townships therefor; and to repeal certain acts and parts of acts. Am. 1953, p. 83, Act 86, Imd. Eff. May 18;—Am. 1957, p. 330, Act 262, Eff. Jul. 1.

The People of the State of Michigan enact:

247.651 State trunk line highway system; additions and deletions.

Sec. 1. The state trunk line highway system of this state shall consist of all roads, streets and highways, either located within or outside the limits of incorporated cities and villages now or hereafter constituted state trunk line highways pursuant to the provisions of the statutes of this state. The state highway commissioner may, from time to time, make and establish such subordinate classifications or groupings of state trunk line highways as he deems necessary or desirable for proper administration of the state trunk line highway system. Additions to and deletions from the state trunk line highway system may be made from time to time in the manner prescribed by law. All roads, streets and highways included in the state trunk line highway system, as constituted and defined in this section, shall hereafter be known officially, and may be referred to for all purposes, as state trunk line highways.

HISTORY: New 1951, p. 54, Act 51, Eff. Jun. 1.

CITED IN OTHER SECTIONS: Sections 247.651 to 247.673 are cited in §§ 247.704 and 247.858.

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247.651a State trunk line highway system; construction, maintenance, improvement; control of state highway commissioner; change in line of road.

Sec. 1a. All state trunk line highways now or hereafter established as provided by law, shall be constructed, maintained and improved in accordance with the provisions of this act under the direction, supervision and control of the state highway commissioner. The commissioner shall make surveys and proper plans and specifications and take charge of the construction and maintenance of the state trunk line highways. For the purpose of securing a more direct and favorable location, minor changes in the line of any road may be made when, in the judgment of the state highway commissioner, the changes make for the safety of public travel.

HISTORY: Add. 1957, p. 330, Act 262, Eff. Jul. 1.

247.651b State trunk line highway system; maintenance, costs included; freeway lighting.

Sec. 1b. The department of state highways shall bear the entire cost of maintaining, in accordance with standards and specifications of the department, all state trunk line highways including such highways within incorporated cities and villages except that the cost of maintaining additional width for local purposes as provided in section 1c shall be borne by the city or village. For the purposes of this act, maintaining of state trunk line highways shall include, by way of enumeration but not limitation, snow removal, street cleaning and drainage, seal coating, patching and ordinary repairs, erection and maintenance of traffic signs and markings, freeway lighting for traffic safety in cities and villages having a population of less than 30,000 and the trunk line share of the erection and maintenance of traffic signals, but shall not include street lighting, resurfacing, new curb and gutter structures for widening. On and after January 1, 1970, maintaining of state trunk line highways shall include all freeway lighting for traffic safety.

HISTORY: Add. 1957, p. 330, Act 262, Eff. Jul. 1;—Am. 1967, p. 631, Act 298, Eff. Jan. 1, 1968;—Am. 1967, Ex. Ses., p. 739, Act 4, Eff. Jan. 1, 1968.

247.651c State trunk line highway system; apportionment of costs.

Sec. 1c. The department of state highways shall bear the cost of opening, widening and improving, including construction and reconstruction, in accordance with standards and specifications of the department, all state trunk line highways, subject to the following provisions:

Participation by cities and villages.

(a) Incorporated cities and villages shall participate with the department in the cost of opening, widening and improving, including construction and reconstruction of state trunk line highways within cities and villages to which may be added, subject to the approval of the state highway commission, streets that are connecting links of trunk line highways or streets as are hereafter made connecting links of trunk line highways, according to the following schedule subject to the definition of population as provided in section 13:

(1) In cities and villages having a population of 50,000 or more, 12.5% of the cost shall be borne by the city or village, and 87.5% by the state highway department.

(2) In cities and villages having a population of 40,000 or more and less than 50,000, 11.25% of the cost shall be borne by the city or village, and 88.75% by the state highway department.

(3) In cities and villages having a population of 30,000 or more and less than 40,000, 8.75% of the cost shall be borne by the city or village, and 91.25% by the state highway department.

(4) In cities and villages having a population of less than 30,000, the state highway department shall bear the entire cost.

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Costs includable.

(b) For the purposes of this act, opening, widening and improving, including construction and reconstruction, of state trunk line highways, shall include, but not by way of limitation, the cost of right of way; the cost of removal and replacement of sidewalks, street lighting, curbing, where such removal and replacement is made necessary by construction or reconstruction of a trunk line highway; and the cost of bridges and structures, including that part of the cost of grade separation structures not paid by the railroad companies.

Width attributable to needs of 20-year period.

(c) In any city or village, the width of a state trunk line highway shall be the width required to serve anticipated future traffic needs for a 20-year period as determined by a department transportation survey, which width, except as prescribed below, shall not be less than (1) the currently accepted standards prescribed for a 4-lane highway, (2) such width as may be built on the same trunk line route immediately beyond and adjacent to either legal boundary of the city or village, or (3) on trunk lines eligible for federal highway funds, such width as may be prescribed by the federal government, whichever width is greater. The department and the governing body of a city or village by mutual agreement may determine that the width of a state trunk line highway shall be less than the width prescribed above.

Extra width.

(d) If any city or village shall desire to widen a state trunk line highway for local purposes beyond the width prescribed above, the entire cost of the extra width, less any federal highway funds which may be allocated to the portion of the project by the department, shall be borne by the city or village.

HISTORY: Add. 1957, p. 330, Act 262, Eff. Jul. 1;—Am. 1967, p. 631, Act 298, Eff. Jan. 1, 1968;—Am. 1967, Ex. Ses., p. 739, Act 4, Eff. Jan. 1, 1968.

247.651d Contract for joint participation in cost; approval; renegotiation; local taxation; bonds; special assessment.

Sec. 1d. The governing body of a city or village and the state highway commission may enter into a contract to effectuate joint participation in the cost of opening, widening and improving, including construction and reconstruction, of a state trunk line highway, the terms of which contract, when approved by the state administrative board, shall establish the responsibilities of each party and provide for the method of payment for such joint obligations. The agreements may provide for deferring payment by the city or village until the completion of the project. Contracts and agreements between the state highway commission and the legislative body of any city or village, approved by the state administrative board, are authorized and approved whether heretofore or hereafter made. All agreements entered into prior to January 1, 1968, between the state highway department and any city or village pursuant to this act may be renegotiated by the state highway commission for the purpose of providing for participation in the cost of construction between the highway commission and the city or village on the basis of the participation provisions of section 1c. The renegotiation shall be authorized only for all or any part or unit of the state trunk line highway projects which have not been placed under contract for construction by the highway commission on January 1, 1968. Under any contract heretofore or hereafter made which relates to a state trunk line highway project for which federal highway funds are allocated or paid, the portion of the cost to be paid by a city or village shall be in accordance with the percentage of participation required by law at the time the contract was entered into applied to the net cost of the project after deduction from the total cost of all federal highway funds allocated or paid for the project. In all contracts hereafter made an amount equivalent to the federal highway funds for the acquisition of right of way as would have been available if application had been made therefor

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and approved by the federal government, shall also be deducted from the total cost in determining the net cost. Any city or village paying a portion of the cost of improving trunk lines or trunk line structures, including cost of right of way, within its corporate limits may raise money for that purpose, either by taxation or by the issuance of bonds or short term loans therefor, on the faith and credit of the city or village. The bonds or loans shall not be chargeable against the established bonded debt limit of the city or village, if a special assessment district is established in connection with the improvement. The execution of the contracts or agreements shall not restrict any right of the city or village to establish special assessment districts in connection with the improvements. The construction, maintenance and improvement of the trunk line highways and the direction, supervision and control of same by the state highway commission as provided in sections 1a, 1b and 1c may be modified in the contracts authorized by this act to such extent as may be agreed upon.

HISTORY: Add. 1957, p. 331, Act 262, Eff. Jul. 1;—Am. 1967, p. 632, Act 296, Eff. Jan. 1, 1968;—Am. 1967, Ex. Ses., p. 740, Act 4, Eff. Jan. 1, 1968.

247.651e Contract with city or village for joint participation in cost; assumption by board of county road commissioners, approval.

Sec. 1e. Whenever the board of county road commissioners of any county shall have funds available, the board may enter into a contract or agreement, with any incorporated city or village within the county, assuming the obligations in whole or in part of the city or village undertaken by contract or agreement with the state highway commissioner under the provisions hereof or approved hereby. The board may contract or agree to carry on, in whole or in part, the improvement or construction required thereby, and may institute and conduct condemnation proceedings necessary therefor. No contract or agreement by any board of county road commissioners shall be effective until approved by resolution of the board of supervisors of the county and of the legislative body of the incorporated city or village concerned. The provisions of this section shall not be deemed to abolish, limit or restrict the powers and duties of the state highway commissioner or of incorporated cities or villages as prescribed by this act.

HISTORY: Add. 1957, p. 332, Act 262, Eff. Jul. 1.

247.651f State trunk lines; cancellation of municipal obligations; assumption by state.

Sec. 1f. The obligation of any city under 30,000 population which prior to July 1, 1957 entered into a contract with the state highway department pursuant to the provisions of Act No. 19 of the Public Acts of 1919, as amended, for the construction of state trunkline highways, which highways have been taken over as part of the interstate and defense highway system, is hereby canceled and the city is relieved of any obligation remaining under the contract. The state highway department shall assume the obligation still outstanding under the terms of such a contract upon the effective date of this amendatory act.

HISTORY: Add. 1965, p. 693, Act 352, Eff. Mar. 31, 1966.

247.652 Tentative system of county primary roads; selection and certification, approval; official name.

Sec. 2. Within 6 months from the effective date of this act, a tentative system of county primary roads shall be selected by the board of county road commissioners in each county and certified to the state highway commissioner for his approval. Such tentative system of county primary roads shall be selected on the basis of greatest general importance to the county and shall include any such county roads then legally established and existing as such within the limits of incorporated cities and villages. Each such tentative system of county primary roads certified to the state highway

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commissioner shall be checked and reviewed under his direction. Within 6 months after receipt by him of each such certification, the state highway commissioner shall approve such part of that tentative system of county primary roads as complies with the uniform standards and specifications adopted and established as hereinbefore provided, and shall reject and delete any part that does not so comply and shall certify to that board of county road commissioners the approved portion of the tentative system and any deletions therefrom. So much of the tentative system of county primary roads of any county as is approved by the state highway commissioner shall constitute the county primary road system of that county for all purposes and shall be officially known as the county primary road system of that county.

HISTORY: New 1951, p. 54, Act 51, Eff. Jun. 1.

247.653 Tentative system of county primary roads; roads included or deleted.

Sec. 3. Roads may, from time to time, be included in or deleted from the county primary road system of any county by selection of the county road commission and approval of the state highway commissioner in the same manner and by the same procedure as provided in section 2 hereof for the adoption of any county primary road system in the first instance.

HISTORY: New 1951, p. 55, Act 51, Eff. Jun. 1.

247.654 Tentative system of county primary roads; roads under jurisdiction of county road commissioners; certification and review.

Sec. 4. All roads under the jurisdiction of the board of county road commissioners in each of the several counties of the state not included in the county primary system as finally approved shall be certified to and reviewed and approved or deleted by the state highway commissioner in the same manner as provided in section 2 hereof for the county primary road system and when finally approved by the state highway commissioner shall constitute and be the county local road system of that county, which may thereafter be added to or deleted from in the same manner as provided in section 3 of this act for the county primary road system.

HISTORY: New 1951, p. 55, Act 51, Eff. Jun. 1.

247.655 Tentative system of county primary roads; official name; establishment, certification, and approval.

Sec. 5. All roads, streets and highways included in the county primary road system of any county shall be officially known as county primary roads, and all roads, streets and highways included in the county local road system of any county shall be officially known as county local roads. For a period of 2 years after the effective date of this act, the primary road system and the local road system in each county, and the mileage in each such system used for all purposes under the provisions of this act, shall be as determined by the state highway commissioner, and thereafter the local road system and the primary road system in each county, and the mileage in each such system used for all purposes under the provisions of this act, shall be as established by certification to and approved by the state highway commissioner pursuant to the provisions of this act.

HISTORY: New 1951, p. 55, Act 51, Eff. Jun. 1.

247.656 Tentative system of streets; selection and certification; approval.

Sec. 6. Within 6 months from the effective date of this act, a tentative system of major streets shall be selected in each incorporated city and village of the state and certified to the state highway commissioner for his approval. Such tentative system of major streets shall be selected in each incorporated city and village under the direction of the governing body thereof on the basis of greatest general importance to such municipality and shall not include any of the trunk line highways or county roads within the

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limits of such municipality. Each such tentative system of major streets certified to the state highway commissioner shall be checked and reviewed under his direction. Within 6 months after receipt by him of each such certification the state highway commissioner shall approve such part of that tentative system of major streets as complies with the uniform standards and specifications adopted and established as hereinbefore provided and shall reject and delete any part that does not so comply and shall certify to that city or village the approved portion of the tentative system and any deletions therefrom. So much of the tentative system of major streets of any city or village as is approved by the state highway commissioner shall constitute the major street system of that municipality for all purposes, and shall be known officially as the major street system of that city or village as the case may be.

HISTORY: New 1951, p. 55, Act 51, Eff. Jun. 1.

247.657 Tentative system of streets; included or deleted.

Sec. 7. Streets may, from time to time, be included in or deleted from the major street system of any municipality by selection by the governing body thereof and approval of the state highway commissioner in the same manner and by the same procedure as provided in section 6 hereof for the adoption of any major street system in the first instance.

HISTORY: New 1951, p. 56, Act 51, Eff. Jun. 1.

247.658 Tentative system of streets; streets not included, certification and approval.

Sec. 8. All streets within the corporate limits and under the jurisdiction of each municipality of the state, exclusive of state trunk line highways and county roads, and not included in the major street system of such municipality as finally approved shall be certified to and reviewed and approved or deleted by the state highway commissioner in the same manner as provided in section 6 hereof for the major street system and when finally approved by the state highway commissioner shall constitute and be the local street system of that city or village, which may thereafter be added to or deleted from in the same manner as provided in section 7 of this act for city or village major street systems.

HISTORY: New 1951, p. 56, Act 51, Eff. Jun. 1.

247.659 Tentative system of streets; official name; establishment and certification.

Sec. 9. All roads, streets and highways included in the major street system of any municipality shall be officially known as city or village major streets as the case may be, and all roads, streets and highways included in the local street system of any municipality shall be officially known as city or village local streets, as the case may be. For a period of 2 years after the effective date of this act, the major street system and the local street system in each city and village, and the mileage in each such system used for all purposes under the provisions of this act, shall be as determined by the state highway commissioner, and thereafter the major street system and the local street system in each city and village, and the mileage in each such system used for all purposes under the provisions of this act, shall be as established by certification to and approval by the state highway commissioner pursuant to the provisions of this act.

HISTORY: New 1951, p. 56, Act 51, Eff. Jun. 1.

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247.659a Study of highway conditions and deficiencies; continuation.

Sec. 9a. The state highway commissioner shall make a continuing study or survey of highway conditions and deficiencies throughout the state in order to re-evaluate highway needs at regular intervals and thereby keep current the results of the study contained in the 1955 reports entitled "Modern Highways for Michigan, an Engineering Base for a Fiscal Report" and "Financing Modern Highways for Michigan."

HISTORY: Add. 1957, p. 332, Act 262, Eff. Jul. 1.

247.660 Motor vehicle highway fund; establishment, deposits; apportionments; distribution.

Sec. 10. A fund to be known as the motor vehicle highway fund is established and shall be set up and maintained in the state treasury as a separate fund. All moneys received and collected under the provisions of Act No. 150 of the Public Acts of 1927, as amended, being sections 207.101 to to 207.186 of the Compiled Laws of 1948, except the license fees provided in said acts, and all taxes, fees, licenses and other moneys received and collected under the provisions of sections 801 to 810 of Act No. 300 of the Public Acts of 1949, as amended, being sections 257.801 to 257.810 of the Compiled Laws of 1948, and all moneys received under the provisions of Act No. 254 of the Public Acts of 1933, as amended, being sections 475.1 to 479.49 of the Compiled Laws of 1948, not appropriated and used for the administration and enforcement of said act pursuant to the provisions of section 6 of article 4, shall be deposited in the state treasury to the credit of the motor vehicle highway fund. After the payment of the amounts appropriated by the legislature for the necessary expenses incurred in the administration and enforcement of Act No. 150 of the Public Acts of 1927, as amended, and sections 801 to 810 of Act No. 300 of the Public Acts of 1949, as amended, all moneys in the motor vehicle highway fund are apportioned and appropriated for each fiscal year as follows: (a) 46% thereof to the department of state highways, (b) 34% thereof to the several county road commissions of the state, and (c) 20% thereof to the incorporated cities and villages of the state, to be distributed and used for highway purposes as hereinafter provided in this act.

HISTORY: New 1951, p. 56, Act 51, Eff. Jun. 1;—Am. 1954, p. 367, Act 154, Imd. Eff. Apr. 30;—Am. 1955, p. 465, Act 265, Imd. Eff. Jun. 29;—Am. 1957, p. 332, Act 262, Eff. Jul. 1;—Am. 1967, p. 633, Act 298, Eff. Jan. 1, 1968;—Am. 1967, Ex. Ses., p. 741, Act 4, Eff. Jan. 1, 1968.

247.660a Turnpike authority reserve fund; creation, limit.

Sec. 10a. There is hereby created in the state treasury the Michigan turnpike authority reserve fund to be accumulated from moneys appropriated from the state highway department's share of the motor vehicle highway fund. The authority shall determine the amount of motor fuel consumed by vehicles using the turnpikes on the basis of 1 gallon of fuel for each 15 miles traveled by a passenger car, 10 miles traveled by a single unit truck, and 8 miles traveled by tractors and buses. The authority shall submit its determination to the highway department and the amount due under this section shall be allocated to the authority in the budget of the department. Nothing in this section shall entitle the authority to any allocation of funds from the state highway department's share of the motor vehicle highway fund until the amount allocated has been earned by the authority from vehicles actually having used the turnpikes. The turnpike authority reserve fund shall be used only for the purpose of meeting deficits in the authority's sinking fund. At no time shall the reserve fund exceed $3,000,000.00.

HISTORY: Add. 1957, p. 333, Act 262, Eff. Jul. 1.

Former section 247.660a (Sec. 10a, as added by Act 265, 1955, p. 465, Eff. June 29) was repealed by Act 262, 1957, p. 345, Eff. July 1). It created a snow removal fund.

247.661 Transfer to state trunk line fund; priority of purpose.

Sec. 11. The amount allocated to the department of state highways shall be transferred to the state trunk line fund in the state treasury and used for the following highway purposes in the following order of priority:

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Limited access highways.

(a) For the payment of contributions required to be made by the state highway commission under the provisions of contracts heretofore entered into under the provisions of Act No. 205 of the Public Acts of 1941, as amended, being sections 252.51 to 252.64 of the Compiled Laws of 1948, which contributions have been heretofore pledged for the payment of the principal and interest on bonds issued under the provisions thereof, for the payment of which a sufficient sum is irrevocably appropriated.

Highway construction bonds; series I.

(b) For the payment of the principal and interest upon bonds designated "State of Michigan, State Highway Commissioner, Highway Construction Bonds, Series I", dated September 1, 1956, in the aggregate principal amount of $25,000,000.00, issued pursuant to the provisions of Act No. 87 of the Public Acts of 1955, as amended, and resolution of the state administrative board adopted August 6, 1956, for the payment of which a sufficient sum is irrevocably appropriated.

Future issues.

(c) For the payment of the principal and interest upon bonds issued under the provisions of section 18b, and the payment of contributions of the state highway commission to be made pursuant to contracts entered into under the provisions of section 18d, which contributions are pledged to the payment of principal and interest on bonds hereafter issued, under the authorization of section 18d and contracts executed pursuant to its provisions. A sufficient portion of the fund is irrevocably appropriated to pay, as they mature, the principal and interest on bonds issued under the provisions of section 18b, and such annual contributions of the state highway commission as are pledged for the payment of bonds issued pursuant to contracts authorized by the provisions of section 18d.

State department operating expenses.

(d) For the total operating expenses of the department of state highways for each fiscal year as appropriated by the legislature.

State trunk line highways and bridges; maintenance.

(e) For the maintenance of state trunk line highways and bridges, such amount as may be determined by the state highway commission as appropriated by the legislature.

Construction, reconstruction.

(f) For the opening, widening and improving, construction and reconstruction of state trunk line highways and bridges, including the acquisition of necessary rights of way therefor and all work incidental thereto, all sums in the state trunk line fund not otherwise appropriated, determined or set aside by law shall be used (1) for the construction or reconstruction of the national system of interstate and defense highways, referred to in this act as "the interstate highway system", to the extent necessary to match federal aid funds as they become available for such purpose; and, (2) for the construction and reconstruction of the state trunk line system. Of the total amount actually expended by the department for the purposes specified in this subsection from the state trunk line fund and proceeds from the sale of bonds, federal aid funds and municipal contributions allocated for use on state trunk line highways, not less than 35% thereof shall be expended on the interstate highway system and on the following state trunk line highways: on U.S.-27 from the Indiana border to junction with M-76, on U.S.-127 from the Ohio border to Lansing, on U.S.-23 from Ohio border to Flint, on U.S.-223 from Ohio border to U.S.-127, on U.S.-131 from Indiana border to Petoskey, on U.S.-31 from Indiana border to St. Joseph, on U.S.-31 from Holland to Ludington, on U.S.-31 from Ludington to Mackinaw City, on M-53 from Detroit to Imlay City, on M-21 from Flint to Port Huron, on M-78 from Flint to Lansing.

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Contracts with local units; joint participation in costs.

(g) The state highway commission may enter into agreements with boards of county road commissioners and with incorporated cities and villages to perform work on any highway, road or street, and such agreements may provide for the performance by any of the contracting parties of any of the work contemplated by such contract including engineering services and the acquisition of rights of way in connection therewith, by purchase or condemnation by any of the contracting parties in its own name, and such agreements may provide for joint participation in the costs, but only to the extent that the contracting parties are otherwise authorized by law to expend moneys on such highways, roads or streets.

HISTORY: New 1951, p. 57, Act 51, Eff. Jun. 1;—Am. 1957, p. 333, Act 262, Eff. Jul. 1;—Am. 1967, p. 634, Act 298, Eff. Jan. 1, 1968;—Am. 1967, Ex. Ses., p. 741, Act 4, Eff. Jan. 1, 1968.

247.662 County allocation; uses.

Sec. 12. The amount allocated to the several county road commissions of the state shall be returned to the county treasurers of the several counties in the manner, for the purposes and under the terms and conditions hereinafter specified.

Registered professional engineers; snow removal.

(a) The sum of $5,000.00 per annum shall be returned to each county in which the county road commission employs a full-time registered professional engineer for the major portion of the year. The sum shall be returned only to county road commissions certified by the department of state highways as complying with the provisions of this subdivision regarding the employment of an engineer.

After returning the amount above specified in this subdivision to counties employing a registered engineer, an amount equal to 0.8% of the total amount returned to the several county road commissions from the motor vehicle highway fund during the prior calendar year shall annually be withheld from the counties' second quarterly distribution provided for in section 17, and the amount shall thereafter be returned to the several county road commissions for snow removal purposes as provided in section 12a.

County primary road systems.

(b) Seventy-five percent of the remainder of the total amount to be returned to the counties shall be used by the several county road commissions for the maintenance, improvement, construction, reconstruction, acquisition and extension of the county primary road systems, including the acquisition of necessary rights of way therefor, all work incidental thereto, and the roadside parks and motor parkways appurtenant thereto, and shall be returned to the several counties as follows:

(1) Three-fourths thereof in proportion to the amounts received within the respective counties during the 4 calendar quarters next preceding the date of each quarterly distribution, as specific taxes upon registered motor vehicles under the provisions of Act No. 300 of the Public Acts of 1949, as amended.

(2) One-tenth thereof in the same proportion that the total mileage in the county primary road system of each county bears to the total mileage in all of the county primary road systems of the state.

(3) One eighty-third of the remaining 15% thereof to each county.

County local road systems.

(c) The balance of the remainder of the total amount to be returned to counties shall be used by the several county road commissions for the maintenance, improvement, construction, reconstruction, acquisition and extension of the county local road systems as defined by this act, including the acquisition of necessary rights of way therefor, all work incidental thereto, and the roadside parks and motor parkways appurtenant thereto, and shall be returned to the several counties as follows:

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(1) Sixty-five percent thereof in the same proportion that the total mileage in the county local road system of each county bears to the total mileage in all of the county local road systems of the state.

(2) Thirty-five percent thereof in the same proportion that the total population outside of incorporated municipalities in each county bears to the total population outside of incorporated municipalities in all of the counties of the state, according to the most recent statewide federal census preceding said distribution.

Bond payments.

(d) All moneys deposited in or becoming a part of the county road funds of any board of county road commissioners shall be used first for the payment of principal and interest on bonds, and for the payment of contractual contributions pledged for the payment of bonds, and for debt service requirements for the payment of contractual contributions pledged for the payment of bonds, and for debt service requirements for the payment of notes in the following order of priority:

(1) For the payment of contributions required to be made by a board of county road commissioners under the provisions of contracts heretofore entered into under the provisions of Act No. 205 of the Public Acts of 1941, as amended, which contributions have been heretofore pledged for the payment of the principal and interest on bonds issued under the provisions thereof, or for the payment of total debt service requirements upon notes heretofore issued by a board of county road commissioners under the provisions of Act No. 143 of the Public Acts of 1943, as amended, being sections 141.251 to 141.254 of the Compiled Laws of 1948.

(2) For the payment of principal and interest upon bonds issued under the provisions of section 18c, and the payment of contributions of a board of county road commissioners to be made pursuant to contracts entered into under the provisions of section 18d, which contributions are pledged to the payment of principal and interest on bonds hereafter issued, under the authorization of section 18c and contracts executed pursuant to its provisions.

County primary and local road system funds, emergency uses.

(e) Not to exceed 10% per annum of the amount returned to any county for use on the county primary road system may be used, with or without matching, on the county local road system of that county, and not to exceed an additional 15% per annum of the amount returned to any county for use on the county primary road system may, in case of an emergency or with the approval of the state highway commission, be used, with or without matching, on the county local road system of that county. Not to exceed 10% per annum of the amount returned to any county for use on the county local road system may be used, with or without matching on the county primary road system of that county, and not to exceed an additional 15% per annum of the amount returned to any county for use on the county local road system, may, in case of an emergency or with the approval of the state highway commission, be used, with or without matching on the county primary road system of that county. Any amount returned to a county for and on account of county local roads, under this section, in excess of the total amount paid into the county treasury each year by all of the townships of that county for and on account of the county local roads pursuant to subsection (h) of section 14, may be transferred to and used on the county primary road system of that county.

Construction of new and existing highways.

Anything in this section to the contrary notwithstanding, not less than 20% per annum of the funds returned to any county by this section shall be used for the construction or reconstruction of new highways and existing highways and the acquisition of

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necessary rights of way therefor and all work incidental thereto, or for the servicing of bonds issued by the county for such purposes.

Roadside parks and motor parkways.

(f) Not more than 5% per annum of the funds returned to any county for the county primary road system and the county local road system shall be used for the maintenance, improvement or acquisition of appurtenant roadside parks and motor parkways.

Separate account for county road fund deposits; interest.

(g) All funds returned to any county shall be used by the board of county road commissioners for the purposes herein provided and shall be deposited by the county treasurer in a designated county depository, in a separate account to the credit of the county road fund, and shall be paid out only upon the order of the board of county road commissioners, and any interest accruing on said moneys shall become a part of, and be deposited with the county road fund.

Board of county road commissioners; duties.

(h) In all counties to which the funds are returned the function of the board of county road commissioners shall be limited to the formation of policy and the performance of the official duties imposed by law and delegated by the board of supervisors, and no member of the board of county road commissioners shall be employed individually in any other capacity by, or for any other duties with the county road commission.

Contracts with other units, state highway commission.

(i) County road commissions may enter into agreements with county road commissions of adjacent counties, and with cities and villages to perform work on any highway, road or street and with the state highway commission with respect to any state trunk line and connecting links thereof within the limits of the county or adjacent thereto and the agreements may provide for the performance by any of the contracting parties of any of the work contemplated by the contract including engineering services and the acquisition of rights of way in connection therewith, by purchase or condemnation by any of the contracting parties in its own name and such agreements may provide for joint participation in the costs.

County local roads, matched moneys.

(j) Any other provision of this act to the contrary notwithstanding, moneys distributed from the motor vehicle highway fund may be expended for construction purposes on county local roads only to the extent matched by moneys from other sources.

HISTORY: New 1951, p. 57, Act 51, Eff. Jun. 1;—Am. 1953, p. 83, Act 86, Imd. Eff. May 18;—Am. 1956, p. 33, Act 28, Eff. Aug. 11;—Am. 1957, p. 335, Act 262, Eff. Jul. 1;—Am. 1967, p. 635, Act 298, Eff. Jan. 1, 1968;—Am. 1967, Ex. Ses., p. 742, Act 4, Eff. Jan. 1, 1968.

247.662a County allocation; snow removal; distribution of funds.

Sec. 12a. (1) The amount withheld from the counties' second quarterly distribution as specified in subsection (a) of section 12 of this act shall be returned to the boards of county road commissioners of the several counties for snow removal purposes, including the purchase and maintenance of equipment therefor and shall be distributed among the several counties on the basis of measured snowfall in excess of 70 inches during the prior fiscal year as determined from measurements of the United States weather bureau at its official stations.

(2) The total amount of money to be returned under this section shall first be divided into as many equal parts, not to exceed 8, as the whole number, derived by dividing by 5 the difference between 70 inches of measured snowfall and the maximum inches of measured snowfall in any county of the state during the prior fiscal year, up to 110 inches. Any fraction resulting from such division shall be disregarded.

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(3) The equal parts shall be distributed among all counties having more than 70 inches of measured snowfall during the prior fiscal year on the basis of inch miles of measured snowfall in the following manner:

(a) Each participating county shall receive a proportionate share as hereinafter specified of each of the equal parts for that part of the inch miles of measured snowfall of the county which results from the amount of measured snowfall of the county during the prior fiscal year within each of the following limits: Over 70 inches up to and including 75 inches; over 75 inches up to and including 80 inches; over 80 inches up to and including 85 inches; over 85 inches up to and including 90 inches; over 90 inches up to and including 95 inches; over 95 inches up to and including 100 inches; over 100 inches up to and including 105 inches; over 105 inches up to and including the maximum measured snowfall of any county in the state.

(b) Each of the equal parts shall be distributed among the counties entitled thereto in the same proportion as that county's inch miles of measured snowfall within the limits assigned to such equal part, bears to the total inch miles of measured snowfall of all counties within such limits.

(c) The allocation of each equal part shall be based upon any number of inches of snowfall from 0 to 5, except that in the allocation of the final or last equal part, in which any county participates, any inches of measured snowfall in that county in excess of the 5 inches to which that equal part is assigned, shall be included in computing the allocation from such equal part to such county.

(d) As used in this section the phrase "measured snowfall" shall mean the average of the inches of snowfall in any county determined from measurements taken by the U.S. weather bureau. As used in this section the phrase "inch miles of measured snowfall" shall mean the inches of measured snowfall in the county multiplied by the total miles of road in the county road system of the county.

(e) On or before October 1, 1957, and on or before October 1 in each year thereafter, the state highway commissioner shall certify to the state controller and the auditor general his determination of the amount to which each county is entitled from the distribution authorized by this section. On or before November 1, 1957, and on or before November 1, each year thereafter the auditor general shall cause to be paid to the county treasurer of each county entitled thereto the total amount to be returned to the county for snow removal purposes under the provisions of this section, and the amount so returned shall be deposited to the credit of the county road fund.

(f) Notwithstanding any other provisions of this section, no county shall receive funds for snow removal purposes in excess of an amount equal to 25% of the total amount returned to the county for road purposes in the previous calendar year under the provisions of section 12 of this act and the provisions of Act No. 87 of the Public Acts of 1955, as amended. Any amounts in excess of such 25% limitation allocated under the provisions of this section shall be distributed among the several county road commissions, in the next quarterly distribution, in the same manner and for the same purposes as provided in section 12, subsections (b) through (l) of this act.

HISTORY: Add. 1957, p. 337, Act 262, Eff. Jul. 1.

247.663 City and village allocation; uses, population, determination of mileage.

Sec. 13. The amount allocated to the several incorporated cities and villages of the state shall be returned to the treasurers thereof in the manner, for the purposes and under the terms and conditions hereinafter specified. For the purposes of this section population shall be construed to mean according to the most recent statewide federal census preceding such distribution, except that, if a municipality has been newly incorporated since completion of such census its population for purposes of the distribu-

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tion of funds before completion of the next census shall be the population as determined by special federal census, if there be such a census, and, if not, by the population as determined by the official census in connection with such incorporation, if there is such a census and, if not, by a special state census to be taken at the expense of the municipality by the secretary of state in accordance with the provisions of section 6 of Act No. 279 of the Public Acts of 1909, as amended, being section 117.6 of the Compiled Laws of 1948. The amount received by such newly incorporated municipality shall be in lieu of any other direct distribution of funds from the motor vehicle highway fund. The population of such newly incorporated municipality as determined under the procedure herein described shall be added to the total population of all incorporated cities in the state as shown by the most recent statewide federal census for purposes of determining such total population in computing the amounts to be returned under the provisions of this section to each municipality in the state. Any other provisions of this act to the contrary notwithstanding, major street mileage, local street mileage, and equivalent major mileage, if applicable, shall be determined by the highway commission prior to the next calendar quarter for which distribution is made following the effective date of incorporation of a newly incorporated municipality.

Major street system, roadside parks and motor parkways.

(a) Seventy-five percent of the total amount to be returned to the incorporated cities and villages shall be returned 60% thereof in the same proportion that the population of each bears to the total population of all incorporated cities and villages in the state, and 40% thereof in the same proportion that the equivalent major mileage in each bears to the total equivalent major mileage in all incorporated cities and villages in the state. The term "equivalent major mileage" shall mean the sum of 2 times the state trunk line mileage certified by the state highway commission as of March 31 of each year, as being within the boundaries of each incorporated city and village having a population of 30,000 or more, plus the major street mileage in each incorporated city and village, said sum multiplied by the following factor:

1.0 for cities and villages of 2,000 or less population;
1.1 for cities and villages from 2,001 to 10,000 population;
1.2 for cities and villages from 10,001 to 20,000 population;
1.3 for cities and villages from 20,001 to 30,000 population;
1.4 for cities and villages from 30,001 to 40,000 population;
1.5 for cities and villages from 40,001 to 50,000 population;
1.6 for cities and villages from 50,001 to 65,000 population;
1.7 for cities and villages from 65,001 to 80,000 population;
1.8 for cities and villages from 80,001 to 95,000 population;
1.9 for cities and villages from 95,001 to 160,000 population;
2.0 for cities and villages from 160,001 to 320,000 population;

and for cities over 320,000 population, by a factor of 2.1 increased successively by 0.1 for each 160,000 population increment over 320,000. The 75% so returned shall be used by each incorporated city and village for the following purposes in the following order of priority:

(1) For the payment of contributions required to be made by a city or village under the provisions of contracts heretofore entered into under the provisions of Act No. 205 of the Public Acts of 1941, as amended, which contributions have been heretofore pledged for the payment of the principal and interest on bonds issued under the provisions thereof; or for the payment of the principal and interest upon bonds issued by a city or village pursuant to the provisions of Act No. 175 of the Public Acts of 1952, as amended, being sections 247.701 to 247.707 of the Compiled Laws of 1948.

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(2) Payment of obligations of the city or village on highway projects undertaken by it jointly with the state highway commission, pursuant to the provisions of Act No. 131 of the Public Acts of 1931, as amended, known as the Dykstra act, and contracts and agreements authorized or approved by this act.

(3) For the maintenance, improvement, construction, reconstruction, acquisition and extension of the major street system as defined by this act including the acquisition of necessary rights of way therefor, all work incidental thereto and the roadside parks and motor parkways appurtenant thereto, of the city or village. Not more than 5% per annum of the funds returned to any city or village by this subsection shall be used for the maintenance, improvement or acquisition of appurtenant roadside parks and motor parkways.

Local street systems.

(b) The remaining amount to be returned to incorporated cities and villages shall be used in the several cities and villages for the maintenance, improvement, construction, reconstruction, acquisition and extension of the local street systems thereof, as defined by this act, including the acquisition of necessary rights of way therefor, all work incidental thereto and shall be returned to the several cities and villages 60% thereof in the same proportion that the population of each bears to the total population of all incorporated cities and villages in the state, and 40% thereof in the same proportion that the total mileage of the local street system of each bears to the total mileage in the local street systems of all incorporated cities and villages of the state. The payment of the principal and interest upon bonds issued by a city or village pursuant to the provisions of Act No. 175 of the Public Acts of 1952, as amended, shall have priority in the use of moneys returned under this subsection.

Matched funds.

(c) It is the intent of the legislature that the moneys allotted to each city and village for the maintenance and improvement of its local street system pursuant to the provisions of subsections (a) and (b) of this section represent the total responsibility of the state for local street system support and no funds distributed from the motor vehicle highway fund shall be expended for construction purposes on city and village local streets except to the extent matched from local revenues including other moneys returned to city and village governments by the state under the provisions of the constitution and statutes of the state, from funds that can be raised by taxation in cities and villages for street purposes within the limitations of the constitution and statutes of the state, or from special assessments.

Amounts transferable from and to major street system uses.

(d) Moneys returned to cities and villages under this section shall be used as follows:

(1) Not to exceed 10% per annum of the amount returned to any incorporated city or village for use on the major street system, may be used on the local street system of that city or village and not to exceed an additional 15% per annum of the amount returned to any incorporated city or village for use on the major street system, may, in case of an emergency or with the approval of the state highway commission, be used on the local street system of that city or village.

(2) During any calendar year, moneys returned for use on the major street system may be used on the local street system in an amount equal to the amount of local revenues, as above defined, expended by such city or village on the major street system or on state trunk line highways, and to the extent that such amount of major street money is not transferred for use on the local street system in that year, major street moneys received during the next succeeding 2 years may be transferred for use on the local system until the amount so authorized for transfer is fully used.

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(3) Any portion of the amount returned to any incorporated city or village for use on the local system may be used on the major street system of that city or village.

Street administrator.

(e) In each city and village to which funds are returned under the provisions of this section, the responsibility for all street improvement, maintenance and traffic operation work shall be coordinated by a single administrator to be designated by the governing body who shall be responsible for and shall represent the municipality in all transactions with the state highway commission pursuant to the provisions of this act.

Contracts with county and state highway commission.

(f) Incorporated cities and villages may provide for consolidated street administration and cities and villages may enter into agreements with the county road commission and with the state highway commission for the performance of street or highway work on any road or street within the limits of the city or village or adjacent thereto and the agreements may provide for the performance by any of the contracting parties of any of the work contemplated by the contracts including services and acquisition of rights of way in connection therewith, by purchase or condemnation by any of the contracting parties in its own name and such agreements may provide for joint participation in the costs where appropriate.

HISTORY: New 1951, p. 58, Act 51, Eff. Jun. 1;—Am. 1957, p. 339, Act 262, Eff. Jul. 1;—Am. 1967, p. 637, Act 298, Eff. Jan. 1, 1968;—Am. 1967, Ex. Ses., p. 745, Act 4, Eff. Jan. 1, 1968.

CITED IN OTHER SECTIONS: The above section is cited in § 247.701.

247.663a Right-of-way; acquisition.

Sec. 13a. The state highway commissioner, the several county road commissions and the incorporated cities and villages of the state, acting individually or jointly in accordance with a contract therefor, may acquire by purchase or condemnation, in advance of actual construction programming, private property situated within the rights-of-way of any highway projects planned for future construction by the governmental unit, and may expend for the advance acquisition of right-of-way moneys received by the governmental unit from the motor vehicle highway fund. All revenues received from any rentals or leases of any property so acquired or from the disposition of any improvements thereon or the proceeds of the sale of any excess parcels of property so acquired shall be used by the governmental unit for highway purposes in accordance with the provisions of this act.

HISTORY: Add. 1957, p. 340, Act 262, Eff. Jul. 1.

247.664 Motor vehicle highway fund; administration and use; programs submitted to state highway commissioner; separate accounts; records; annual report to governor, contents.

Sec. 14. In addition to all other requirements provided by law, the terms, conditions, obligations, restrictions and duties hereinafter specified, concerning the administration and use of funds allocated by this act, are hereby imposed upon the state highway commissioner, the several county road commissions, townships, and incorporated cities and villages of the state as beneficiaries of the funds allocated by this act.

(a) Each county road commission and incorporated city and village of the state shall submit biennial highway and street programs, based on long range plans, with standards and specifications for projects included, to the state highway commissioner for approval at the time, in the manner, and on forms prescribed by the state highway commissioner.

(b) Separate accounts shall be kept by cities, villages and county road commissions of all moneys returned from the motor vehicle highway fund.

(c) All county road commissions and incorporated cities and villages shall keep accurate and uniform records on all road and street work and funds, and shall annually re-

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port to the state highway commissioner at the time, in the manner and on forms prescribed by him the mileage and condition of each road system under their jurisdiction and the receipts and disbursements of road and street funds.

(d) The expenditure of adequate amounts, by county road commissions and the incorporated cities and villages, from funds returned by this act, to cover the cost of administration, engineering and record keeping is hereby authorized, and expenditures for such purposes shall be reported separately by each county road commission, city and village to the state highway commissioner.

(e) The state highway commissioner shall report annually to the governor and the state legislature, describing progress made by the state highway department, the county road commissions, and the incorporated cities and villages in carrying out the adopted highway and street programs, and in such report he shall give an account of all expenditures of funds allocated from the motor vehicle highway fund to the state highway department, the county road commissions and the incorporated cities and villages. This report shall also contain the whole amount of the expenses of the department for the fiscal year.

(f) The state highway commissioner shall include in the annual report to the governor and the legislature a summary of the program of improvements scheduled for the next biennium by the state highway department, the county road commissions and the incorporated cities and villages.

(g) All payments and returns of funds provided for in this act shall be withheld from the state highway department, and any county road commission, incorporated city or village for failure to comply with any of the requirements of this act, and such withholding shall continue for the period of noncompliance.

(h) It is the intent of the legislature that the moneys allotted to county road commissions for the maintenance and improvement of county local road systems pursuant to the provisions of subsections (c) and (e) of section 12 of this act represent the total responsibility of the state for local county road support and that additional funds required for the support of any county local road systems be supplied from other moneys returned to the township governments by the state under the provisions of the constitution and statutes of the state, or from funds that can be raised by taxation in the townships or counties for road purposes within the limitations of the constitution and statutes of the state.

HISTORY: New 1951, p. 60, Act 51, Eff. Jun. 1;—Am. 1960, p. 90, Act 93, Eff. Aug. 17.

247.665 Reports to state highway commissioner; contents.

Sec. 15. On or before the first day of April of each year, each county road commission and the clerk of each incorporated city and village shall file with the state highway commissioner and the clerk of the county, on forms to be provided by the state highway commissioner, a report showing the disposition of funds appropriated, apportioned or allocated under this act, to such county and incorporated city and village.

HISTORY: New 1951, p. 61, Act 51, Eff. Jun. 1.

247.666 Forfeiture of funds.

Sec. 16. The failure of any county road commission, incorporated city or village to apply moneys returned pursuant to the provisions of this act, to the purposes herein prescribed, shall result in the forfeiture by such county road commission, incorporated city or village of any and all funds to which it may have been entitled under the provisions of this act for a period of 1 year from and after such failure to apply such moneys

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for the purposes prescribed, and all funds so forfeited shall thereafter be apportioned among the other county road commissions and incorporated cities and villages in the same manner and proportion as hereinbefore provided for the distribution of the motor vehicle highway fund.

HISTORY: New 1951, p. 61, Act 51, Eff. Jun. 1.

247.667 Motor vehicle and gasoline taxes; deposits to motor vehicle highway fund; distribution; advances to local units.

Sec. 17. On or before the first day of July of each year and at the end of each month thereafter, the secretary of state shall certify to the state highway commissioner and the state controller the amounts received from the several counties for motor vehicle taxes during the preceding month pursuant to the provisions of said Act No. 300 of the Public Acts of 1949, as amended, and also the total amount deposited in the motor vehicle highway fund pursuant to the provisions of this act during the preceding month, after deducting the amount appropriated for the payment of the necessary expenses incurred in the enforcement of said Act No. 150 of the Public Acts of 1927, as amended, sections 801 through 810 of Act No. 300 of the Public Acts of 1949, as amended, and Act No. 319 of the Public Acts of 1947, as amended, and Act No. 87 of the Public Acts of 1955, as amended. The state highway commissioner shall thereupon certify to the state controller the amounts to be returned to the state trunk line fund monthly, and the amounts to be returned to each county road commission and each incorporated city and village of the state quarterly, pursuant to the provisions of this act, and the state controller shall thereupon certify these amounts to the auditor general, who shall thereupon draw his warrant on the state treasurer monthly for such net amounts as are due the state trunk line fund, and quarterly for such net amounts as are due the several county road commissions and the several cities and villages of the state under the provisions of this act, and the auditor general shall issue checks for the amounts due, within 30 days after the end of each such period, to the state trunk line fund, the several county road commissions and the several incorporated cities and villages: Provided, however, That in the case of a county, city or village having a special need, and upon a showing thereof which is satisfactory to the state highway commissioner, the state highway commissioner may authorize and direct the state controller, the state treasurer and the auditor general, to take the steps necessary to advance to said county, city or village, forthwith, an amount not exceeding 1/3 of the actual amount already collected and deposited in the motor vehicle highway fund by the secretary of state for said county, city or village. If the amount due is not returned to any county road commission, city or village within 30 days after the end of each quarter, such county road commission, city or village is hereby authorized to bring an action in the nature of mandamus to compel the various state officials to perform their duties in connection with such return as provided herein.

State highway commissioner's report to legislature and governor as to revenues and disbursements.

The state highway commissioner shall within 30 days after the close of each fiscal year of the state furnish to the legislature and the governor a detailed report of revenues credited to the motor vehicle highway fund and disbursements and allocations under the provisions of this act, showing the amounts distributed to each county road commission, city and village.

HISTORY: New 1951, p. 61, Act 51, Eff. Jun. 1;—Am. 1952, p. 162, Act 141, Eff. Sep. 18;—Am. 1957, p. 341, Act 262, Eff. Jul. 1.

247.668 Repealed. 1957, p. 345, Act 262, Eff. Jul. 1.

Section related to cancelled installments of special assessments.

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247.668a Motor vehicle highway fund; use of moneys, distribution.

Sec. 18a. Subject to the provisions and the limitations hereinafter set forth, moneys in the motor vehicle highway fund, distributed as provided in this act, may be used for the payment of the principal and interest on bonds issued or other indebtedness incurred for the construction and reconstruction of highways, including limited access highways, under the joint or several jurisdiction and control of the state highway commissioner, any county road commission, or any incorporated city or village of the state, hereinafter sometimes referred to as "governmental units".

HISTORY: Add. 1957, p. 341, Act 262, Eff. Jul. 1.

247.668b Motor vehicle highway fund; state highway commissioner bonds; issuance, pledge.

Sec. 18b. The state highway commissioner may borrow money and issue bonds for the purpose of paying all or any portion of the cost of the construction or reconstruction of highways including limited access highways which by law he is authorized to construct, reconstruct or participate with other governmental units in the construction or reconstruction of, including the construction or the enlargement, reconstruction or relocation of existing highways, and the acquisition of necessary rights-of-way therefor and all work incidental thereto, which bonds shall be issued only upon the written recommendation of the state highway commissioner and the adoption of a resolution by the state administrative board. The resolution shall specifically approve the recommendation, briefly describe the contemplated highway construction or reconstruction project, the estimated cost thereof, and the amount, maximum rate of interest and maturity dates of the bonds to be issued and the form thereof. The resolution shall contain an irrevocable pledge providing for the payment of the principal and interest thereof from the moneys received or to be received by the state highway department from the motor vehicle highway fund. The total aggregate amount of bonds that may be issued under the provisions of this section shall not exceed such amount as will be serviced as to the maximum annual principal and interest requirements by a sum equal to 50% of the total amount of moneys received by the state highway department from the motor vehicle highway fund and the highway construction fund during the fiscal year immediately preceding the issuance of the bonds after first deducting from the total amount (a) the maximum amount of annual contributions and pledges heretofore made by the state highway commissioner under the provisions of Act No. 205 of the Public Acts of 1941, as amended; (b) an amount representing the maximum annual debt service requirements on the outstanding bonds issued pursuant to Act No. 87 of the Public Acts of 1955, as amended, being the bonds designated "State of Michigan, State Highway Commissioner, Highway Construction Bonds, Series I", dated September 1, 1956, and being in the aggregate principal amount of $25,000,000.00. In computing the maximum annual principal and interest requirements, there shall be included in the amount, the total outstanding maximum annual contributions required to be made by the state highway commissioner pursuant to contracts entered into under the authorization of section 18d of this act, which contributions are pledged to the payment of bonds issued under section 18d. Bonds may be issued under this section as separate issues or series with different dates of issuance, but the aggregate thereof shall be subject to the limitations herein set forth.

HISTORY: Add. 1957, p. 341, Act 262, Eff. Jul. 1.

247.668c County highway bonds; issuance, pledge of motor vehicle highway fund receipts.

Sec. 18c. Any county may borrow money and issue bonds for the purpose of paying all or any portion of the cost of the construction or reconstruction of highways, including limited access highways, which by law the board of county road commissioners are authorized to construct or reconstruct, or participate with other governmental units in

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the construction or reconstruction of, including the construction or the enlargement, reconstruction or relocation of existing highways and the acquisition of necessary rights-of-way therefor and all work incidental thereto, which bonds shall be issued only upon the written recommendation or approval of the board of county road commissioners, and the adoption of a resolution by a majority vote of the board of supervisors of the county. The resolution shall briefly describe the contemplated highway construction project, the estimated cost thereof, and the amount, maximum rate of interest and maturity dates of the bonds to be issued and the form thereof. The resolution shall contain an irrevocable appropriation providing for the payment of the principal and interest thereof from the moneys received or to be received by the board of county road commissioners from the motor vehicle highway fund, except to the extent the moneys have been heretofore pledged by contract in accordance with the provisions of Act No. 205 of the Public Acts of 1941, as amended, for the construction or financing of limited access highways, and except to the extent the moneys have been heretofore pledged for the payment of notes issued under the provisions of Act No. 143 of the Public Acts of 1943, as amended. Any contractual pledges made heretofore, in accordance with the provisions of Act No. 205 of the Public Acts of 1941, as amended, and any pledges heretofore made for the payment of promissory notes under the provisions of Act No. 143 of the Public Acts of 1943, as amended, shall have and retain their priority of lien or charge against the moneys distributed by law to the board of county road commissioners from the motor vehicle highway fund, as contemplated by the provisions of the acts, and as provided in the contract or resolution authorizing the issuance of bonds or notes thereunder. Any pledges hereafter made by any board of county road commissioners under the provisions of Act No. 205 of the Public Acts of 1941, as amended, or the provisions of Act No. 143 of the Public Acts of 1943, as amended, shall have equal standing and priority with pledges hereafter made by the board of county road commissioners under the provisions of this act. The total aggregate amount of bonds that may be issued by any county under the provisions of this section shall not exceed such amount as will be serviced as to their maximum annual principal and interest requirements by an amount equal to 20% of the moneys received by the board of county road commissioners of the county from the motor vehicle highway fund during the fiscal year next preceding the issuance of the bonds. Bonds may be issued under this section as separate issues or series with different dates of issuance but the aggregate thereof shall be subject to the limitations herein set forth. As additional security for the payment of the bonds, any county, upon adoption of a resolution by a majority of the members of its board of supervisors, may agree on behalf of the county that in the event the funds pledged for the payment of the bonds are at any time insufficient to pay the principal and interest thereon as the same become due, the county treasurer shall be obligated to advance sufficient moneys from the general funds of the county to make up the deficiency, and reimbursement shall be made from the first subsequent revenues received by the board of county road commissioners from the motor vehicle highway fund not pledged or required to be set aside and used for the payment of the principal and interest on bonds, notes or other evidences of indebtedness.

The total annual amount that may be pledged by any board of county road commissioners for the payment of principal and interest on bonds issued pursuant to the provisions of this section, or the payment of contributions as required by the provisions of any contract entered into in accordance with the provisions of section 18d of this act, which contributions are pledged for the payment of bonds, together with total maximum debt service requirements for payment of notes issued under the provisions of Act No. 143 of the Public Acts of 1943, as amended, shall not exceed 50% of the total amount received by the board of county road commissioners from the motor vehicle

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highway fund during the last completed fiscal year ending on June 30 prior to the issuance of any bonds or notes or the execution of any contract.

HISTORY: Add. 1957, p. 342, Act 282, Eff. Jul. 1.

247.668d Joint contract bonds; approval, issuance, bids.

Sec. 18d. The state highway commissioner, boards of county road commissioners and any incorporated city or village may enter into contracts providing for the construction or reconstruction of highways, including limited access highways, under the jurisdiction and control of any of the contracting parties to the extent that the contracting parties are otherwise authorized by law to expend moneys on such highways, roads, or streets, which contracts shall provide for allocation of the share of the cost thereof to be borne by each of the governmental units in annual installments for a period not to exceed 30 years. The contracts shall designate which of the governmental units shall carry on, in whole or in part, the engineering, construction or reconstruction work required thereby which may include the construction or enlargement, reconstruction or relocation of existing highways and all work incidental thereto. The contracts shall designate which of the contracting governmental units shall undertake the acquisition of rights-of-way required therefor, which rights-of-way may be acquired by purchase or condemnation by any contracting governmental unit in its own name for such purposes. Governmental units may make contributions to the cost of their highway construction and reconstruction projects as are provided for in contracts authorized in this section and may make irrevocable pledges of their motor vehicle highway fund receipts for the purpose of meeting their annual obligations pursuant to the contracts. Each governmental unit which is a party to a contract may make an additional irrevocable pledge of any contribution or funds received, or to be received, by the governmental unit from the federal government or any of its agencies or from any other source for or in aid of the highway construction or reconstruction projects provided for in the contracts. Any governmental unit which is a party to the contracts may borrow money and issue bonds in accordance with the provisions of this act for the purpose of providing funds for the immediate construction or reconstruction of the highway projects contemplated by the contracts. The bonds shall be secured by an irrevocable pledge of the annual contributions required to be made by all governmental units that are parties to the contracts. Prior to the issuance of the bonds by any of the governmental units, the issuance thereof shall be approved by a resolution of the state administrative board and by a resolution of the board of county road commissioners of each county and the governing body of each city or village that is a party to the contracts. The annual contribution required by the contracts shall be paid to the governmental unit issuing the bonds. Any governmental unit which is a party to the contracts, at any time, may pay all or any part of the unpaid annual contributions undertaken by it in any contract, and may raise money therefor by the issuance of bonds in accordance with the provisions and subject to the limitations of this act. Any contract executed under the provisions of this section may authorize the governmental unit issuing the bonds pursuant to the contract to receive bids therefor, accept the best bid, and issue and deliver the bonds for and on behalf of all the parties to the contract.

Limitation on pledge.

The aggregate amount of annual contributions from the motor vehicle highway fund which may be made by any county, city or incorporated village under the provisions of this section and pledged for the payment of principal and interest on bonds issued pursuant to the provisions of any such contract, shall not exceed 40% of the total amount received by it from the motor vehicle highway fund during the last completed fiscal year ending on the June 30 prior to the execution of any contract. Prior to the fiscal

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year commencing July 1, 1957, the 40% shall apply to the total amount received by the county, city or incorporated village from the motor vehicle highway fund and the highway construction fund. The amount of any annual contributions made by the state highway commissioner and pledged for the payment of bonds pursuant to this section shall be included in computing the bonding limit set forth in section 18b of this act. The total aggregate amount that may be pledged by any incorporated city or village for the payment of principal and interest on bonds issued pursuant to the provisions of any contract entered into in accordance with this section and the provisions of Act No. 175 of the Public Acts of 1952, as amended, shall not exceed 50% of the total amount received by the incorporated city or village from the motor vehicle highway fund and the highway construction fund during the last completed fiscal year ending on June 30 prior to the issuance of any bonds.

HISTORY: Add. 1957, p. 343, Act 262, Eff. Jul. 1.

247.668e Bonds; maturities, interest, redemption, registration.

Sec. 18e. Bonds issued by governmental units under the provisions of this act shall be serial bonds with annual maturities, the aggregate of which shall not exceed 25 years, the first of which shall fall due not more than 2 years from the date of issuance, and no principal maturity after 3 years from the date of issuance shall be less than 1/3 of the amount of any subsequent principal maturity. The bonds shall bear interest at a rate not exceeding 5% per annum, may be made redeemable prior to maturity on such terms and conditions, and with such premium as shall be provided by the proceedings authorizing their issuance, and may be made registrable as to principal only under such terms and conditions as may be determined in the authorizing proceedings.

HISTORY: Add. 1957, p. 344, Act 262, Eff. Jul. 1.

247.668f Bonds; county, approval; public sale.

Sec. 18f. Bonds issued by any county, under the provisions of section 18c of this act shall be issued subject to the prior approval of the municipal finance commission. Where the aggregate maturities of the bonds exceed 15 years the municipal finance commission shall not give it approval until the state highway commissioner has approved the construction to be financed by the proceeds of the bonds. Bonds issued by the state highway commissioner under the provisions of section 18b of this act, and bonds issued under the provisions of section 18d of this act shall not require the prior permission of such municipal finance commission for their issuance. All bonds issued under the provisions of this act shall be sold at public sale on at least 7 days' notice by publication in accordance with the requirements of section 2 of chapter 3 of Act No. 202 of the Public Acts of 1943, as amended, being section 133.2 of the Compiled Laws of 1948.

HISTORY: Add. 1957, p. 344, Act 262, Eff. Jul. 1.

247.668g Bonds; protection of outstanding bonds.

Sec. 18g. Nothing contained in this act shall be construed in such manner as to violate or impair any substantive rights existing in the holders of any outstanding bonds, notes or other evidences of indebtedness issued under the provisions of Act No. 205 of the Public Acts of 1941, as amended, Act No. 87 of the Public Acts of 1955, as amended, Act No. 143 of the Public Acts of 1943, as amended, or Act No. 175 of the Public Acts of 1952. It is hereby declared to be the determination and intent of the legislature that adequate and complete provision has been made in this act for the protection and preservation of the rights and security of the bonds issued and outstanding under the provisions of the laws.

HISTORY: Add. 1957, p. 345, Act 262, Eff. Jul. 1.

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247.668h Bonds; negotiability; payment, exemption from taxation.

Sec. 18h. Any bonds issued under the provisions of this act shall have all the qualities of negotiable instruments under the law merchant and the negotiable instruments law. Any bonds and interest coupons shall be made payable in lawful money of the United States of America, and shall be exempt from any and all taxation whatsoever by the state or by any taxing authority within the state.

HISTORY: Add. 1957, p. 345, Act 262, Eff. Jul. 1.

247.668i Cumulative authority of act.

Sec. 18i. The provisions of this act shall be construed as cumulative authority for the exercise of the bonding powers herein granted and shall not be construed to repeal any existing laws with respect thereto, it being the purpose and intention of this act to create full and complete additional and alternate methods and means for the exercise of such powers. The powers conferred by this act shall not be affected or limited by any other statute or by any charter, except as otherwise herein provided.

HISTORY: Add. 1957, p. 345, Act 262, Eff. Jul. 1.

247.668j Revenues subject to pledge; successive borrowings.

Sec. 18j. Notwithstanding the provisions of Act No. 175 of the Public Acts of 1952, being sections 247.701 to 247.707 of the Compiled Laws of 1948, any city or village may pledge, for annual debt service requirements, a sum not in excess of 45% of the average annual revenues received for the 5 years next preceding any borrowings from the motor vehicle highway fund pursuant to this act and the highway construction fund pursuant to Act No. 87 of the Public Acts of 1955. Any city or village that has been receiving revenues from such sources for less than 5 years may pledge for annual debt service requirements a sum not in excess of 40% of the average annual revenue received from such sources for the number of years next preceding the issuance of the bonds that such city or village has been receiving revenues from such sources. Nothing in this section shall be construed as a prohibition against successive borrowings so long as the total amount of revenues pledged for annual debt service requirements shall not exceed the applicable percentage above described and so long as the total aggregate amount of borrowing does not exceed an amount which the above mentioned percentages of the revenues will service as to annual principal and interest requirements.

HISTORY. Add. 1957, p. 345, Act 262, Eff. Jul. 1.

247.669 Roads, streets, and alleys taken over as county roads.

Sec. 19. The board of county road commissioners in each of the several counties shall, within 1 year from the effective date of this act, complete the taking over as county roads of all roads, streets and alleys heretofore required to be taken over as county roads by the provisions of Act No. 130 of the Public Acts of 1931, as amended, being sections 247.1 to 247.13, inclusive, of the Compiled Laws of 1948. Said board of county road commissioners in each of the several counties shall take over as county roads all streets and alleys lying outside the limits of incorporated cities and villages and dedicated to the public in recorded plats approved by said board of county road commissioners, within 30 days after the recording of the plat or the effective date of this act, whichever may be the later. Such dedicated streets and alleys, when taken over by the county road commission, shall be county roads in all respects and for all purposes and shall be classified as county primary roads or county local roads pursuant to the provisions of this act.

HISTORY: New 1951, p. 62, Act 51, Eff. Jun. 1.

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247.670 Unexpended balances of township funds; appropriation for local road maintenance or improvement; additional powers; snow removal in Marquette county townships.

Sec. 20. Notwithstanding any other provisions of this act the township board of any township may appropriate any unexpended balances in the contingent or general fund of the township without submitting the question to the electors of said township, or raise money by the issuance of bonds of the township in the same manner and to the same extent as provided in sections 8 to 18 of chapter 14 of Act No. 283 of the Public Acts of 1909, being sections 234.8 to 234.18, inclusive, of the Compiled Laws of 1948, and to pay any sum so appropriated or raised into the county road fund of the county for the maintenance and/or improvement of county roads within the townships, or for the widening of state trunk line highways beyond the width required for state trunk line traffic in unincorporated areas of such township, pursuant to an agreement between the township and the county road commission. Where funds are to be used for the widening of a state trunk line highway, the county road commission shall enter into agreement with the state highway commissioner for the work. Notwithstanding any other provisions of this act the township board of any township may also levy a property tax of not to exceed 3 mills on each dollar of assessed valuation of the township in any year for the maintenance or improvement of county roads within the township or for the widening of state trunk line highways, as aforesaid, without submitting the question to the electors of said township, and pay any sum so raised into the county road fund of the county for the aforesaid purposes pursuant to an agreement with the county road commission: Provided, That in addition to the foregoing powers any township may, when authorized by a vote of the electorate, levy a property tax of not to exceed 6 mills on each dollar of assessed valuation of the township in any year for the maintenance or improvement of county roads or for the widening of state trunk line highways beyond the width required for state trunk line traffic in unincorporated areas of the township and pay any sum so raised into the county road fund of the county for the maintenance and/or improvement of county roads within such township or the widening of state trunk line highways, as aforesaid, pursuant to an agreement between the township and the county road commission. Where funds are to be used for the widening of a state trunk line highway, the county road commission shall enter into agreement with the state highway commissioner for such work. Notwithstanding any other provisions of this act the township board of any township in the county of Marquette, out of any unexpended balances in the contingent or general fund of the township, after first submitting the question to the electors of the township, and a majority of those voting thereon approve of such expenditure, may purchase and operate snow removal equipment.

HISTORY: New 1951, p. 62, Act 51, Eff. Jun. 1;—Am. 1953, p. 85, Act 86, Imd. Eff. May 18;—Am. 1954, p. 126, Act 102, Imd. Eff. Apr. 14;—Am. 1956, p. 143, Act 58, Imd. Eff. Apr. 2;—Am. 1957, p. 174, Act 153, Eff. Sep. 27.

247.671 Repeal.

Sec. 21. All acts and parts of acts inconsistent with the provisions of this act, and the following acts and parts of acts, are hereby repealed, viz: sections 19, 19a, 19b, 19e and 19f of Act No. 150 of the Public Acts of 1927, being sections 207.119, 207.119a, 207.119b, 207.119e and 207.119f, respectively, of the Compiled Laws of 1948; Act No. 130 of the Public Acts of 1931, as amended, being sections 247.1 to 247.13, inclusive, of the Compiled Laws of 1948; Act No. 1 of the Public Acts of the Extra Session of 1937, being sections 247.21 to 247.25, inclusive, of the Compiled Laws of 1948; and section 805 of Act No. 300 of the Public Acts of 1949, being section 257.805 of the Compiled Laws of 1948.

HISTORY: New 1951, p. 62, Act 51, Eff. Jun. 1.

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247.672 Effective date of act.

Sec. 22. This act shall become effective June 1, 1951.

HISTORY: New 1951, p. 62, Act 51, Eff. Jun. 1.

247.673 Effective upon passage of certain act.

Sec. 23. This act shall not take effect unless Senate Bill No. 41 of the 1951 session of the legislature, relative to increase in the privilege tax for the use of the public highways by owners and drivers of motor vehicles is enacted into law and becomes effective.

HISTORY: New 1951, p. 62, Act 51, Eff. Jun. 1.

NOTE:—Senate Bill No. 41 of the 1951 session of the legislature became Act No. 54 of the Public Acts of 1951.

Act 175, 1952, p. 220; Imd. Eff. Apr. 25.

AN ACT to authorize incorporated cities and villages to borrow money and issue bonds in anticipation of future payments from the motor vehicle highway fund, for any purpose or purposes for which said funds may be used and for the purpose of refunding such bonds; authorizing the pledging of the faith and credit of the issuing city or village, upon proper resolution of its governing body, as additional security for the payment of said bonds; and to prescribe procedures and conditions relative to the issuance of such bonds. Am. 1964, p. 41, Act 37, Eff. Aug. 28.

The People of the State of Michigan enact:

247.701 Motor vehicle highway fund; borrowing power of cities and villages; refunding bonds.

Sec. 1. Any incorporated city or village in this state is authorized to borrow money and issue its bonds for the purposes enumerated in section 13 of Act No. 51 of the Public Acts of 1951, as amended, being section 247.663 of the Compiled Laws of 1948, and for the purpose of refunding bonds issued pursuant to the provisions of this act or in part for refunding bonds issued pursuant to this act and in part for the aforesaid purposes, without a vote of the electors, subject, however, to the prior permission of the municipal finance commission, and any bonds issued hereunder shall be subject to the requirements of Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2 of the Compiled Laws of 1948, and all procedures for the issuance of such bonds shall conform thereto. Any refunding bonds issued may include the amount of any premium to be paid upon the calling of the bonds to be refunded or, if the bonds are not callable, any premium necessary to be paid in order to secure the surrender of the bonds to be refunded, but the amount of premium so included shall not in either case exceed 3% of the principal amount of the bonds to be refunded. Nothing in this section shall be construed as providing for the refunding of noncallable unmatured bonds without the consent of the holder or holders thereof. Any refunding bonds shall not be sold sooner than 6 months from the date that the bonds to be refunded can be redeemed.

HISTORY: New 1952, p. 220, Act 175, Imd. Eff. Apr. 25;—Am. 1964, p. 41, Act 37, Eff. Aug. 28.

CITED IN OTHER SECTIONS: Sections 247.701 to 247.707 are cited in §§ 247.663 and 247.668j.

247.702 Authorization of bonds; cities and villages; resolution, approval, publication, contents.

Sec. 2. When the governing body of any incorporated city or village shall determine to borrow money under the provisions of this act, they shall by resolution approved by a 2/3 majority of the members-elect of said governing body so declare, which resolution shall be published once in a daily or weekly newspaper of general circulation in said incorporated city or village before the same becomes effective, and such resolu-

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tion shall briefly describe the contemplated project or projects, the estimated cost thereof, and the amount, maximum rate of interest and maturity dates of the bonds to be issued and the form thereof, and such resolution shall contain an irrevocable appropriation providing for the payment of the principal and interest thereof from the moneys to be derived from state collected taxes returned to such city or village for highway purposes pursuant to law, which have not been theretofore specially allocated and pledged for the payment of indebtedness.

HISTORY: New 1952, p. 221, Act 175, Imd. Eff. Apr. 25;—Am. 1960, p. 15, Act 16, Eff. Aug. 17.

247.703 Local bonds; maturities; interest rate; payment; redemption; additional security.

Sec. 3. Bonds issued under the provisions of this act shall be serial bonds with annual maturities, the aggregate of which shall not exceed 15, the first of which shall fall due not more than 2 years from the date of issuance, and no maturity after 2 years from date of issuance shall be less than 1/3 of the amount of any subsequent maturity All outstanding and authorized bonds issued pursuant to the provisions of this act may be treated as a single issue for the purpose of fixing maturities. The bonds shall bear interest at a rate not exceeding 6% per annum, may be made redeemable on such terms and conditions as shall be provided by the resolution of the governing body of the issuer, and may be made registerable as to principal or principal and interest under such terms and conditions as may be determined by the governing body of the issuer. The principal of and interest upon such bonds shall be payable primarily from the proceeds of revenues derived from state collected taxes returned to such city or village for road purposes pursuant to law. As additional security for the payment of the bonds, any city or village, upon proper resolution of its governing body, is authorized to pledge its full faith and credit for the payment thereof, and if such pledge is made, and the revenues pledged to the payment of the bonds are at any time insufficient therefor, the city or village shall be obligated to pay the bonds and coupons to the same extent as other general obligation bonds of the city or village, and shall be reimbursed from subsequent revenues received by the city or village from the state collected taxes returned to such city or village for road purposes pursuant to law. Nothing contained in this act shall be construed in such manner as to violate or impair any contract rights existing in the holders of any outstanding bonds issued under the provisions of Act No. 205 of the Public Acts of 1941, as amended, being sections 252.51 to 252.64 of the Compiled Laws of 1948, but any pledges of such revenues or taxes made by any city or village under the provisions of that act shall retain their priority of lien or charge against such revenues as contemplated by the provisions of that act and as provided in the contract or resolution authorizing the issuance of bonds thereunder.

HISTORY: New 1952, p. 221, Act 175, Imd. Eff. Apr. 25;—Am. 1960, p. 15, Act 16, Eff. Aug. 17;—Am. 1964, p. 42, Act 37, Eff. Aug. 28;—Am. 1968, p. 115, Act 70, Imd. Eff. May 28.

247.704 Issuance of bonds for highway purposes; cities and villages; successive borrowing.

Sec. 4. No city or village may pledge, for annual debt service requirements, in excess of 45% of the revenues received during the fiscal year next preceding any borrowings from the motor vehicle highway fund pursuant to Act No. 51 of the Public Acts of 1951, as amended, being sections 247.651 to 247.673 of the Compiled Laws of 1948. Nothing herein shall be construed as a prohibition against successive borrowings so long as the total amount of revenues pledged for annual debt service requirements shall not exceed the applicable percentage above described and so long as the total

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aggregate amount of borrowing shall not exceed an amount which the above mentioned 45% of the revenues will service as to annual principal and interest requirements.

HISTORY: New 1952, p. 221, Act 175, Imd. Eff. Apr. 25;—Am. 1958, p. 68, Act 62, Imd. Eff. Apr. 9;—Am. 1961, p. 199, Act 142, Imd. Eff. May 31.

247.705 Revenues set aside; source.

Sec. 5. After any indebtedness shall be incurred under the provisions of this act, it shall be the duty of the treasurer of the city or village, during each year such indebtedness shall continue, to set aside in a separate fund from such revenues as shall be received during such year from the motor vehicle highway fund an amount sufficient to pay the interest and principal upon the installment on such indebtedness next maturing.

HISTORY: New 1952, p. 222, Act 175, Imd. Eff. Apr. 25.

247.706 Approval or denial by municipal finance commission; sale.

Sec. 6. The municipal finance commission may approve or deny, in whole or in part, such borrowing and the issuing of bonds therefor. Bonds authorized hereunder shall be advertised and sold as provided by section 2 of chapter 3 of Act No. 202 of the Public Acts of 1943, as amended.

HISTORY: New 1952, p. 222, Act 175, Imd. Eff. Apr. 25.

247.707 Prohibition of pledges.

Sec. 7. Nothing in this act contained shall be construed as permitting any city or village to pledge such portion of the future revenues derived from state collected taxes returned to such city or village for road purposes which are pledged by law, ordinance, resolution or contract for the payment of bonds.

HISTORY: New 1952, p. 222, Act 175, Imd. Eff. Apr. 25.

Act 208, 1959, p. 309; Eff. Mar. 19, 1960.

AN ACT to empower highway and road authorities to make surveys on public and private property.

The People of the State of Michigan enact:

247.751 Highway surveys on public and private property; liability.

Sec. 1. In preparation for and in connection with the planning, construction and maintenance of state trunk line highways and county roads, it shall be lawful for the appropriate authorities to go upon any land and waters in this state for the purpose of making necessary surveys, soundings and borings as necessary; and such action shall not be a trespass nor an entry. The authorities shall be liable for any actual damage thereby done to such premises. No fences, fencing, trees or shrubbery shall be removed without the written consent of an owner of such property.

HISTORY: New 1959, p. 309, Act 208, Eff. Mar. 19, 1960.

Act 286, 1964, p. 567; Imd. Eff. Jun. 12.

AN ACT to provide for the organization, powers and duties of the state highway commission and the state highway department; to provide for the appointment, powers and duties of the state highway director; to abolish the office of state highway commissioner and his advisory board and to transfer their powers and duties; and to repeal certain acts and parts of acts.

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The People of the State of Michigan enact:

247.801 State highway department organization act; definitions.

Sec. 1. As used in this act:

(1) "Commission" means the state highway commission.

(2) "Director" means the state highway director.

(3) "Department" means the state highway department.

(4) "State highway commissioner" or "office of state highway commissioner" means the official and office denominated under section 2 of chapter 5 of Act No. 283 of the Public Acts of 1909, as amended, being section 225.2 of the Compiled Laws of 1948.

HISTORY: New 1964, p. 567, Act 286, Imd. Eff. Jun. 12.

247.802 Abolishment of state highway commissioner office; transfer of powers to state highway commission.

Sec. 2. The office of state highway commissioner is abolished and the powers and duties of that office are transferred to and vested in the commission. Any law referring to the state highway commissioner or office of state highway commissioner shall be deemed to refer to the commission. Administrative control over the department and jurisdiction and control over all state trunkline highways and appurtenant facilities is vested in the commission.

HISTORY: New 1964, p. 567, Act 286, Imd. Eff. Jan. 4, 1965.

247.803 State highway commission; appointment, terms, vacancies, bonds.

Sec. 3. The governor with the advice and consent of the senate shall appoint the first members of the commission for terms of 1, 2, 3 and 4 years commencing on July 1, 1964. Subsequent terms shall be for 4 years. Vacancies on the commission shall be filled by the governor for the unexpired terms. Each member shall give to the people of the state a bond in the penal sum of $25,000.00, with sureties approved by the auditor general, conditioned upon the faithful discharge of the duties of his office, the premium to be paid from the state trunkline fund.

HISTORY: New 1964, p. 567, Act 286, Imd. Eff. Jun. 12.

247.804 State highway commission; officers, quorum, transaction of business.

Sec. 4. The governor shall appoint one of the members of the commission as chairman to serve at the pleasure of the governor. Each year by a vote of at least 3 members of the commission the commission shall elect one of its members as vice chairman and such other officers as it deems advisable. In addition to the powers granted the vice chairman by commission bylaws, he shall act as chairman when the office of chairmanship is vacant or the chairman is absent or unable to serve. Three members of the commission constitute a quorum. The affirmative vote of 3 members is necessary for the transaction of business.

HISTORY: New 1964, p. 567, Act 286, Imd. Eff. Jun. 12.

247.805 State highway commission; appointment of director, duties.

Sec. 5. The director shall be appointed, and may be removed, by the affirmative vote of 3 members of the commission and shall serve at the pleasure of the commission. A member of the commission shall not be the director. The director shall devote his full time and attention to his duties. He shall be the principal executive officer of the department and, subject to the approval of the commission, shall have direct and full control and management of the department. He shall comply with all rules, regulations and orders of the commission.

HISTORY: New 1964, p. 568, Act 286, Imd. Eff. Jan. 4, 1965.

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247.806 State highway commission; transitional powers.

Sec. 6. Before assuming the powers and duties of the present state highway commissioner the commission shall meet at least monthly at the call of the state highway commissioner and shall have the following powers and duties:

(a) To consult with the state highway commissioner and serve as members of the advisory board created by section 2a of chapter 5 of Act No. 283 of the Public Acts of 1909, being section 225.2a of the Compiled Laws of 1948, the membership of which board is hereby increased to 9.

(b) To request information from the state highway commissioner concerning highway matters.

(c) To assist in the preparation of budget requests for the fiscal year commencing July 1, 1965.

(d) To designate the director whose employment will not begin until the commission assumes the powers and duties of the present state highway commissioner.

HISTORY: New 1964, p. 568, Act 286, Imd. Eff. Jun. 12.

247.807 State highway commission; administrative powers and duties.

Sec. 7. The commission's powers and duties shall include the following:

(a) To organize and administer the department and its work, to supervise the work of the director and to create, merge and abolish organizational divisions within the department and to transfer or merge functions among such divisions in the interest of economy and efficiency.

(b) To establish highway policies and administrative practices for the guidance and direction of the director.

(c) To employ personnel necessary and proper to carry out its duties, including personnel it deems necessary for a personal staff, subject to laws governing state employment.

(d) To delegate to any member of the commission, the director, or any subordinate, any powers, other than the power to establish policy, vested in the commission as it deems necessary and proper; and to permit the director to delegate any powers delegated to him by the commission.

(e) To establish a program of current and long-range planning for the systems of highways under its jurisdiction.

(f) To consider and study the entire field of highway legislation and administration.

(g) To investigate highway conditions and official conduct of departmental personnel.

(h) To direct the preparation of budget requests, expenditures programs and periodical allotments.

(i) To acquire, own, and hold real and personal property in the name of the state or the commission and to sell, lease or otherwise dispose of or encumber the same in connection with and in furtherance of its duties and the purposes of this act.

(j) To let all contracts for the construction, improvement and maintenance of the highways under its jurisdiction, as provided by law.

(k) To purchase materials, supplies and equipment as necessary and proper to carry out its duties as provided by law governing state purchasing.

(l) To dispose of obsolete equipment, surplus supplies and material that cannot be used by the department as provided by law governing such disposal.

(m) To do anything necessary and proper to comply fully with the provisions of present or future federal aid acts.

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(n) To do anything necessary and proper to carry out the duties imposed upon it by the constitution and such other duties as may be imposed by law.

HISTORY: New 1964, p. 568, Act 286, Imd. Eff. Jan. 4, 1965;—Am. 1969, p. 297, Act 148, Eff. Mar. 20, 1970.

247.808 State highway commission; bylaws.

Sec. 8. The commission by an affirmative vote of 3 members may adopt bylaws pertaining to:

(a) Any aspect of the commission's organization and internal management not otherwise prescribed by law.

(b) The administration of oaths.

(c) The posting of bond by the director or any subordinate in the amount the commission determines to be reasonable and proper, the premium to be paid from the state trunkline fund.

(d) Employment and duties of any employee under its jurisdiction including the employment of any nonclassified employees.

HISTORY: New 1964, p. 569, Act 286, Imd. Eff. Jan. 4, 1965.

247.809 State highway commission; rules and regulations.

Sec. 9. The commission shall by an affirmative vote of 3 members adopt rules and regulations to implement its powers and this act, in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: New 1964, p. 569, Act 286, Imd. Eff. Jan. 4, 1965.

247.810 State highway commission; issuance and execution of documents and instruments.

Sec. 10. Documents and instruments of any kind authorized to be issued or executed by the commission shall be issued or executed in the name of the "Michigan state highway commission" by the chairman of the commission, or to the extent expressly authorized by bylaw or resolution, by the vice chairman, other member, director, or other subordinate. Documents or instruments which convey interests or rights in land shall be executed by the chairman or vice chairman and the director or a deputy director designated by the commission.

HISTORY: New 1964, p. 569, Act 286, Imd. Eff. Jan. 4, 1965.

247.811 State highway commission; compensation, expenses, meetings, offices.

Sec. 11. The members of the commission and the director shall receive, in addition to compensation that may be appropriated, all reasonable and necessary expenses while performing their duties. The members of the commission are not required to devote their full time to their duties, but shall participate in all activities necessary to perform their duties and functions. Except as provided in section 6, commission meetings shall be called by the chairman or as prescribed by the commission. The main office of the commission shall be located in Lansing, but the commission may meet anywhere in the state.

HISTORY: New 1964, p. 569, Act 286, Imd. Eff. Jun. 12.

247.812 State highway commission; conflict of interest.

Sec. 12. Neither a member of the commission, the director, nor any officer of the department shall be interested directly or indirectly in any contract with the state or any political subdivision thereof which shall cause a substantial conflict of interest.

HISTORY: New 1964, p. 569, Act 286, Imd. Eff. Jun. 12.

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247.813 State highway commission; records of acts, proceedings and transactions.

Sec. 13. The commission shall keep accurate records of all its acts and proceedings and a complete account of all financial transactions of the department in accordance with the accounting laws of the state. In addition to other reports required by law, the commission shall submit to the governor and the legislature, on or before January 1 in each year, an annual report of its activities.

HISTORY: New 1964, p. 569, Act 286, Imd. Eff. Jan. 4, 1965.

247.814 Ex officio membership.

Sec. 14. The chairman or other person designated by the commission shall replace the state highway commissioner on all boards, commissions, authorities and agencies on which the commissioner holds membership by virtue of his office.

HISTORY: New 1964, p. 570, Act 286, Imd. Eff. Jan. 4, 1965.

247.815 Repeal.

Sec. 15. Sections 2 and 2a of chapter 5 of Act No. 283 of the Public Acts of 1909, as amended, being sections 225.2 and 225.2a of the Compiled Laws of 1948, are repealed.

HISTORY: New 1964, p. 570, Act 286, Imd. Eff. Jan. 4, 1965.

247.816 Effective date of certain sections.

Sec. 16. Sections 2, 5, 7, 8, 9, 10, 13, 14 and 15 of this act shall take effect on July 1, 1965, or when the present state highway commissioner no longer holds his office, whichever occurs first.

HISTORY: New 1964, p. 570, Act 286, Imd. Eff. Jun. 12.

Act 213, 1967, p. 307; Imd. Eff. Jul. 10.

AN ACT to authorize the governor to take action necessary to secure the benefits available under the federal highway safety act of 1966.

The People of the State of Michigan enact:

247.841 Governor's cooperation to obtain benefits granted in federal highway safety act; acceptance and use of federal funds.

Sec. 1. The governor shall have the responsibility but not the obligation to assure the full benefits available to this state under the federal highway safety act of 1966, and in so doing, cooperate with federal and other state agencies to effectuate the purposes of that act. The governor shall be responsible for the highway safety programs of this state: Provided, That the acceptance and use of federal funds commits no state funds and places no obligation upon the legislature to continue the purposes for which the funds are made available.

HISTORY: New 1967, p. 307, Act 213, Imd. Eff. Jul. 10.

Act 296, 1969, p. 549; Eff. Mar. 20, 1970.

AN ACT to provide for the transfer of jurisdiction over highways; to provide for the final determination of disputes involving transfers of highway jurisdiction; and to supersede certain acts and parts of acts.

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The People of the State of Michigan enact:

247.851 Transfer of jurisdiction over highways; definitions.

Sec. 1. As used in this act:

(a) "Highway authority" means the state highway commission, a board of county road commissioners or the governing body of a city or village.

(b) "Highway" means a highway, road or street.

(c) "Board" means the highway jurisdiction determination board.

HISTORY: New 1969, p. 549, Act 296, Eff. Mar. 20, 1970.

247.852 Transfer of jurisdiction; consent required; agreement, contents; effective date.

Sec. 2. The provisions of any law to the contrary notwithstanding, a highway may not not [sic] be transferred from the jurisdiction of the state to a county, city or village or from a county to a city or village without the consent of both parties, except as provided by this act. The consent shall be evidenced by a written agreement entered into after approval by resolution of each highway authority that is party to the agreement. The agreement shall identify the effective date of the transfer of jurisdiction, the limits and general description of the highway involved, the extent of improvements and other terms and conditions mutually agreed to. The agreement may be amended, superseded or voided by consent of both parties. If the proposed transfer of jurisdiction is dependent on the future opening of a new, relocated highway and a definite effective date cannot be ascertained and agreed to at the time the agreement is entered into, the transfer shall be effective upon the opening of the new highway unless otherwise provided in the agreement.

HISTORY: New 1969, p. 550, Act 296, Eff. Mar. 20, 1970.

247.853 Transfer of jurisdiction; non-consent, proceedings to determine question; time for granting.

Sec. 3. (1) If a highway authority does not consent to accept jurisdiction over a highway proposed for transfer, within 90 days after its consent is requested in writing, unless an extension of time is agreed to by both parties, the state or county highway authority proposing the transfer may initiate proceedings for final determination of the question of the transfer of highway jurisdiction in accordance with the provisions of this act.

(2) If the proposed transfer of jurisdiction is dependent upon the future opening of a new, relocated highway and approval of the new highway by both parties is required by law and the parties have not agreed to the transfer of jurisdiction as a condition of approval of the new highway, then the 90-day period shall not begin to run until the date that both parties approve the new highway.

HISTORY: New 1969, p. 550, Act 296, Eff. Mar. 20, 1970.

247.854 Determination board; membership appointment.

Sec. 4. (1) The highway authority proposing the transfer of highway jurisdiction shall appoint 1 member of the highway jurisdiction determination board and shall notify the nonconsenting highway authority of its selection in writing. The written notification shall be by certified mail and shall include, or have attached, a proposed date for transfer of jurisdiction and a description or map showing the highway in question and the reasons why the transfer is proposed.

(2) Within 30 days after receiving the notice, the nonconsenting highway authority shall appoint 1 member of the board and shall so notify by certified mail the other highway authority and both appointed board members. If the nonconsenting highway authority fails to appoint and notify, the transfer of jurisdiction over the highway shall

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be without consent and shall become effective on the proposed date as provided in the notice required by subsection (1).

(3) Within 10 days after receipt of the notice provided in subsection (2), the 2 appointed board members shall request the American arbitration association, or its successor in function, to furnish a list of 3 members of such association who are residents of this state from which the third member shall be selected. The member first appointed shall eliminate 1 name from the list within 5 days after publication of the list, and the other appointed member shall then eliminate 1 name from the list within 5 days thereafter. The person whose name remains on the list shall be the third member and shall serve as chairman of the board. The 2 appointed members jointly shall so notify the chairman.

HISTORY: New 1969, p. 550, Act 296, Eff. Mar. 20, 1970.

247.855 Hearing of board; date; notice; quorum; vacancy.

Sec. 5. The chairman of the board shall forthwith fix a date and place for convening the board to hear the testimony of the parties to the proposed transfer of highway jurisdiction and shall so notify the parties. The date selected shall be not more than 30 days after selection of the chairman. The board shall convene on the date and at the place fixed by the chairman and shall hear testimony and receive evidence from the parties to the proposed transfer of highway jurisdiction, from local and regional planning bodies if appropriate and from such other sources as may desire to appear or present testimony. The board may reconvene at such times and places as the chairman determines. Two members shall constitute a quorum and the affirmative vote of 2 members is necessary for a final determination of the dispute. If a member of the board becomes unable to perform his duties as a board member, a new member shall be selected in accordance with the provisions of this act.

HISTORY: New 1969, p. 550, Act 296, Eff. Mar. 20, 1970.

247.856 Determination of board; factors.

Sec. 6. (1) In making its determination, the board shall take into consideration the level and character of service provided by the highway before transfer and that reasonably expected to be provided if the transfer were approved with the objective of assuring that the proper level and character of service shall be provided the affected community, the traveling public and the area served by the highway.

(2) The board shall take into consideration the latest standards and criteria on functional classification of highways available from the United States bureau of public roads, the latest standards and criteria for functional classification used in the continuing study of highway needs in this state, and other accepted and recognized criteria appropriate for use in determining the level and character of service, classification and jurisdiction of highways.

(3) The board shall also take into consideration appropriate state, regional and local transportation plans, development plans, master plans or other plans developed by official agencies.

HISTORY: New 1969, p. 551, Act 296, Eff. Mar. 20, 1970.

247.857 Final determination of board; time; notice; effect of denial; effective date.

Sec. 7. (1) Within 90 days after the first convening, the board shall make a final determination in writing on the transfer of jurisdiction of the highway and shall prescribe the terms and conditions for the transfer in accordance with section 8. The board shall so notify highway authorities that are parties to the dispute.

(2) If the transfer is denied, final determination proceedings shall not again be initiated with regard to the same highway for a period of 5 years from the date of the board's determination except that if the proposed transfer is related to the opening of

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a new relocated highway, final determination proceedings may be initiated again 1 year after the date of the board's determination.

(3) If the transfer is affirmed, the transfer shall be without consent and shall become effective at a time determined by the board in accordance with the following, unless another effective date is agreed to by both highway authorities:

(a) If the transfer is not related to the opening of a new, relocated highway, the transfer shall be effective not less than 1 year from the July 1 next following the date of the board's final determination or not less than 30 days following the completion of required improvements or payment of the cost of improvements, whichever is later.

(b) If the transfer is related to the opening of a new, relocated highway, the transfer shall be effective upon the opening of the new highway or following the completion of the improvements or payment of the cost of improvements on the highway being transferred, whichever is later, unless otherwise provided by agreement.

(4) The determination, terms and conditions as prescribed by the board shall be binding upon both highway authorities.

(5) At any time the parties, by written agreement, may amend or modify the determination, terms and conditions prescribed by the board.

HISTORY: New 1969, p. 551, Act 296, Eff. Mar. 20, 1970.

247.858 Determination of board; contents; transferor's duties; renovation, costs.

Sec. 8. (1) If the board's decision is to transfer jurisdiction of a highway, the board shall include in its determination a description of the renovation, repair or reconstruction work and the estimated cost necessary to bring the highway up to reasonable acceptable standards as determined in accordance with subsection (2).

(2) The highway authority from whose jurisdiction a highway is to be transferred shall be responsible for the renovation, repair or reconstruction of the transferred highway, where necessary, subject to the following conditions:

(a) If the transfer is not related to the opening of a new relocated highway, reasonable acceptable standards based upon existing traffic shall govern, except that a maximum of 5 lanes shall be provided unless the existing width is greater and if right-of-way is available. Lanes used exclusively for parking shall not be considered eligible as part of the renovation, repair or reconstruction.

(b) If the transfer is related to the opening of a new relocated highway, the renovation, repair or reconstruction, if necessary, shall provide a facility that will be relatively free of extraordinary maintenance for 5 years. Reasonable acceptable standards based upon traffic volumes estimated to exist at the time of the transfer shall be used to the extent practical and feasible. Lanes used exclusively for parking shall not be considered eligible as part of the rehabilitation work.

(c) The board shall determine the reasonable acceptable standards for the renovation, repair and reconstruction of the highway on the basis of the functional classification of the highway after transfer, the level of service and the rating of physical features applied to highways of similar classification retained by the transferring agency, or on the basis of other recognized functional classification rating methods.

(3) In lieu of undertaking the renovation, repair or reconstruction of a highway to be transferred pursuant to this act, the transferring highway authority may do 1 of the following, with the concurrence of the receiving highway authority:

(a) Pay the estimated cost of such work to the receiving highway authority in order that the work may be undertaken by it.

(b) Enter into a contract with the receiving highway authority for the receiving highway authority to perform the work and be reimbursed by the transferring highway

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authority. The contracts shall include such terms and conditions as agreed to and shall be subject to such approvals as may be required for other contracts of the highway authorities.

(4) The cost of renovation, repair or reconstruction of the highway shall be paid by the highway authority relinquishing jurisdiction except to the extent that the highway authority gaining jurisdiction is required to participate in such cost in accordance with the provisions of Act No. 51 of the Public Acts of 1951, as amended, being sections 247.651 to 247.673 of the Compiled Laws of 1948.

HISTORY: New 1969, p. 551, Act 296, Eff. Mar. 20, 1970.

247.859 Compensation and expenses of board; payment.

Sec. 9. The compensation and expenses of the board member appointed by the nonconsenting highway authority shall be paid by it. The compensation and expenses, if any, of the other board member and the chairman, and all stenographic and other expenses incurred by the board in connection with the determination proceedings, shall be paid by the highway authority that initiates the final determination proceedings.

HISTORY: New 1969, p. 552, Act 296, Eff. Mar. 20, 1970.

247.860 Transfers not subject to act.

Sec. 10. The provisions of this act shall not apply to the transfer of jurisdiction over county roads in unincorporated areas which become incorporated through annexation, incorporation or consolidation after the effective date of this act and which are transferred to the city or village jurisdiction within 1 year after the date of the annexation, incorporation or consolidation.

HISTORY: New 1969, p. 552, Act 296, Eff. Mar. 20, 1970.

247.861 Laws superseded; exception.

Sec. 11. The provisions for relinquishment of jurisdiction of a county road in section 18 of chapter 4 of Act No. 283 of the Public Acts of 1909, as amended, being section 224.18 of the Compiled Laws of 1948, and for abandonment of a state trunk line highway in section 4 of Act No. 12 of the Public Acts of 1925, being section 250.114 of the Compiled Laws of 1948, are superseded except as provided in section 10.

HISTORY: New 1969, p. 552, Act 296, Eff. Mar. 20, 1970.

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CHAPTER 249. HIGHWAYS—FEDERAL AID ROADS

FEDERAL AID ROADS

Act 99 of 1917

249.1 Assent to federal aid for construction of rural post road; availability of funds; authority to survey, contract, receive and disburse money.

249.2 Authority to raise funds; bonds; estimates, plans; separate account.

249.3-249.6 Repealed.

UNITED STATES FORESTS, ROADS

Act 96 of 1931

249.31 United States forest; state construction of roads.

249.32 Construction of forest highways; county road commissioners; cost and maintenance.

249.33 Disbursements of funds.

249.34 Disbursements; fund from which paid.

Act 99, 1917, p. 178; Imd. Eff. Apr. 25.

AN ACT to provide for the construction, maintenance and improvement of federal aided roads; to authorize townships, good roads districts and counties to raise money by taxation and by loan for the purpose of contributing thereto; to validate and legalize proceedings heretofore taken to raise money for the purpose contemplated by this act; and to provide an appropriation for paying the state's portion of the expense incurred hereunder.

The People of the State of Michigan enact:

249.1 Assent to federal aid for construction of rural post road; availability of funds; authority to survey, contract, receive and disburse money.

Sec. 1. The legislature of the state of Michigan hereby assents to the provisions of the act of congress, approved July 11, 1916, (39 statute laws 355,) entitled "An act to provide that the United States shall aid the states in the construction of rural post roads, and for other purposes," and the good faith of the state is hereby pledged under the provisions of this act to make available from time to time sufficient funds to pay the state's portion of the cost of constructing and maintaining federal aided roads. The state highway department of Michigan through the state highway commissioner is hereby authorized to make surveys, prepare plans and specifications and take charge of the building and maintaining of federal aided roads in accordance with the provisions of the aforesaid act of congress and the rules and regulations of the secretary of agriculture made thereunder and such amendments thereto as may from time to time be made. The state highway commissioner is further authorized to enter into all contracts and agreements with the United States government relating to the construction and maintenance of rural post roads under the provisions of the said act of congress, to submit such scheme or program of construction and maintenance as may be required by the secretary of agriculture, and do all other things necessary fully to carry out the cooperation contemplated and provided for by the said act. The state treasurer is hereby authorized to receive any and all moneys due the state of Michigan under the provisions of this act, and shall pay out the same under the orders of the auditor general which shall be issued by said auditor general upon orders of the state highway commissioner.

HISTORY: CL 1929, 4398;—CL 1948, 249.1.

FEDERAL AID ROADS: Federal aid roads to be trunk line highways, see Compilers' § 250.111.

WAGON ROAD (MONROE COUNTY): Federal aid, see Compilers' § 250.181.

249.2 Authority to raise funds; bonds; estimates, plans; separate account.

Sec. 2. Townships, good roads districts and counties are hereby authorized to raise funds, either by general taxation or bond issues, for the building of federal aided roads and to deposit their portion of the cost of such roads with the state treasurer to be

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credited to the specific federal aid road project for which the money has been appropriated, which funds shall be paid out by the state highway commissioner together with funds appropriated by the state as the work of construction proceeds. Taxes for such purpose may be authorized, spread and collected, and bonds may be issued and sold, in the same manner, and subject to the same limitations and restrictions, as is or may be provided, in Act 283 of the Public Acts of 1909, as amended: Provided, however, That in no case shall the furnishing of estimates, plans or specifications by the board of county road commissioners for the construction, maintenance or improvement of a highway hereunder be regarded as necessary: Provided further, That the state highway commissioner shall upon written request by a board of supervisors or by a township board, or at his own option, furnish estimates, plans and specifications for any such improvement. The state treasurer is hereby authorized and directed to open and maintain a separate account with each road project for the purpose of carrying out the provisions of this act.

HISTORY: CL 1929, 4399;—CL 1948, 249.2.

NOTE: Act 283 of 1909, above referred to, is Compilers' § 220.1 et seq.

249.3-249.6 Repealed. 1958, p. 83, Act 77, Eff. Sep. 13.

Sections provided for cost sharing, validation, tax levy and contracts with state commissioner.

Sec. 7. (This was an appropriation section.)

HISTORY: CL 1929, 4404;—Rep. 1947, p. 170, Act 129, Eff. Oct. 11.

Sec. 8. (This was a tax clause section.)

HISTORY: CL 1929, 4405;—Rep. 1947, p. 170, Act 129, Eff. Oct. 11.

Act 96, 1931, p. 155; Imd. Eff. May 11.

AN ACT to provide for the construction and maintenance of non-trunk line roads located within the limits of a United States forest.

The People of the State of Michigan enact:

249.31 United States forest; state construction of roads.

Sec. 1. The state highway department of the state of Michigan, through the state highway commissioner, is hereby authorized to make surveys, prepare plans and specifications and take charge of the construction, including the letting of contracts and the paying out of all costs of preliminary work and construction, of roads located in part or in whole within the limits of a United States forest within this state: Provided, however, That before proceeding with any work the state highway commissioner shall, and is hereby authorized to, enter into a contract with the United States government relative to the construction of said road, said contract to provide that the state of Michigan shall be reimbursed by the United States government to the extent of 50 per cent of the total amount of funds expended by the state of Michigan and the United States government on such forest road: Provided further, That in no case shall the amount of state funds used for this purpose exceed 100,000 dollars in any 1 year.

HISTORY: CL 1948, 249.31.

249.32 Construction of forest highways; county road commissioners; cost and maintenance.

Sec. 2. The boards of county road commissioners are also authorized to expend funds either raised by general taxation or received from the distribution of motor vehicle funds for the purposes of the construction and/or maintenance of such forest highways. For the purposes of construction the counties' share of such cost shall be such share as may be mutually agreed upon between the United States government, the state highway commissioner and the board of county road commissioners. The mainte-

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nance of any such road built under the provisions of this act shall be a direct obligation of the county in which the said road is located and shall be to all intents and purposes a part of the county road system of such county and shall so remain unless such road has been or may be hereafter lawfully established as trunk line highway. The maintenance and construction of trunk line highways through the United States forests shall be subject to the general provisions of law relating thereto.

HISTORY: CL 1948, 249.32.

249.33 Disbursements of funds.

Sec. 3. The state treasurer is hereby authorized to pay out moneys under the provisions of this act under orders of the auditor general, which shall be issued by said auditor general upon orders of the state highway commissioner, and said state treasurer is hereby authorized to receive any and all moneys due the state of Michigan under the provisions of this act.

HISTORY: CL 1948, 249.33.

249.34 Disbursements; fund from which paid.

Sec. 4. All money required to carry out the state's share of such contracts shall be paid out of the state highway fund.

HISTORY: CL 1948, 249.34.

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CHAPTER 250. HIGHWAYS—STATE TRUNK LINE

STATE REWARD TRUNK LINE HIGHWAYS

Act 334 of 1913

250.1 Repealed.

250.2 State reward trunk lines; composition; divisions; new highways, laying out, surveying, maps, routes; triple reward, computation.

250.3-250.6 Repealed.

250.9 Preliminary surveys; employment of engineers and employes.

TRUNK LINE HIGHWAYS

Act 19 of 1919

250.31-250.41 Repealed.

Act 17 of 1925

250.61 State trunk line highway; expense and liability; relief of local units.

250.62 Trunk line highways; construction and maintenance contracts; approval; exception.

STATE PARKS OR INSTITUTIONAL GROUNDS

Act 77 of 1929

250.71 State trunk line highways through state parks and property; construction.

250.72 State trunk line highways through state parks and property; maintenance; consent for certain highways.

ACCESS ROADS OR BRIDGES ON STATE PROPERTY

Act 90 of 1941

250.91 Access roads and bridges on state property; state highway department to construct; engineering assistance to department of administration.

250.92 Request for construction or repair; recommendation to legislature.

250.93, 250.94 Repealed.

ADDITIONAL TRUNK LINE MILEAGE

Act 19 of 1919 (Ex. Ses.)

250.101 Additional trunk line highways; preliminary investigation of routes.

Act 12 of 1925

250.111 Additional trunk line highways; federal aid project roads declared trunk line highways.

250.112 Trunk line highway; widening or altering; approval.

250.114 Trunk line highway route; alteration, abandonment, hearing of objections; new lines, approval.

250.115 Trunk line highway; abandonment of part of right of way; easement for public utilities.

Act 61 of 1927

250.121 Additional trunk line highways; layout and establishment.

Act 7 of 1929

250.131 Additional trunk line highways; layout and establishment.

Act 27 of 1934 (1st Ex. Ses.)

250.141 Repealed.

250.142 Additional trunk line highways; layout and establishment for serving public travel demands and other conditions.

MECOSTA, OSCEOLA, MISSAUKEE COUNTIES

Act 324 of 1921

250.151 Establishment of trunk line highways; Mecosta, Osceola, Missaukee counties; maintenance.

PAW PAW TO GOBLEVILLE TO ALLEGAN

Act 341 of 1921

250.161 Establishment of trunk line highways; Paw-Paw to Gobleville to Allegan; maintenance.

COLGROVE HIGHWAY

Act 350 of 1921

250.171 Establishment of trunk line highways; Colgrove highway between Michigan and Indiana with extensions; location, maintenance.

WAGON ROAD, MONROE COUNTY

Act 340 of 1921

250.181 Public wagon road in Monroe county; right of way, condemnation, route, title to land taken.

250.182-250.184 Repealed.

WOODWARD AVENUE, DETROIT TO PONTIAC

Act 259 of 1923

250.191-250.193 Repealed.

DETROIT, GRAND HAVEN AND MILWAUKEE RY. CO. CONTRACTS

Act 1 of 1926 (Ex. Ses.)

Act 340 of 1927

250.201-250.208, 250.211-250.220 Repealed.

VACATION AND ALTERATION OF STATE HIGHWAYS

Act 274 of 1929

250.231 Alteration or vacation of state highway; prohibition.

EASEMENTS, TO GRAND TRUNK WESTERN R.R.

Act 63 of 1943

250.241 Perpetual user easements; granted by department of agriculture; parcels of land described; duration of easements.

VALIDATION OF INSTRUMENTS

Act 282 of 1929

250.251 Contracts and instruments to Rogers and Seeley legalized.

250.252 Rogers and Seeley authorized to convey land.

CARLETON ROAD

Act 113 of 1925

250.261 Carleton road, state road number 34.

EARLE MEMORIAL HIGHWAY

Act 118 of 1941

250.271 Earle memorial highway; designation.

UNITED SPANISH WAR VETERANS MEMORIAL HIGHWAY

Act 104 of 1949

250.281 United Spanish war veterans' memorial highway.

250.282 United Spanish war veterans' memorial highway; markers.

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ARTHUR VANDENBERG MEMORIAL HIGHWAY
Act 70 of 1952
250.291 Arthur Vandenberg memorial highway.
250.292 Arthur Vandenberg memorial highway; erection of markers.

BLUE STAR MEMORIAL HIGHWAY
Act 71 of 1952
250.301 Blue Star memorial highway.

PULASKI MEMORIAL HIGHWAY
Act 11 of 1953
250.311 Pulaski memorial highway.
250.312 Pulaski memorial highway; erection of markers.

CLARA BARTON MEMORIAL HIGHWAY
Act 80 of 1954
250.321 Clara Barton memorial highway.
250.322 Clara Barton memorial highway; erection of markers.

PERE MARQUETTE MEMORIAL HIGHWAY
Act 93 of 1954
250.331 Pere Marquette memorial highway.
250.332 Pere Marquette memorial highway; erection of markers.

COLUMBUS MEMORIAL HIGHWAY
Act 86 of 1955
250.341 Columbus memorial highway.
250.342 Columbus memorial highway; erection of markers.

AMVETS MEMORIAL DRIVE
Act 144 of 1959
250.351 Amvets Memorial Drive.
250.352 Amvets Memorial Drive; erection of markers.

MACKINAC TRAIL
Act 170 of 1959
250.361 Mackinac Trail.
250.362 Green Arrow Route.
250.363 Green Arrow Route-Mackinac Trail.
250.364 Markers; landscaping.
250.365 Memorial highways; additional designations.

Act 334, 1913, p. 634; Imd. Eff. May 13.

AN ACT to provide for the establishment, survey, improvement and maintenance of state reward trunk line highways, to provide for the payment of triple state reward thereon, to define the duties of state, county, good roads district and township officers in regard thereto, and to appropriate funds to carry out the provisions thereof. Am. 1919, p. 94, Act 58, Eff. Aug. 14.

The People of the State of Michigan enact:

250.1 Repealed. 1958, p. 83, Act 77, Eff. Sep. 13.
Section provided for establishment of state reward trunk line highways.

250.2 State reward trunk lines; composition; divisions; new highways, laying out, surveying, maps, routes; triple reward, computation.

Sec. 2. The state reward trunk line highways shall be composed of the highways and bridges constituting the routes indicated in the following statement of divisions, and such other routes and branches as may be established in accordance with this act:

Division 1. Beginning near the southeast corner of the state and running to Monroe, Wayne, Detroit, Mt. Clemens, Algonac, Marine City, St. Clair, Marysville, Port Huron, Blaine, Jeddo, Applegate, Carsonville, Downington, Deckerville, Ruth, Harbor Beach, Port Hope, Port Austin, with a branch from Port Huron to Avoca, Yale, Peck, Sandusky, Snover, Ubly, Bad Axe, Port Austin, and from Yale to Brown City, Burnside, Marlette, Clifford, Silverwood, Mayville, Vassar to Saginaw with a sub-branch from Burnside, North Branch to Lapeer, also a branch from Saginaw through Sebewaing, Fairhaven township, Pigeon, Elkton to Bad Axe.

Division 2. Beginning at Detroit on Woodward avenue and running northwest via Pontiac, Holly, Fenton, Flint, Owosso, Saginaw, Bay City, Tawas City, Alpena, Onaway, Cheboygan, Mackinaw City; with a branch from Owosso to St. Johns, Ionia, Belding, Greenville to Howard City; also a branch from Belding to Lowell, with a subbranch from Ionia to Saranac, Lowell, Grand Rapids, via Leonard street, thence west

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to Grand Haven via Coopersville and Spring Lake; also from Grand Rapids to Holland.

Division 3. Beginning at the south line of the state on the meridian line running north by Hudson, Addison, Jackson, Lansing, St. Johns, Ithaca, Alma, St. Louis, Breckenridge, to the prime meridian line, then north along said meridian line as near as practicable through the state to connect with division number 2 where said highway crosses the meridian, crossing the line between Gladwin and Ogemaw counties where the line between sections 5 and 6 of town 20 north, range 2 east, intersects the same, with a branch from Alma north to Mt. Pleasant, Clare, Harrison, Star City, Moorestown, Kalkaska.

Division 4. Beginning at White Pigeon running north to Three Rivers, Schoolcraft, Kalamazoo, Grand Rapids, Howard City, Big Rapids, Reed City, and Cadillac to Traverse City, with a branch from Cadillac to Manton, Walton Junction, Fife Lake, South Boardman, Kalkaska, Mancelona, Alba, Elmira, Boyne Falls, Walloon Lake, and Petoskey.

Division 5. Beginning at the state line south of Niles, running north through Niles, St. Joseph, Benton Harbor, Watervliet, also from New Buffalo through Stevensville to St. Joseph, South Haven, Holland, Grand Haven, Muskegon, Whitehall, Shelby, Hart, Pentwater, Ludington, Scottville, Manistee, Traverse City, Elk Rapids, Charlevoix, Petoskey, Pellston, Mackinaw City, with a branch from Scottville to Reed City, Evart, Clare, Midland and Bay City, with a branch from Manistee through Arcadia, Frankfort, Empire, Glen Arbor by way of Glen Lake Narrows bridge, Leland, Northport, Omena, Sutton's Bay to Traverse City, with a branch from Muskegon through Holton, Reeman, Fremont, Wooster, White Cloud, Woodville to Big Rapids, with a spur through Northport to the north line of the corporation.

Division 6. Beginning on Michigan avenue in Detroit, thence running via Wayne, Ypsilanti, Ann Arbor, Chelsea, Jackson, Albion, Marshall, Battle Creek, Kalamazoo, Paw Paw, Hartford, Watervliet; with a branch from Battle Creek to Hastings to Middleville following the main traveled road on the northerly side of the Thornapple river, to Caledonia to Grand Rapids.

Division 7. Beginning at St. Ignace and running westward to Manistique, Masonville, Gladstone, Escanaba, Spalding, Iron Mountain, Crystal Falls, Iron River, Watersmeet, Bessemer to Ironwood; with a branch from Spalding to Menominee; also a branch from St. Ignace to some point north of St. Ignace, thence through Pickford to Sault Ste. Marie, over a route to be designated by the state highway commissioner.

Division 8. Beginning at Escanaba and running northerly to Marquette, thence to Negaunee, Ishpeming, Michigamme, L'Anse, Baraga, Houghton to Calumet, to Eagle River, with a branch line from Houghton to Ontonagon.

Division 9. Beginning at the city limits of Detroit on Grand River Avenue, and running northwesterly to Redford, Farmington, New Hudson, Brighton, Howell, Fowlerville, Webberville, Williamston, East Lansing, Lansing, Grand Ledge, Portland and Ionia, with a branch running westerly through Mulliken, Sunfield, Lake Odessa, then westerly to Grand Rapids.

Division 10. Beginning at Ann Arbor, running to Whitmore Lake, Hamburg, Lakeland, Pinckney, Anderson, Gregory, Stockbridge and connecting with the main line at or near Mason: Provided, That the above designated trunk line highways not heretofore established or as such trunk lines are changed by the provisions of this act, or such additional trunk line highways as may be necessary to close gaps in important main highways, portions of which have been established under the provisions of this act, or to give each county its full quota of trunk line mileage, either as main lines or branches from the main lines, may be laid out as follows, to-wit: Upon petition of any county

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through its board of county road commissioners in counties under the county road system or through its board of supervisors in other counties, or upon his own action, the state highway commissioner shall make preliminary surveys and such other investigations as he shall deem necessary of 1 or more routes for state reward trunk line highways, through such county. After an investigation, and within a reasonable time, the state highway commissioner shall submit to the county road commissioners, boards of supervisors, good roads district commissioners or township boards as the case may be, maps showing feasible routes and approximate estimates of cost of building over each of said routes, and thereupon the said board shall decide upon 1 of the said routes which shall then be known as a part of the state reward trunk line highway system. Should said board fail to decide upon a route within a reasonable time, the state highway commissioner shall then designate the route and such route so designated shall then be known as and become a part of the state reward trunk line highway system. The trunk line highway routes within said county shall be such as shall afford a junction with that part of the state reward trunk line highway system established, projected, or capable of projection in an adjoining county. The maximum number of miles of trunk line highway which may receive triple reward in any county shall be computed by multiplying the number of surveyed townships by 3, fractional townships to be computed pro rata.

HISTORY: Am. 1915, p. 164, Act 96, Eff. Aug. 24;—CL 1915, 4852;—Am. 1917, p. 513, Act 240, Imd. Eff. May 10;—Am. 1919, p. 95, Act 58, Eff. Aug. 14;—Am. 1921, p. 408, Act 210, Imd. Eff. May 17;—CL 1929, 4407;—CL 1948, 250.2.

DIVISION 1: Public wagon road in Monroe County, see Act 340 of 1921, being Compilers' § 250.181 et seq.

DIVISION 6: Branch from Paw Paw to Allegan, see Compilers' § 250.161.

DIVISION 8: Bridge between Houghton and Hancock declared part of trunk line highway, see Compilers' § 254.101.

250.3-250.6 Repealed. 1958, p. 83, Act 77, Eff. Sep. 13.

Sections provided for improvement and maintenance of state reward trunk line highways; for payment of triple state reward thereon; and defined duties of various officers.

Sec. 7. (This was an appropriation section.)

HISTORY: CL 1915, 4857;—CL 1929, 4412;—Rep. 1947, p. 170, Act 129, Eff. Oct. 11.

Sec. 8. (This was a tax clause section.)

HISTORY: CL 1915, 4858;—CL 1929, 4413;—Rep. 1947, p. 170, Act 129, Oct. 11.

250.9 Preliminary surveys; employment of engineers and employes.

Sec. 9. The state highway commissioner shall as soon as practicable after the taking effect of this act cause preliminary surveys to be made and establish the routes of the several divisions of the state trunk line highways herein provided for, and he is hereby empowered to employ such engineers, clerks and other employes as may be necessary to carry out the provisions of this act.

HISTORY: CL 1915, 4859;—CL 1929, 4414;—CL 1948, 250.9.

250.31-250.41 Repealed. 1957, p. 345, Act 262, Eff. Jul. 1.

Sections provided for construction, improvement and maintenance of trunk line highways.

Act 17, 1925, p. 25; Eff. Aug. 27.

AN ACT to provide for the construction, improvement and maintenance of trunk line highways.

The People of the State of Michigan enact:

250.61 State trunk line highway; expense and liability; relief of local units.

Sec. 1. On and after January 1, 1960, the cost of constructing, improving and maintaining trunk line highways shall be met entirely by the state, and the counties, townships and incorporated cities and villages shall thereafter be relieved of all expenses and legal liabilities in connection therewith as imposed by section 21 of chapter

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4 and chapter 22 of Act No. 283 of the Public Acts of 1909, as amended, being section 224.21 and sections 242.1 to 242.8 of the Compiled Laws of 1948.

HISTORY: CL 1929, 4425;—CL 1948, 250.61;—Am. 1959, p. 260, Act 185, Eff. Mar. 19, 1960.

250.62 Trunk line highways; construction and maintenance contracts; approval; exception.

Sec. 2. The state highway commission is authorized to contract with boards of county road commissioners, township boards and municipalities of this state, or with any other person, persons, firm or corporation for the construction, improvement and maintenance of trunk line highways, or it may do such work on state account. The state highway commission, subject to the approval of the state administrative board, is authorized, empowered and directed to do all acts or things necessary to carry out the purpose of this act. The highway commission, without such approval, may contract for extra work or labor, or both, not exceeding $10,000.00, under any such contract with a private agency and for an amount not exceeding $250,000.00 under any such contract with boards of county road commissioners, township boards and municipalities of this state.

HISTORY: CL 1929, 4426;—CL 1948, 250.62;—Am. 1968, p. 199, Act 137, Imd. Eff. Jun. 11;—Am. 1969, p. 223, Act 129, Eff. Mar. 20, 1970.

Act 77, 1929, p. 189; Eff. Aug. 28.

AN ACT to provide for the laying out and establishing of trunk line highways through state parks or state institutional grounds, and to connect them with the state trunk line highways, and maintain them.

The People of the State of Michigan enact:

250.71 State trunk line highways through state parks and property; construction.

Sec. 1. The state highway commissioner, subject to the approval of the state administrative board and highway advisory board, is hereby authorized and directed to lay out and establish trunk line highways and other highways as are necessary to, upon or through state parks or other state property, and to build connections between state trunk lines and highways, running to, upon or through state parks and other state property: Provided, That such highways, if and when laid out and established, shall be a part of the total mileage authorized for such year.

HISTORY: CL 1929, 4427;—CL 1948, 250.71.

250.72 State trunk line highways through state parks and property; maintenance; consent for certain highways.

Sec. 2. The state highway commissioner is further authorized to maintain and improve trunk lines or other highways traversing or upon state parks or other state property, and the connecting trunk lines with the above highways in the same manner as state trunk line highways are required by law to be maintained and improved: Provided, That no such trunk line highways or other highways be laid out and constructed, maintained and improved on any property owned by the Michigan state board of agriculture or the regents of the university of Michigan, unless the Michigan state board of agriculture or the regents of the university of Michigan, as the case may be, by resolution approved by 2/3 of its members respectively gives consent to that effect.

HISTORY: CL 1929, 4428;—CL 1948, 250.72.

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Act 90, 1941, p. 108; Imd. Eff. May 16.

AN ACT to provide for the construction, improvement and maintenance of roads and bridges on state property; and to prescribe the powers and duties of the state highway department with respect thereto.

The People of the State of Michigan enact:

250.91 Access roads and bridges on state property; state highway department to construct; engineering assistance to department of administration.

Sec. 1. It shall be the duty of the state highway department to construct, improve and maintain all access roads or bridges on state property, including the property of state institutions, but not including property under the jurisdiction of the department of conservation. Maintenance of roads shall also include the removal of snow and ice.

The state highway department shall provide the department of administration with such technical engineering assistance as the latter may request in arriving at the proper estimated cost of projects recommended to the legislature under the provisions of this section.

HISTORY: CL 1948, 250.91;—Am. 1953, p. 103, Act 106, Eff. Jul. 1, 1954.

250.92 Request for construction or repair; recommendation to legislature.

Sec. 2. When any state department, board, institution or commission shall consider it in the interest of the state that any access road or bridge on property under its control is in need of construction, improvement or maintenance, they shall present a request to the state department of administration, setting forth the necessity of such construction, improvement or maintenance, and the state department of administration shall present its recommendations to the legislature for the making of specific appropriations for the project or projects out of the state trunk line fund.

HISTORY: CL 1948, 250.92;—Am. 1953, p. 103, Act 106, Eff. Jul. 1, 1954.

250.93, 250.94 Repealed. 1953, p. 103, Act 106, Eff. Jul. 1, 1954.

Sections related to authority of state administrative board and highway advisory board, and empowered state highway department to construct or repair access roads and bridges.

Act 19, 1919 (Ex. Ses.), p. 30; Imd. Eff. Jun. 25.

AN ACT to provide for the laying out and establishing of additional trunk line mileage, the same to be added to and connected with the state trunk line highways heretofore established, under the provisions of Act No. 334 of the Public Acts of 1913, as amended.

The People of the State of Michigan enact:

250.101 Additional trunk line highways; preliminary investigation of routes.

Sec. 1. The state highway commissioner is hereby authorized and directed to make such preliminary examinations of the various suggested routes for extending the state trunk line highway system, as he shall deem necessary and for the purpose of arriving at this determination, he may solicit the co-operation of the county road commissioners, the district road commissioners or the township boards, as the case may be. After such investigation the state highway commissioner shall establish not to exceed 500

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miles of additional state trunk line highways on such lines as, in his judgment, are best adapted for serving the demands of public travel, which shall be connected with and form a part of the present state trunk line highway system.

HISTORY: CL 1929, 4429;—CL 1948, 250.101.

NOTE: Act 334 of 1913, referred to in title, is Compilers' §§ 250.1 to 250.9.

Act 12, 1925, p. 20; Eff. Aug. 27.

AN ACT to provide for the laying out and establishing of additional trunk line mileage; to make all roads that have been improved as federal aid projects, and all roads that have been, or that may hereafter be, approved for federal aid, trunk line highways; to provide for the widening, altering or straightening of trunk line highways; to provide for the abandonment, alteration or change of any portion of the trunk line highway; and to repeal all acts and parts of acts inconsistent herewith. Am. 1929, p. 186, Act 74, Eff. Aug. 28.

The People of the State of Michigan enact:

250.111 Additional trunk line highways; federal aid project roads declared trunk line highways.

Sec. 1. The state highway commissioner, subject to the approval of the advisory board to the state highway commissioner and state administrative board, is hereby authorized and directed to lay out and establish not to exceed 500 miles of additional trunk line highways on such routes as are best adapted for serving the demands of public travel in various sections of the state. In addition, all roads that have been improved as federal aid projects, and all roads that have been, or that may hereafter be, approved for federal aid, shall be trunk line highways and subject to all provisions of law relating thereto.

HISTORY: CL 1929, 4430;—CL 1948, 250.111.

FEDERAL AID ROADS: See Compilers' § 249.1 et seq.

250.112 Trunk line highway; widening or altering; approval.

Sec. 2. Whenever the demands of public travel, in the judgment of the state highway commissioner and the state administrative board, require the widening, altering or straightening of any trunk line highway, detailed maps showing such proposed improvement shall be prepared by the state highway commissioner and submitted to the state administrative board for approval. After final approval thereof by both the state highway commissioner and the state administrative board, the state highway commissioner shall be authorized to proceed with the work of such improvement.

HISTORY: CL 1929, 4431;—CL 1948, 250.112.

Sec. 3. (This was a repeal section.)

HISTORY: CL 1929, 4432;—Rep. 1945, p. 406, Act 267, Imd. Eff. May 25.

250.114 Trunk line highway route; alteration, abandonment, hearing of objections; new lines, approval.

Sec. 4. The state highway commissioner, subject to the approval of the advisory board of the state highway commissioner and state administrative board is hereby authorized to change, alter or abandon the location of any portion of any trunk line highway now established or which may hereafter be established by legislative authority whenever such change, alteration or abandonment will, in their opinion, best serve the public interest and will not increase the trunk line mileage: Provided, That the state administrative board shall, before approving the abandonment of any portion of a state trunk line highway, hear the objection of any county road commissioners or the governing body of any township, city or village to whose jurisdiction such portion of

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state trunk line highway would return if abandoned and such county road commission or the governing body of any township, city or village shall be given 30 days' notice by the secretary of the state administrative board of such hearing of abandonment. Any mileage saved by such change, alteration or abandonment of location may be used in the establishment of new trunk lines on routes to be determined by the state highway commissioner, subject to the approval of the advisory board of the state highway commissioner and state administrative board.

HISTORY: Add. 1929, p. 186, Act 74, Eff. Aug. 28;—CL 1929, 4433;—Am. 1943, p. 231, Act 168, Imd. Eff. April 17;—CL 1948, 250.114.
CITED IN OTHER SECTIONS: The above section is cited in § 247.861.

250.115 Trunk line highway; abandonment of part of right of way; easement for public utilities.

Sec. 5. When the board of county road commissioners or the governing body of the city or village to whose jurisdiction any trunk line highway would return upon relinquishment of jurisdiction by the state, by resolution, indicates that it does not wish to accept jurisdiction of the entire width of the right of way of such trunk line highway, the highway commissioner is hereby authorized and empowered to absolutely discontinue and abandon that part of the width of the right of way not accepted. Upon the absolute abandonment and discontinuance of any part of the width of the right of way of a state trunk line highway, public utilities shall have the easement and right to maintain, alter or remove all facilities existing in that portion of such highway absolutely discontinued and abandoned, and the highway commissioner shall make note of such easement and right in the order of discontinuance and abandonment. The commissioner shall record the order in the appropriate register of deeds office. The recording of the order shall constitute the final and absolute abandonment of the portion of the width designated.

HISTORY: Add. 1962, p. 51, Act 62, Eff. Mar. 28, 1963.

Act 61, 1927, p. 77; Imd. Eff. Apr. 23.

AN ACT to provide for the laying out and establishing of additional trunk line mileage.

The People of the State of Michigan enact:

250.121 Additional trunk line highways; layout and establishment.

Sec. 1. The state highway commissioner, subject to the approval of the advisory board of the state highway commissioner, and state administrative board, is hereby authorized and directed to lay out and establish not to exceed 500 miles of additional trunk line highways on such routes as are best adapted for serving the demands of public travel in various sections of the state.

HISTORY: CL 1929, 4434;—CL 1948, 250.121.

Act 7, 1929, p. 19; Eff. Aug. 28.

AN ACT to provide for the laying out and establishing of additional trunk line mileage.

The People of the State of Michigan enact:

250.131 Additional trunk line highways; layout and establishment.

Sec. 1. The state highway commissioner, subject to the approval of the advisory board of the state highway commissioner, and state administrative board, is hereby au-

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thorized and directed to lay out and establish not to exceed 500 miles of additional trunk line highways on such routes as are best adapted for serving the demands of public travel in various sections of the state.

HISTORY: CL 1929, 4435;—CL 1948, 250.131.

Act 27, 1934 (1st Ex. Ses.), p. 103; Imd. Eff. Mar. 28.

AN ACT to provide for the laying out and establishing of additional trunk line mileage.

The People of the State of Michigan enact:

250.141 Repealed. 1958, p. 84, Act 77, Eff. Sep. 13.

Section provided for reduction of road maintenance by counties.

250.142 Additional trunk line highways; layout and establishment for serving public travel demands and other conditions.

Sec. 2. The state highway commissioner, subject to the approval of the advisory board of the state highway commissioner, and the state administrative board, is hereby authorized and directed to lay out and establish not to exceed 500 miles of additional trunk line highways on such routes as are best adapted for serving the demands of public travel and relieving the conditions set forth in the preceding section. Such highways shall thereupon form part of the present state trunk line highway system.

HISTORY: CL 1948, 250.142.

Act 324, 1921, p. 598; Eff. Aug. 18.

AN ACT to authorize and direct the state highway commissioner to lay out and establish a trunk line highway commencing at the section corner common to sections 15, 16, 21 and 22, town 14 north, range 7 west, Wheatland township, Mecosta county, thence running due north through the village of Barryton, Mecosta county, and the village of Marion, Osceola county, to the city of McBain in Missaukee county, thence due north on the township line between town 21 north, range 7 west, and 21 north, range 8 west, to the southwest corner to section 25, town 22 north, range 8 west.

The People of the State of Michigan enact:

250.151 Establishment of trunk line highways; Mecosta, Osceola, Missaukee counties; maintenance.

Sec. 1. The state highway commissioner of the state of Michigan is hereby authorized, empowered and directed to lay out and establish a trunk line highway commencing at the section corner common to sections 15, 16, 21 and 22, town 14 north, range 7 west, Wheatland township, Mecosta county, thence running due north through the village of Barryton, Mecosta county, and the village of Marion, Osceola county, to the city of McBain in Missaukee county, thence due north on the township line between town 21 north, range 7 west, and 21 north, range 8 west, to the southwest corner to section 25, town 22 north, range 8 west, there to connect with previously determined trunk line. Said trunk line highway when so laid out and established shall be subject to all the provisions of law now existing or hereafter enacted with reference to the con-

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struction, improvement, maintenance and marking of trunk line highways generally: Provided, however, That the state highway commissioner shall not be required to maintain said highway, except such portions thereof as are now state trunk lines, for a period of 2 years from and after the passage hereof.

HISTORY: CL 1929, 4436;—CL 1948, 250.151.

Act 341, 1921, p. 626; Eff. Aug. 18.

AN ACT to authorize and direct the state highway commissioner to lay out and establish a trunk line highway from Paw Paw to Gobleville to Allegan.

The People of the State of Michigan enact:

250.161 Establishment of trunk line highways; Paw-Paw to Gobleville to Allegan; maintenance.

Sec. 1. The state highway commissioner is hereby authorized, empowered and directed to lay out and establish a trunk line highway from Paw Paw to Gobleville to Allegan, as a branch of division 6 of the state reward trunk line highways provided for by section 2 of Act No. 334 of the Public Acts of 1913. Said trunk line highway, when so laid out and established, shall be subject to all the provisions of law now existing or hereafter enacted with reference to the construction, improvement, maintenance and marking of trunk line highways generally: Provided, however, That the state highway commissioner shall not be required to maintain such highway, except such portions thereof as are now state trunk lines, for a period of 2 years from and after the passage hereof.

HISTORY: CL 1929, 4437;—CL 1948, 250.161.

NOTE: Sec. 2 of Act 334 of 1913, above referred to, is Compilers' § 250.2.

Act 350, 1921, p. 641; Eff. Aug. 18.

AN ACT to authorize and direct the state highway commissioner to lay out and establish a trunk line highway from a point on the boundary line between the states of Michigan and Indiana southwest to Mottville on the Elkhart road to Port Sanilac in Sanilac county, and from New Buffalo in Berrien county, through Buchanan, Niles, Cassopolis, Vandalia, Fabius, Three Rivers, Fishers' Lake, Mendon, Leonidas, Union City, Burlington, Tekonsha, Homer, Concord, Spring Arbor, to Jackson in Jackson county, passing through certain intermediate towns, villages and cities, to be known and designated as the Colgrove highway.

The People of the State of Michigan enact:

250.171 Establishment of trunk line highways; Colgrove highway between Michigan and Indiana with extensions; location, maintenance.

Sec. 1. The state highway commissioner is hereby authorized, empowered and directed to lay out and establish a trunk line highway from a point on the boundary line between the states of Michigan and Indiana southwest of Mottville on the Elkhart road, thence through Mottville, White Pigeon, Three Rivers (with an extension to Centerville), Kalamazoo, Hastings, Woodland, Ionia, Stanton, (with and [an] extension from Wood's Corners to Belding), Ithaca, St. Charles, with an extension from the quarter corner common to sections 28 and 29, town 12 north, range 3 east, westerly through Merrill to the prime meridian trunk line, Saginaw, Richville east to Kingston (with an extension to Vassar and Wahjamega) thence east through Sandusky to Port Sanilac in Sanilac county, and from New Buffalo in Berrien county, through Bu-

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chanan, Niles, Cassopolis, Vandalia, Fabius, Three Rivers, Mendon, Leonidas, Union City, Burlington, Tekonsha, Homer, Concord, Spring Arbor, to Jackson in Jackson county. The location of said road between the various towns, villages and cities above named shall be determined by the state highway commissioner and the local highway authorities having jurisdiction over the section of the road involved. When so established it shall be known and designated as the Colgrove highway and shall be subject to all the provisions of law now existing or hereafter enacted with respect to maintenance, construction and marking of trunk line roads: Provided, however, That the state highway commissioner shall not be required to maintain said highway, except such portions thereof as are now state trunk lines, for a period of 2 years from and after the passage hereof.

HISTORY: CL 1929, 4438;—CL 1948, 250.171.

CARLETON ROAD: See Compilers' § 250.261.

Act 340, 1921, p. 624; Eff. Aug. 18.

AN ACT to provide for the laying out, establishing, construction, improvement and maintenance of a public wagon road from the city of Monroe in Monroe county to the boundary line between the states of Ohio and Michigan, to designate the character and general location of such road, to define the powers and duties of the state highway commissioner with reference thereto and to provide for the payment of the cost thereof.

The People of the State of Michigan enact:

250.181 Public wagon road in Monroe county; right of way, condemnation, route, title to land taken.

Sec. 1. The state highway commissioner is hereby authorized, empowered and directed to lay out and establish on a suitable and feasible route a public wagon road leading from the city of Monroe in Monroe county to the boundary line between the states of Michigan and Ohio, there to connect with public wagon road extending into the latter state. Said commissioner is hereby authorized to purchase from the owners thereof necessary land for right of way, and in case of inability to reach a satisfactory agreement with any such owners he may institute, in the name of the people of the state of Michigan, condemnation proceedings in the same manner as is or may be provided by law for condemnation proceedings brought and prosecuted by boards of county road commissioners. Said road may be laid out and established along and upon a new route, or along and upon existing wagon roads, in part or wholly, as in the judgment of the said commissioner may be the most feasible and the most conducive to the public welfare and convenience. All land acquired under this section for the purpose of such road shall be taken in the name of the people of the state of Michigan.

HISTORY: CL 1929, 4439;—CL 1948, 250.181.

PURCHASE AND CONDEMNATION OF PROPERTY: See Compilers' § 224.11 et seq. and Act 352 of 1925, being Compilers' § 213.171 et seq.

250.182-250.184 Repealed. 1958, p. 83, Act 77, Eff. Sep. 13.

Sections provided for construction, maintenance and expenses of Monroe county wagon road.

250.191-250.193 Repealed. 1958, p. 83, Act 77, Eff. Sep. 13.

Sections provided for highway facilities between cities of Detroit and Pontiac.

250.201-250.208, 250.211-250.220 Repealed. 1958, p. 84, Act 77, Eff. Sep. 13.

Sections authorized state to contract with a railroad for surrender of its charter and for acquisition of property for new right of way for said company; also authorized advancement of money to company for certain costs and specified procedure for repayment to state.

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Act 274, 1929, p. 675; Eff. Aug. 28.

AN ACT to prohibit counties, townships, cities and villages from vacating and altering state highways and to repeal certain acts and parts of acts inconsistent with the provisions of this act.

The People of the State of Michigan enact:

250.231 Alteration or vacation of state highway; prohibition.

Sec. 1. No county, township, city or village shall vacate or alter the route of or possess the power to vacate or alter any state highway which has been duly designated as such.

HISTORY: CL 1929, 4206.—CL 1948, 250.231.

Sec. 2. (This was a repeal section.)

HISTORY: CL 1929, 4207.—Rep. 1947, p. 169, Act 129, Eff. Oct. 11.

ACT REPEALED: Sec. 28, Ch. 1, and Secs. 5-7, Ch. 16, and Sec. 5, Ch. 20, Act 283, 1909, insofar as inconsistent. These sections are Compilers' §§ 221.26, 236.5-236.7, and 240.5, respectively.

Act 63, 1943, p. 68; Imd. Eff. Mar. 31.

AN ACT to authorize the department of agriculture to grant an easement on certain property in the city of Detroit, Wayne county, Michigan, to the Grand Trunk Western Railroad Company.

The People of the State of Michigan enact:

250.241 Perpetual user easements; granted by department of agriculture; parcels of land described; duration of easements.

Sec. 1. In consideration of conveyance by warranty deed of a certain triangular parcel of land by the Industrial Land Company, a subsidiary of the Grand Trunk Western Railroad Company, as described in said warranty deed, the department of agriculture of the state of Michigan, acting by and through the commissioner of agriculture, is hereby authorized to grant unto the Grand Trunk Western Railroad Company perpetual user easements, so-called, to run with the land, of the following described 3 parcels of land adjacent and parallel to the Grand Trunk's right of way at and near its intersection with State Fair avenue in the city of Detroit, Michigan, to be occupied by embankments of filling material necessary to laterally support the roadbed and tracks of the railroad company, and incidental uses relating thereto in connection with and as a part of the construction of a grade separation at the said intersection of State Fair avenue and the Grand Trunk's right of way and tracks in the city of Detroit, said 3 parcels of land being more particularly described as follows, to wit:

Parcel 1.

A parcel of land 10 feet in width adjacent to the westerly property line of the Grand Trunk Western Railroad Company and southerly from State Fair avenue, in the N.W. 1/4 of N.E. 1/4 of the S.E. 1/4 of section 2, T. 1 S., R. 11 E., Greenfield township, Wayne county, Michigan, more particularly described as:

Commencing at the intersection of the southerly line of State Fair avenue and the westerly property line of the Grand Trunk Western Railroad Company, described as being 50 feet westerly at right angles from and parallel to the center line of the present westward main track of the railroad; thence westerly along the southerly line of State Fair avenue a distance of 11.59 feet to a point which is 10 feet westerly of the westerly property line of the railroad measured at right angles therefrom; thence southeasterly in a straight course parallel with the said westerly property line of the

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railroad a distance of 280.19 feet to a point; thence easterly parallel with the southerly line of the State Fair avenue a distance of 11.59 feet to a point in the aforesaid westerly property line of the railroad; thence northwesterly on the westerly property line of the railroad a distance of 280.19 feet to point of beginning, containing an area of .064 acres, more or less.

Parcel 2.

A parcel of land 15 feet in width adjacent to the easterly property line of the Grand Trunk Western Railroad Company north of State Fair avenue, in the east 1/2 of the S.W. 1/4 of the N.E. 1/4 of section 2, T. 1 S., R. 11 E., Greenfield township, Wayne county, Michigan, more particularly described as:

Commencing at the intersection of the easterly north and south 1/8 line of section 2, and the easterly property line of the Grand Trunk Western Railroad, described as being 34 feet easterly at right angles from and parallel to the center line of the present westward main track of the railroad; thence in a northwesterly direction on the said easterly property line of the railroad a distance of 1102.12 feet to a point in the northerly east and west 1/8 line of said section 2; thence easterly on said 1/8 line a distance of 17.19 feet to a point; thence in a southeasterly direction parallel with and distant 15 feet easterly measured at right angles from the easterly property line of the railroad a distance of 1067.76 feet to a point in the aforesaid easterly north and south 1/8 line; thence southerly on said 1/8 line a distance of 29.99 feet to the point of beginning, containing an area of 0.374 acres, more or less.

Parcel 3.

A parcel of land 20 feet in width adjacent to the westerly property line of the Grand Trunk Western Railroad Company north of State Fair avenue, in the E. 1/2 of the S.W. 1/4 of the N.E. 1/4 of section 2, T. 1 S., R. 11 E., Greenfield township, Wayne county, Michigan, more particularly described as:

Commencing at the intersection of the easterly north and south 1/8 line of section 2, and the westerly property line of the Grand Trunk Western Railroad, described as being 38 feet westerly at right angles from and parallel to the center line of the present westward main track of the railroad; said point being 236.61 feet north of the center line of State Fair avenue, said center line being also the east and west 1/4 line of section 2; thence in a northwesterly direction on the westerly property line of the railroad a distance of 652.39 feet to a point; thence westerly at right angles to the last described course a distance of 20 feet to a point; thence in a southeasterly direction parallel with the western property line of the railroad a distance of 687.02 feet to a point in the aforesaid north and south 1/8 line of section 2; thence northerly on said 1/8 line a distance of 39.99 feet to the point of beginning, containing an area of 0.308 acres, more or less.

The user easements hereby granted are to continue for so long as they may be required by the Grand Trunk Western Railroad Company, its successors and assigns, for railroad purposes.

HISTORY: CL 1948, 250.241.

Act 282, 1929, p. 695; Imd. Eff. May 22.

AN ACT to validate instruments conveying title to the state of certain lands for state trunk line highways and to authorize the sale of such parts of said lands as are not needed for trunk line highways.

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The People of the State of Michigan enact:

250.251 Contracts and instruments to Rogers and Seeley legalized.

Sec. 1. All contracts, deeds or other instruments conveying to the state, through Frank F. Rogers and Thad D. Seeley, trustees, certain lands for state trunk line highways, are hereby approved and declared to be legal transfers of such lands to the state.

HISTORY: CL 1929, 4464;—CL 1948, 250.251.

ACT 295 OF 1927: Had a similar purpose and the same wording as this act. Act 295 of 1927 was given immediate effect on May 31.

250.252 Rogers and Seeley authorized to convey land.

Sec. 2. Said Frank F. Rogers and Thad D. Seeley, as such trustees, are hereby authorized to sell any of such lands not needed for trunk line highways and execute proper conveyances of title thereto: Provided, That such conveyances shall be made at such time and upon such terms as the state administrative board shall direct.

HISTORY: CL 1929, 4465;—CL 1948, 250.252.

Act 113, 1925, p. 154; Eff. Aug. 27.

AN ACT to provide that state trunk line highway number 34 shall hereafter be known as "Carleton road".

The People of the State of Michigan enact:

250.261 Carleton road, state road number 34.

Sec. 1. Hereafter state trunk line highway number 34, beginning at the state line and passing through Blissfield, Adrian, Hudson, Hillsdale, Jonesville, Litchfield and terminating at Homer, shall be known and designated as "Carleton road".

HISTORY: CL 1929, 4467;—CL 1948, 250.261.

COLGROVE HIGHWAY: See Compilers' § 250.171.

Act 118, 1941, p. 147; Eff. Jan. 10, 1942.

AN ACT to designate M-53, from Detroit, Wayne county, through Macomb, Lapeer and Sanilac counties, to Port Austin in Huron county, as the "Earle Memorial Highway."

The People of the State of Michigan enact:

250.271 Earle memorial highway; designation.

Sec. 1. Whereas, Horatio S. Earle, generally known as the father of good roads in the state of Michigan, laid out and instigated M-53, a great artery of traffic serving agricultural districts and tying them in with the great metropolitan district of Detroit; M-53, from Detroit, Wayne county, through Macomb, Lapeer and Sanilac counties, to Port Austin in Huron county, is hereby designated and shall be known as the "Earle Memorial Highway."

HISTORY: CL 1948, 250.271.

Act 104, 1949, p. 109; Eff. Sep. 23.

AN ACT designating a United Spanish War Veterans' Memorial Highway in the upper peninsula of the state of Michigan, and prescribing the duties of the state highway commissioner in respect thereto.

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The People of the State of Michigan enact:

250.281 United Spanish war veterans' memorial highway.

Sec. 1. The highway now known as U.S. 2 from Sault Ste. Marie to St. Ignace, U.S. 2 from St. Ignace to Gladstone, M 35 from Gladstone to Wells, U.S. 2 and M 41 from Wells to Spaulding, U.S. 2 from Spaulding to Iron Mountain, M 95 and M 69 from Iron Mountain to Sagola, M 69 from Sagola to Crystal Falls, and U.S. 2 from Crystal Falls to Ironwood in the upper peninsula of the state of Michigan to pass through 8 of the 15 counties, namely: Chippewa, Mackinac, Schoolcraft, Delta, Menominee, Dickinson, Iron and ending at Ironwood in Gogebic county in the state of Michigan, is hereby declared to be and henceforth shall be known as the "United Spanish War Veterans' Memorial Highway."

HISTORY: New 1949, p. 109, Act 104, Eff. Sep. 23.

250.282 United Spanish war veterans' memorial highway; markers.

Sec. 2. The state highway commissioner shall provide for the erection of suitable markers upon said highway indicating the name of the highway.

HISTORY: New 1949, p. 109, Act 104, Eff. Sep. 23.

Act 70, 1952, p. 76; Eff. Sep. 18.

AN ACT naming United States route No. 16 the "Arthur Vandenberg memorial highway" in the state of Michigan; and prescribing the duties of the state highway commissioner with respect thereto.

The People of the State of Michigan enact:

250.291 Arthur Vandenberg memorial highway.

Sec. 1. The highway known as United States route No. 16, running from Detroit to Grand Rapids and to Muskegon, ending at Lake Michigan, in the state of Michigan, is hereby declared to be and henceforth shall be known as the "Arthur Vandenberg memorial highway."

HISTORY: New 1952, p. 76, Act 70, Eff. Sep. 18.

250.292 Arthur Vandenberg memorial highway; erection of markers.

Sec. 2. The state highway commissioner shall provide for the erection of suitable markers upon said highway indicating the name of the highway.

HISTORY: New 1952, p. 76, Act 70, Eff. Sep. 18.

Act 71, 1952, p. 77; Eff. Sep. 18.

AN ACT naming United States route No. 31 and a portion of United States route No. 2 the "Blue Star memorial highway" in the state of Michigan.

The People of the State of Michigan enact:

250.301 Blue Star memorial highway.

Sec. 1. The highway now known as United States route No. 31, running from the Indiana-Michigan state line to the straits of Mackinac, and that portion of United States route No. 2 running from the straits of Mackinac to Sault Ste. Marie, in the state of Michigan, is hereby declared to be and shall henceforth be known as the "Blue Star Memorial Highway."

HISTORY: New 1952, p. 77, Act 71, Eff. Sep. 18.

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Act 11, 1953, p. 11; Imd. Eff. Mar. 31.

AN ACT naming United States route No. 112 the "Pulaski memorial highway" in the state of Michigan; and prescribing the duties of the state highway commissioner with respect thereto.

The People of the State of Michigan enact:

250.311 Pulaski memorial highway.

Sec. 1. The highway known as United States route No. 112, running from Detroit to New Buffalo, ending at Lake Michigan, in the state of Michigan, is hereby declared to be and henceforth shall be known as the "Pulaski memorial highway".

HISTORY: New 1953, p. 11, Act 11, Imd. Eff. Mar. 31.

250.312 Pulaski memorial highway; erection of markers.

Sec. 2. The state highway commissioner shall provide for the erection of suitable markers upon said highway indicating the name of the highway.

HISTORY: New 1953, p. 11, Act 11, Imd. Eff. Mar. 31.

Act 80, 1954, p. 100; Eff. Aug. 13.

AN ACT naming United States route No. 25, running from the Michigan-Ohio border line north through Michigan to Detroit, Michigan, the "Clara Barton Memorial Highway"; and prescribing the duties of the state highway commissioner with respect thereto.

The People of the State of Michigan enact:

250.321 Clara Barton memorial highway.

Sec. 1. The highway known as United States route No. 25, running from the Michigan-Ohio border line north through Michigan to Detroit, Michigan, is hereby declared to be and henceforth shall be known as the "Clara Barton Memorial Highway".

HISTORY: New 1954, p. 100, Act 80, Eff. Aug. 13.

250.322 Clara Barton memorial highway; erection of markers.

Sec. 2. The state highway commissioner shall provide for the erection of suitable markers upon said highway indicating the name of the highway.

HISTORY: New 1954, p. 100, Act 80, Eff. Aug. 13.

Act 93, 1954, p. 110; Eff. Aug. 13.

AN ACT naming United States Route No. 31, running from the Muskegon-Oceana county line north through the counties of Oceana and Mason, the "Pere Marquette memorial highway"; and prescribing the duties of the state highway commissioner with respect thereto.

The People of the State of Michigan enact:

250.331 Pere Marquette memorial highway.

Sec. 1. That portion of the highway known as "United States route No. 31", running from the Muskegon-Oceana county line north through the counties of Oceana and Mason is hereby declared to be and henceforth shall be known as the "Pere Marquette memorial highway".

HISTORY: New 1954, p. 110, Act 93, Eff. Aug. 13.

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250.332 Pere Marquette memorial highway; erection of markers.

Sec. 2. The state highway commissioner shall provide for the creation of suitable markers upon said highway indicating the name of the highway.

HISTORY: New 1954, p. 110, Act 93, Eff. Aug. 13.

Act 86, 1955, p. 133; Eff. Oct. 14.

AN ACT naming Michigan Route No. 102, commencing at the intersection of Michigan Route No. 102 and U.S. Route No. 16, east along Michigan Route No. 102 to the intersection of Michigan Route No. 102 and U.S. Route No. 25, said portion of Michigan Route No. 102 to be known as the "Columbus Memorial Highway".

The People of the State of Michigan enact:

250.341 Columbus memorial highway.

Sec. 1. The highway known as Michigan Route No. 102, running east from the intersection of U.S. Route No. 16, commonly known as Grand River avenue, and Michigan Route No. 102 east to the intersection of U.S. Route No. 25 and Michigan Route No. 102, shall be known as the Columbus Memorial Highway.

HISTORY: New 1955, p. 133, Act 86, Eff. Oct. 14.

250.342 Columbus memorial highway; erection of markers.

Sec. 2. The state highway commissioner shall provide for the erection of suitable markers upon certain highways indicating the name of the highway.

HISTORY: New 1955, p. 133, Act 86, Eff. Oct. 14.

Act 144, 1959, p. 205; Eff. Mar. 19, 1960.

AN ACT naming a certain portion of United States Routes 2 and 41 and Michigan Route 35 the "Amvets Memorial Drive."

The People of the State of Michigan enact:

250.351 Amvets Memorial Drive.

Sec. 1. That portion of United States Routes 2 and 41 and Michigan Route 35 from the north city limits of the city of Escanaba running north 1-1/10 miles to the junction of county road number 426, also known as the extension of Sheridan avenue, shall be known and designated as the "Amvets Memorial Drive".

HISTORY: New 1959, p. 205, Act 144, Eff. Mar. 19, 1960.

250.352 Amvets Memorial Drive; erection of markers.

Sec. 2. The state highway department shall be put to no expense for the purchase of markers for the memorial drive or for the shrubbery in landscaping around the markers. Amvets Escanaba Post No. 123 of the City of Escanaba, under the direction of the state highway department, shall finance the purchase and erection of suitable signs indicating the name of the memorial highway at both the north and south portions of the highway so designated.

HISTORY: New 1959, p. 205, Act 144, Eff. Mar. 19, 1960.

Act 170, 1959, p. 239; Eff. Mar. 19, 1960.

AN ACT to designate certain portions of Michigan's highways; and to provide for the erection of suitable markers.

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The People of the State of Michigan enact:

250.361 Mackinac Trail.

Sec. 1. That portion of United States Route No. 131 from the Indiana-Michigan state line to the junction with Michigan Route No. 66 is hereby designated and shall be known as the "Mackinac Trail".

HISTORY: New 1959, p. 239, Act 170, Eff. Mar. 19, 1960.

250.362 Green Arrow Route.

Sec. 2. That portion of Michigan Route No. 78 from the Indiana-Michigan state line to the junction with Michigan Route No. 66, that portion of Michigan Route No. 66 from the junction of Michigan Route No. 78 to the junction with United States Route No. 131, shall be known as the "Green Arrow Route".

HISTORY: New 1959, p. 240, Act 170, Eff. Mar. 19, 1960.

250.363 Green Arrow Route-Mackinac Trail.

Sec. 3. That portion of United States Route No. 131 from the junction of Michigan Route No. 66 to the junction with United States Route No. 31, that portion of United States Route No. 31 from the junction of United States Route No. 131 to the Straits of Mackinac, shall be known as the "Green Arrow Route-Mackinac Trail".

HISTORY: New 1959, p. 240, Act 170, Eff. Mar. 19, 1960.

250.364 Markers; landscaping.

Sec. 4. The state highway department shall be put to no expense for the purchase of such markers which designate these routes or for landscaping around markers. Municipalities along the route and other groups under the direction of the state highway department may finance the purchase and erection of such signs and landscaping.

HISTORY: New 1959, p. 240, Act 170, Eff. Mar. 19, 1960.

250.365 Memorial highways; additional designations.

Sec. 5. Any portion of these highways which have been previously designated as a memorial highway shall continue to carry such designation in addition to the designation prescribed by this act.

HISTORY: New 1959, p. 240, Act 170, Eff. Mar. 19, 1960.

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CHAPTER 252. HIGHWAYS—SUPER-HIGHWAYS

SUPER-HIGHWAYS

Act 381 of 1925

252.1 Inter-county highways, super-highways, limited access highways; inter-county contract, renewal, term.
252.2 Inter-county, super and limited access highways; definitions.
252.3 Inter-County highway commission; members.
252.4 Inter-county highway commission; plan, recording; plats, buildings, rules.
252.5 Inter-county highway commission; expenses.
252.6 Inter-county highway commission; officers, employees, records, warrants, reports, depositions, interest.
252.7 Inter-county highway commission; treasurer, compensation, bond; moneys, payments on warrants and orders.
252.8 Inter-county highway fund; creation, disbursement.
252.9 Repealed.
252.10 Inter-county highway contract; obligations.
252.11 Inter-county highway; ordinances; rights-of-way.
252.12 Jurisdiction retained by state highway department.

LIMITED ACCESS HIGHWAYS

Act 205 of 1941

252.51 Limited access highways; definition.
252.52 Limited access highways; establishment, improvement, discontinuance; commercial enterprises prohibited.
252.53 Authority to acquire property; purchase, gift, devise or condemnation.
252.54 Limited access highways; authority to acquire entire lot, block or plat of land.
252.55 Limited access highways; intersections; elimination; establishment in future prohibited.
252.56 Limited access highways; plans for construction or improvement; estimate of cost, approval.
252.57 Limited access highways; contracts for construction or improvement; allocation of cost, approval.
252.58 Limited access highways; contributions and pledges of funds; payment; limitation.
252.59 Limited access highways; county, city, or village contributions, payment procedure.
252.60 Limited access highways; federal aid.
252.61 Limited access highways; bonds, issuance, approval, resolution; lien; maximum.
252.62 Highway projects; issuance of dedicated tax bonds, source of payment.
252.63 Highway projects; registration of bonds or notes; exchange.
252.64 Scope of act.

TURNPIKE PROJECTS

Act 176 of 1953

252.101-252.126 Repealed.

RELOCATION PLANS FOR PERSONS DISPLACED BY HIGHWAY PROJECTS

Act 347 of 1966

252.131 Relocation of persons displaced by certain highway projects; costs.
252.132 Relocation of persons; hearings and approval by state administrative or hearing board.
252.133 Demolition of residential dwellings; certificate of relocation; failure to file, effect, procedure.
252.134 Construction contracts; letting; approval; administrative board resolutions.
252.135 Effective date of act.

RELOCATION ASSISTANCE FOR PERSONS DISPLACED BY ACQUISITION OF PROPERTY FOR HIGHWAYS

Act 31 of 1970

252.141 Highways, displaced persons, relocation; federal funds.
252.142 State funds; limitations; rules.
252.143 Assistance independent of condemnation.

ARBITRATION OF DISPUTES INVOLVING INTERSTATE HIGHWAY ROUTES

Act 12 of 1967 (Ex. Ses.)

252.151 Arbitration of interstate highway route locations; definitions.
252.152 Review of highway location; arbitration; procedure; notice; voluntary arbitration.
252.153 Highway location arbitration board; members, qualification, appointment.
252.154 Highway location arbitration board; convening time; notice to affected municipalities.
252.155 Highway location arbitration board; submission of maps by municipality, time; content; copies.
252.156 Highway location arbitration board; duties; additional maps and information; approval of location, time; notice.
252.157 Approval of board; consent to designation of route; acquisition of property.
252.158 Highway location arbitration board; appropriation.

CONTROL OF JUNKYARDS ADJACENT TO HIGHWAYS

Act 219 of 1966

252.201 Junkyards adjacent to interstate and primary highways; definitions.
252.202 Purpose of act; regulation; nonconforming junkyards, public nuisance.
252.203 Screening of junkyards; prohibited areas; exceptions.
252.204 Screening or removal of nonconforming junkyards; removal cost.
252.205 Screening by state highway department; acquisition of land.
252.206 Junkyards; relocation, removal or disposal; costs.
252.207 Construction or maintenance of junkyards; rules and regulations; standards.
252.208 Injunction to compel conformity to statutory requirements.
252.209 Construction of act.
252.210 Control of junkyards; agreement with United States secretary of commerce.

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252.211 Interests in land to be acquired; methods.

HIGHWAY BEAUTIFICATION PROGRAM

Act 333 of 1966

252.251 Highway scenic and rest areas; definitions.
252.252 Acquisition of property; scenic and rest areas.
252.253 Acquisition of property; methods; estates acquired.
252.254 Outdoor advertising adjacent to interstate and primary highway systems; findings.
252.255 Outdoor advertising; prohibition; signs, exception.
252.256 Outdoor advertising; signs in business areas; requirements.
252.257 Outdoor advertising; prohibited signs.
252.258 Local zoning codes; commercial or industrial areas.
252.259 Outdoor advertising; compensation for signs removed after effective date of act.
252.260 Outdoor advertising; agreements with secretary of commerce.
252.261 Unlawful advertising; removal, procedure; jurisdiction.
252.262 Violation of act; misdemeanor.

Act 381, 1925, p. 747; Eff. Aug. 27.

AN ACT to authorize certain counties to combine for the purpose of planning systems of inter-county highways, super-highways and limited access highways; to define the terms "super-highways" and "limited access highways"; to authorize the establishment of inter-county highway commissions; to prescribe their powers and duties; to provide for the appropriation of funds therefor; and to empower counties to legislate with respect thereto. Am. 1955, p. 296, Act 195, Imd. Eff. Jun. 17.

The People of the State of Michigan enact:

252.1 Inter-county highways, super-highways, limited access highways; inter-county contract, renewal, term.

Sec. 1. Any 2 or more counties may by their boards of supervisors contract for the purpose of planning a system of inter-county highways, super-highways and limited access highways for such counties, and may bind themselves thereto by resolution adopted by a 2/3 vote of the board of supervisors of each county so combining, for a term of not to exceed 5 years; and when the term of any contract made hereunder shall have expired, such contract may be renewed from time to time for additional terms of not to exceed 5 years subject to the other provisions of this act.

HISTORY: CL 1929, 4468;—CL 1948, 252.1;—Am. 1955, p. 296, Act 195, Imd. Eff. Jun. 17.

252.2 Inter-county, super and limited access highways; definitions.

Sec. 2. The term "super-highway" shall include any highway of a width ranging from 120 to 204 feet or more and in special instances of a width of not less than 106 feet and when established shall be deemed a public highway. The term "limited access highway" shall include such highways as are especially designed for through traffic, and over, from or to which owners or occupants of abutting land have no easement or right of light, air or access by reason of such abuttal. Super-highways or limited access highways may be parkways, with or without landscaped roadsides, from which trucks, buses and other commercial vehicles may be excluded; or they may be motorways open to use by all common forms of highway traffic.

HISTORY: CL 1929, 4469;—CL 1948, 252.2;—Am. 1955, p. 296, Act 195, Imd. Eff. Jun. 17.

252.3 Inter-County highway commission; members.

Sec. 3. When any 2 or more adjoining counties combine under the terms of this act, they shall establish an inter-county highway commission which shall be composed of the state highway commissioner or his deputy, and 6 members from each of the counties participating, as follows: the 3 county road commissioners, the chairman of the county board of supervisors, and 2 members selected by the board of supervisors who

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shall be members thereof: Provided, however, That if a roads and bridges committee has been established by said county board of supervisors, the chairman of such committee shall be 1 of the 2 members thus selected: Provided further, That if a regional planning commission, created under the provisions of Act No. 281 of the Public Acts of 1945, as amended, being sections 125.11 to 125.23, inclusive, of the Compiled Laws of 1948, has been or shall be formed in any of the counties participating hereunder, the director of such regional planning commission shall be an ex officio member of the inter-county highway commission.

HISTORY: Am. 1927, p. 490, Act 255, Eff. Sep. 5;—CL 1929, 4470;—CL 1948, 252.3;—Am. 1955, p. 296, Act 195, Imd. Eff. Jun. 17.

252.4 Inter-county highway commission; plan, recording; plats, buildings, rules.

Sec. 4. It shall be the duty of said commission to prepare an inter-county highway plan for the participating counties and to designate thereon the proposed highways, their width, the counties through or into which they will run, and if these are existing highways, the additional right-of-way requirements therefor necessary to obtain the width desired. After such plan has been approved by the governing body of each incorporated city and village affected thereby, the commission shall record a copy thereof in the office of the register of deeds in each participating county. After the plan has been recorded as aforesaid, no plat of land in said district shall be accepted which is not in conformity with said plan. No structure shall be built on the land within the lines of any proposed highway except on a permit granted by said commission. The counties may in their contract provide rules and regulations governing the procedure of the said commission.

HISTORY: CL 1929, 4471;—CL 1948, 252.4;—Am. 1955, p. 297, Act 195, Imd. Eff. Jun. 17.

252.5 Inter-county highway commission; expenses.

Sec. 5. Members of the commission shall receive actual expenses necessarily incurred in the performance of their duties.

HISTORY: CL 1929, 4472;—CL 1948, 252.5;—Am. 1955, p. 297, Act 195, Imd. Eff. Jun. 17.

252.6 Inter-county highway commission; officers, employees, records, warrants, reports, depositions, interest.

Sec. 6. The commission shall name its officers from its membership, except as herein otherwise provided, and shall have power to engage such engineers, attorneys, officers, agents and such other employees as may be necessary, within the limitation of funds provided by the participating counties. It shall keep a record of its proceedings and designate 2 or more of its members to sign and countersign all warrants and orders on its treasurers. It shall make an annual report to each county in the district of money received and expended. It may designate a national bank, a state bank, or a trust company organized under Michigan law as the depository or depositories of its funds and arrange for interest on daily balances.

HISTORY: CL 1929, 4473;—CL 1948, 252.6;—Am. 1955, p. 297, Act 195, Imd. Eff. Jun. 17.

252.7 Inter-county highway commission; treasurer, compensation, bond; moneys, payments on warrants and orders.

Sec. 7. The commission shall appoint the county treasurer of 1 of the participating counties in the district as the treasurer of said commission, for all funds of the commission. He shall serve without compensation for this service and shall under his bond be responsible for the safe keeping of said money, and shall pay out said money only on warrants and orders signed and countersigned as said commission under the terms hereof may determine.

HISTORY: CL 1929, 4474;—CL 1948, 252.7;—Am. 1955, p. 297, Act 195, Imd. Eff. Jun. 17.

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252.8 Inter-county highway fund; creation, disbursement.

Sec. 8. Each participating county shall pay annually into the treasury of said commission such sums as shall have been agreed upon under contract executed pursuant to section 1 hereof, and such additional sums as may from time to time be approved by a majority vote of the members elect of the board of supervisors of each county. The sums of money so received shall together constitute the inter-county highway fund which shall be disbursed as said commission may determine.

HISTORY: Am. 1927, p. 490, Act 255, Eff. Sep. 5;—CL 1929, 4475;—CL 1948, 252.8;—Am. 1955, p. 297, Act 195, Imd. Eff. Jun. 17.

252.9 Repealed. 1955, p. 298, Act 195, Imd. Eff. Jun. 17.

Section related to donations, dedications, purchase and condemnation of property and railroad right of way.

252.10 Inter-county highway contract; obligations.

Sec. 10. After contracting to participate for the purposes hereof, no act or happening shall excuse any county from its obligations hereunder.

HISTORY: CL 1929, 4477;—CL 1948, 252.10;—Am. 1955, p. 297, Act 195, Imd. Eff. Jun. 17.

252.11 Inter-county highway; ordinances; rights-of-way.

Sec. 11. The board of supervisors of each county participating hereunder, shall have power to pass all ordinances which shall be necessary and proper for carrying into execution the foregoing powers, and may by ordinance regulate and control the rights-of-way established under any inter-county highway developed hereunder until such rights-of-way are acquired as provided by law.

HISTORY: CL 1929, 4478;—CL 1948, 252.11;—Am. 1955, p. 297, Act 195, Imd. Eff. Jun. 17.

252.12 Jurisdiction retained by state highway department.

Sec. 12. Nothing herein shall be construed to take from the state highway department any jurisdiction that it may have over any state trunk line highway now or hereafter established.

HISTORY: CL 1929, 4479;—CL 1948, 252.12.

Sec. 13. (This was a severing clause section.)

HISTORY: CL 1929, 4480;—Rep. 1945, p. 413, Act 267, Imd. Eff. May 25.

Act 205, 1941, p. 306; Eff. Jan. 10, 1942.

AN ACT to provide for the construction, establishment, opening, use, discontinuing, vacating, closing, altering, improvement, and maintenance of limited access highways; the acquiring of property and property rights therefor; closing or other treatment of intersecting roads; the borrowing of money and issuing bonds or notes payable from special funds for the acquisition, construction or improvement of such highways. Am. 1950, Ex. Ses., p. 28, Act 22, Imd. Eff. Jun. 7.

The People of the State of Michigan enact:

252.51 Limited access highways; definition.

Sec. 1. For the purposes of this act, limited access highways are defined as highways specially designed for through traffic, and over, from or to which owners or occupants of abutting land have no easement or right of light, air or access by reason of such abuttal. Such highways may be parkways, with or without landscaped roadsides, from which trucks, buses and other commercial vehicles are excluded; or they may be motorways open to use by all common forms of highway traffic.

HISTORY: CL 1948, 252.51.

CITED IN OTHER SECTIONS: Sections 252.51 to 252.64 are cited in §§ 247.661, 247.703, 280.322, and 487.531.

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252.52 Limited access highways; establishment, improvement, discontinuance; commercial enterprises prohibited.

Sec. 2. The state highway commissioner, boards of county road commissioners, and cities and villages, either acting alone or in cooperation with each other or with any federal, state or local agency having authority to participate in the construction and maintenance of highways, are hereby authorized to establish, open, discontinue, vacate, close, alter, improve, maintain and provide for the public use of limited access highways: Provided, Within cities and villages, such authority shall continue to be subject to municipal consent, as now provided by section 1 (i) of Act No. 352 of the Public Acts of 1925, as amended, being section 213.171 of the Compiled Laws of 1948. No commercial enterprise shall be authorized or conducted within or on property required for or designated as a limited access highway.

HISTORY: CL 1948, 252.52;—Am. 1952, p. 169, Act 147, Eff. Sep. 18;—Am. 1957, p. 207, Act 174, Eff. Sep. 27.

252.53 Authority to acquire property; purchase, gift, devise or condemnation.

Sec. 3. For the purposes of this act, the aforesaid agencies may acquire private property and property rights by purchase, gift, devise, or condemnation, and the provisions of any existing laws of this state shall apply. All property rights acquired under the provisions of this act shall be in fee simple or other appropriate estate.

HISTORY: CL 1948, 252.53;—Am. 1952, p. 169, Act 147, Eff. Sep. 18.

252.54 Limited access highways; authority to acquire entire lot, block or plat of land.

Sec. 4. Whenever it becomes necessary to acquire any real property for use in connection with the location, construction, reconstruction, improvement and maintenance of any limited access highway or section thereof, said agencies may in their discretion acquire an entire lot, block, or tract of land, if by so doing the interests of the public will be best served, even though said entire tract is not needed for right-of-way proper.

HISTORY: CL 1948, 252.54.

252.55 Limited access highways; intersections; elimination; establishment in future prohibited.

Sec. 5. Any such agency shall have authority to provide for the elimination of intersections of limited access highways with existing state and county roads, city and village streets and private driveways, by grade separation, access or service road, or by closing off such roads, streets and driveways at the boundary line of such limited access highway, but only with the consent of the county, city or village; and after the establishment of any limited access highway, no road which is not part of said limited access highway system shall run into or intersect the same at grade.

HISTORY: CL 1948, 252.55;—Am. 1952, p. 169, Act 147, Eff. Sep. 18.

252.56 Limited access highways; plans for construction or improvement; estimate of cost, approval.

Sec. 6. Whenever the state highway commissioner and any county, city or village shall agree to acquire, construct, or improve any limited access highway or highways as defined by this act, the state highway commissioner shall procure plans and specifications for such project and an estimate of the cost thereof. The board of county road commissioners and the board of supervisors of the county and the legislative body of such city or village shall, by resolution, approve such plans, specifications and estimate of cost.

HISTORY: Add. 1950, Ex. Ses., p. 28, Act 22, Imd. Eff. Jun. 7.

Original section 6 of Act 205, 1941, p. 306, was a severing clause section and was repealed by Act 267 of 1945.

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252.57 Limited access highways; contracts for construction or improvement; allocation of cost, approval.

Sec. 7. The state highway commissioner and any county, city or village, after approval of the plans and specifications and estimate of cost as aforesaid, may enter into a contract or contracts providing for the acquisition, construction or improvement of the limited access highways proposed, which contract or contracts shall provide for the allocation of the share of the cost thereof to be borne by each of said governmental units and provide for the payment of the share of the cost thereof to be borne by each such governmental unit in annual installments for a period of not exceeding 30 years. Such contract or contracts shall be executed by the state highway commissioner, after approval thereof by resolution of the state administrative board, and by the board of county road commissioners of each contracting county, subject to the approval of the board of supervisors, and by each city or village, pursuant to resolution of their respective legislative bodies.

HISTORY: Add. 1950, Ex. Ses., p. 29, Act 22, Imd. Eff. Jun. 7.

252.58 Limited access highways; contributions and pledges of funds; payment; limitation.

Sec. 8. For the purpose of carrying out the provisions of this act, and to enable such limited access highways to be constructed, the state highway commissioner is authorized to make annual contributions to the cost thereof as hereinbefore provided, and to make an irrevocable pledge of funds of the state highway department derived from taxes imposed upon gasoline or other motor fuels, and on motor vehicles registered in the state for the purpose of meeting its annual obligations pursuant to said contract or contracts. The annual contributions of the state highway department for any such project shall be payable in manner designated by the contract or contracts over a fixed period of not exceeding 30 years: Provided, however, Such annual contributions of the state highway commissioner which may be pledged to secure the payment of bonds or notes which may be issued under the terms of this act shall not exceed $12,000,000.00.

HISTORY: Add. 1950, Ex. Ses., p. 29, Act 22, Imd. Eff. Jun. 7;—Am. 1952, p. 169, Act 147, Eff. Sep. 18;—Am. 1953, p. 90, Act 93, Eff. Oct. 2;—Am. 1955, p. 299, Act 197, Eff. Oct. 14.

252.59 Limited access highways; county, city, or village contributions, payment procedure.

Sec. 9. For the purpose of carrying out the provisions of this act, each county, city or village which is a party to a contract or contracts as herein authorized, for the construction of such limited access highways is authorized to make annual contributions to the cost thereof as hereinbefore provided, and to make an irrevocable pledge of funds received, and to be received, by each of said units from the state of Michigan derived from taxes imposed upon gasoline or other motor fuels, and on motor vehicles registered in the state for the purpose of meeting its annual obligations pursuant to said contract or contracts. The annual contributions of each county, city or village for any such project shall be payable in manner designated by the contract or contracts over a fixed period of not exceeding 30 years.

HISTORY: Add. 1950, Ex. Ses., p. 29, Act 22, Imd. Eff. Jun. 7.

252.60 Limited access highways; federal aid.

Sec. 10. Each governmental unit that is a party to any such contract or contracts for the construction of limited access highways is also authorized to make an additional irrevocable pledge for a fixed period of not exceeding 30 years, of any contributions or funds received, or to be received, from the federal government or any of its agencies, or from any other source for or in aid of the project or combined projects provided for in said contract or contracts.

HISTORY: Add. 1950, Ex. Ses., p. 29, Act 22, Imd. Eff. Jun. 7.

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252.61 Limited access highways; bonds, issuance, approval, resolution; lien; maximum.

Sec. 11. For the purpose of providing funds for the immediate construction and completion of the project or projects contemplated by said contract or contracts, either the state highway commissioner or any county, city or village that is a party to such contract or contracts is authorized to borrow money and issue its negotiable dedicated tax bonds or notes secured by an irrevocable pledge of the annual contributions required to be made by all governmental units that are parties to such contract or contracts, which bonds or notes shall be issued in accordance with, and subject to the applicable provisions of Act No. 94 of the Public Acts of 1933, as now or hereafter amended, being sections 141.101 to 141.139, inclusive, of the Compiled Laws of 1948: Provided, however, That before such bonds or notes are issued by any of such governmental units, the issuance thereof shall be approved by resolution of the administrative board and by appropriate resolution of the board of county road commissioners of each county and the governing body of each county, city or village that is a party to such contract or contracts, and in that event the annual contributions required by the contract or contracts shall be paid to the governmental unit issuing said bonds or notes. Such dedicated tax bonds or notes shall not be general obligations of the issuing governmental unit, but shall be payable solely from the proceeds of funds received, and to be received, by each of said governmental units from the state of Michigan derived from taxes imposed upon gasoline or other motor fuels, and on motor vehicles registered in the state levied and collected pursuant to law, and other funds pledged therefor which amounts so pledged shall constitute the first lien against the amount of the annual contributions required to be made by each governmental unit pursuant to the contract or contracts, and no governmental unit shall in any event be responsible for more than the amount of said taxes pledged by it under the terms of the contract or contracts. The total aggregate principal amount of bonds or notes outstanding at any one time issued under any of the provisions of this act shall not exceed $300,000,000.00.

HISTORY: Add. 1950, Ex. Ses., p. 29, Act 22, Imd. Eff. Jun. 7;—Am. 1952, p. 169, Act 147, Eff. Sep. 18;—Am. 1953, p. 90, Act 93, Eff. Oct. 2.

252.62 Highway projects; issuance of dedicated tax bonds, source of payment.

Sec. 12. The state highway commissioner or any county, city or village contracting to pay a portion of the cost of the project or projects named in said contract or contracts may, at any time, pay all or any part of its unpaid annual contributions in full, and raise money therefor by the issue of dedicated tax bonds or notes under the applicable provisions of said Act No. 94 of the Public Acts of 1933, as now or hereafter amended, which bonds or notes shall not be general obligations of the state of Michigan or of any of said issuing municipalities or counties, but shall be payable solely from the proceeds of highway funds received, and to be received, by said governmental unit from the state of Michigan derived from taxes imposed upon gasoline or other motor fuels, and on motor vehicles registered in the state and other funds pledged therefor, to the amount of said annual contributions as required by the contract or contracts.

HISTORY: Add. 1950, Ex. Ses., p. 30, Act 22, Imd. Eff. Jun. 7;—Am. 1952, p. 170, Act 147, Eff. Sep. 18.

252.63 Highway projects; registration of bonds or notes; exchange.

Sec. 13. Any dedicated tax bonds or notes issued in accordance with the provisions of this act may be registered as to both principal and interest, and if notes are issued, may, at the option of the holder, be exchanged for bonds in definitive form.

HISTORY: Add. 1950, Ex. Ses., p. 30, Act 22, Imd. Eff. Jun. 7;—Am. 1952, p. 170, Act 147, Eff. Sep. 18.

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252.64 Scope of act.

Sec. 14. This act, without reference to any other statute or to any charter, shall be deemed full authority for the purposes herein provided, and for the issuance and sale of bonds by this act authorized, and shall be construed as an additional and alternative method therefor and for the financing thereof, any provisions of the general laws of the state or of any charter to the contrary notwithstanding. This act shall not be construed to pledge the full faith and credit of the state of Michigan with respect to any dedicated tax bonds or notes issued under the provisions of this act.

HISTORY: Add. 1950, Ex. Ses., p. 30, Act 22, Imd. Eff. Jun. 7;—Am. 1952, p. 170, Act 147, Eff. Sep. 18.

252.101-252.126 Repealed. 1962, p. 12, Act 13, Imd. Eff. Mar. 19.

Sections provided for turnpike projects and created turnpike authority.

Act 347, 1966, p. 661; Eff. Jul. 1, 1967.

AN ACT requiring the department of state highways to prepare plans relative to the displacement of persons due to highway construction; to delay the letting of construction contracts; and to require cooperation with political units of government in relocating such persons. Am. 1967, p. 536, Act 275, Imd. Eff. Jul. 20.

The People of the State of Michigan enact:

252.131 Relocation of persons displaced by certain highway projects; costs.

Sec. 1. When the department of state highways acquires real property for the construction or relocation of an interstate or trunk line highway project in a city or incorporated village which will involve the displacement from their residences of families or individuals occupying 15 or more dwelling units, the state department of highways, with the cooperation of the governing body of the city or incorporated village shall submit to the state administrative board, for its approval, a written plan for the relocation of such families and individuals in suitable housing which is deemed to be housing that is not substandard as defined in Act No. 167 of the Public Acts of 1917, as amended, being sections 125.401 to 125.519 of the Compiled Laws of 1948 or, in cases where the local unit of government has established housing standards, suitable housing shall be defined to mean housing that is not substandard according to the minimum standards of building and health codes of the respective local units of government. The plan shall include an estimate of persons to be displaced by the project, and a summary of suitable housing reasonably expected to be available to house such persons to be displaced by construction or relocation of such highways. The chief executive officer of the city or incorporated village in which the highway is to be constructed, in consultation with existing community organizations in the area, shall establish a citizens advisory council that to the maximum feasible extent is representative of the persons who are to be displaced because of a highway construction project. The department of state highways shall consult with and cooperate with the citizens advisory council regarding the procedures involved in the acquisition of homes and businesses and in the relocation and displacement of residents and businesses in the area. In preparing the plan, the department of state highways shall cooperate with a local governmental agency designated by the governing body of the city or incorporated village and may contract with such local agency or governing body for the preparation of the plan. The costs incurred in preparing the plan shall be considered as part of the cost of construction of the project.

HISTORY: New 1966, p. 661, Act 347, Eff. Jul. 1, 1967;—Am. 1967, p. 536, Act 275, Imd. Eff. Jul. 20.

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252.132 Relocation of persons; hearings and approval by state administrative or hearing board.

Sec. 2. Upon request, the state administrative board or a hearing board of 3 of its members or their deputies designated by it, shall hear representatives of the department of state highways, of the city or incorporated village, of the neighborhood advisory council, and any person to be displaced by the project. Before approving the plan the state administrative board shall satisfy itself that the plan provides a feasible method for relocation of displaced families and individuals without undue hardship.

HISTORY: New 1966, p. 662, Act 347, Eff. Jul. 1, 1967;—Am. 1967, p. 536, Act 275, Imd. Eff. Jul. 20.

252.133 Demolition of residential dwellings; certificate of relocation; failure to file, effect, procedure.

Sec. 3. Before the department of state highways evicts families or individuals from residential property or orders the demolition of a residential dwelling acquired for such highway purpose, it shall obtain a written certification that the occupants of such dwelling have relocated to suitable housing or have been offered suitable housing. Such certification shall be provided by the designated local governmental agency except that if the occupants have relocated to suitable housing outside the boundaries of the city or incorporated village or have been offered suitable housing outside of but in reasonable proximity to such boundaries, the certification shall be provided by the department of state highways. If the occupants relocate outside the boundaries of this state, or if after persons have been offered assistance in relocating to suitable housing but refuse or fail to accept assistance, certification of such facts by the department of state highways shall be sufficient.

If the governing body of the city or incorporated village does not supply such written certification within 30 days of a written request by the department of state highways, the department of state highways may file a petition with the state administrative board asking for a determination that the provisions of this section have been met. The determination of the state administrative board shall be reduced to writing and if it is that the occupants of such dwelling have been relocated in suitable housing or that such occupants who refuse to relocate have been offered suitable housing in accordance with the provisions of this act then the determination of the state administrative board shall take the place of the certification required by this section.

HISTORY: New 1966, p. 662, Act 347, Eff. Jul. 1, 1967;—Am. 1967, p. 536, Act 275, Imd. Eff. Jul. 20.

252.134 Construction contracts; letting; approval; administrative board resolutions.

Sec. 4. The department of state highways shall not let for bid any contract for the construction or relocation of any interstate or trunk line highway project until the provisions of sections 1 and 2 have been met. The state administrative board shall not approve any construction contracts, except utility relocation construction contracts, for such highways until it adopts a resolution finding that the provisions of sections 1 and 2 have been met. No construction work shall proceed on any parcel of land until the provisions of section 3 have been met with respect to tenants on such parcel of land.

HISTORY: New 1966, p. 662, Act 347, Eff. Jul. 1, 1967;—Am. 1967, p. 537, Act 275, Imd. Eff. Jul. 20.

252.135 Effective date of act.

Sec. 5. This act shall become effective July 1, 1967.

HISTORY: New 1966, p. 662, Act 347, Eff. Jul. 1, 1967.

Act 31, 1970, p. 84; Imd. Eff. Jun. 16.

AN ACT to provide for relocation assistance and to authorize financial assistance payments to persons displaced by acquisition of property for highways.

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The People of the State of Michigan enact:

252.141 Highways, displaced persons, relocation; federal funds.

Sec. 1. When federal funds are available for payment of direct financial assistance to persons displaced by acquisition of property for highways, the state highway commission may match the federal funds to the extent provided by federal law and provide such direct financial assistance in instances and on the conditions set forth by federal law and regulations.

HISTORY: New 1970, p. 84, Act 31, Imd. Eff. Jun. 16.

252.142 State funds; limitations; rules.

Sec. 2. When federal funds are not available or used for payment of direct financial assistance to persons displaced by the acquisition of property for highways by the state highway commission, the commission may provide direct financial assistance to such persons. Financial assistance authorized by this section shall not exceed the total amount that would have been payable under section 1 if federal funds had been available or used. The commission may adopt rules to carry out the provisions of this section in accordance with and subject to the provisions of Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.313 of the Compiled Laws of 1948.

HISTORY: New 1970, p. 85, Act 31, Imd. Eff. Jun. 16.

252.143 Assistance independent of condemnation.

Sec. 3. Relocation and financial assistance allowed under this act are independent of and in addition to compensation for land, buildings or property rights and shall not be the subject of consideration in condemnation proceedings.

HISTORY: New 1970, p. 85, Act 31, Imd. Eff. Jun. 16.

Act 12, 1967 (Ex. Ses.), p. 762; Imd. Eff. Jan. 16, 1968.

AN ACT to provide for arbitration of disputes involving the determination of routes for interstate highways through municipalities and to authorize the acquisition of property therefor.

The People of the State of Michigan enact:

252.151 Arbitration of interstate highway route locations; definitions.

Sec. 1. As used in this act:

(a) "Board" means the highway location arbitration board.

(b) "Department" means the department of state highways.

(c) "Commission" means the state highway commission or its designated representative.

(d) "Interstate highway" means a highway route on the interstate system as defined in and designated pursuant to Title 23 of the United States Code, prior to the effective date of this act.

(e) "Affected municipality" means a city or village in which a proposed interstate highway route or alternate route would wholly or partly lie.

HISTORY: New 1967, 1st Ex. Ses., p. 762, Act 12, Imd. Eff. Jan. 16, 1968.

252.152 Review of highway location; arbitration; procedure; notice; voluntary arbitration.

Sec. 2. After review of proposed interstate highway routes, and following preliminary negotiations, when it shall be deemed necessary by the department to resolve disputes concerning the routes through 1 or more municipalities, to resort to final arbitration measures provided by this act, the commission shall send by registered mail to the

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clerk of each affected municipality notice of the interstate highway route location proposed by the department in the disputed matter and a notice that arbitration proceedings are initiated. Within 30 days thereafter, if the governing body of each affected municipality does not consent by resolution either to the approval of the location or to voluntary binding arbitration as provided in this section, the commission shall request in writing that a highway location arbitration board be authorized to make a final determination of the route. The governing body of any affected municipality which does not consent to the route location by resolution may agree with 1 or more other affected municipalities to voluntary binding arbitration on the issue of route location according to terms approved by the commission; in which case such municipalities shall no longer be considered affected municipalities within the terms of this act. The governor, on the date of the request, shall send notice of the request by registered mail to the clerk of each affected municipality as determined by the commission. The commission's request shall name all the affected municipalities.

HISTORY: New 1967, 1st Ex. Ses., p. 762, Act 12, Imd. Eff. Jan. 16, 1968.

252.153 Highway location arbitration board; members, qualification, appointment.

Sec. 3. A highway location arbitration board shall consist of 3 members to be appointed by agreement of all affected municipalities from a list of members of the national panel of arbitrators to be submitted to the governor by the American arbitration association. The governor shall include a copy of the list of such members with the notice of the request he sends to the clerk of each affected municipality. If the affected municipalities do not agree on the arbitrators within 30 days of the date of the request, the governor shall choose the arbitrators. It shall function in the executive office and by majority vote shall make the determinations authorized by this act.

HISTORY: New 1967, 1st Ex. Ses., p. 763, Act 12, Imd. Eff. Jan. 16, 1968.

252.154 Highway location arbitration board; convening time; notice to affected municipalities.

Sec. 4. The governor shall forthwith set a time and place for convening the board not less than 25 nor more than 35 days from the date of the commission's request. The governor shall send notice by registered mail to the clerk of each affected municipality at least 14 days before the date set for convening the board.

HISTORY: New 1967, 1st Ex. Ses., p. 763, Act 12, Imd. Eff. Jan. 16, 1968.

252.155 Highway location arbitration board; submission of maps by municipality, time; content; copies.

Sec. 5. Within 25 days of the date of the commission's request an affected municipality may submit maps of 1 or more proposed locations showing the approximate right of way limits and any other information to the commission. The commission shall provide each member of the board a copy of such maps and information, as well as maps and information relative to all locations proposed by the department.

HISTORY: New 1967, 1st Ex. Ses., p. 763, Act 12, Imd. Eff. Jan. 16, 1968.

252.156 Highway location arbitration board; duties; additional maps and information; approval of location, time; notice.

Sec. 6. The board shall convene at the time and place set by the governor and shall consider the submitted maps and information and shall hear representatives of the department and the affected municipalities and shall hear such other persons as are parties in interest. The department and the affected municipalities, may, and when so requested by the board shall, submit additional maps and information relative to any proposed location for consideration by the board. Within 60 days of the date it convenes, the board shall approve 1 of the locations. The approval is final and binding

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upon the department and the affected municipalities. The commission shall send notice of the approval by registered mail to the clerks of the affected municipalities.

HISTORY: New 1967, 1st Ex. Ses., p. 763, Act 12, Imd. Eff. Jan. 16, 1968.

252.157 Approval of board; consent to designation of route; acquisition of property.

Sec. 7. Approval by the board is deemed to be consent to designating the route as an interstate highway and, notwithstanding any provision to the contrary in any law, the department may forthwith proceed to acquire property, by condemnation or otherwise, deemed by the department to be necessary to provide for the completion and successful operation of the interstate highway and appurtenant facilities.

HISTORY: New 1967, 1st Ex. Ses., p. 763, Act 12, Imd. Eff. Jan. 16, 1968.

252.158 Highway location arbitration board; appropriation.

Sec. 8. The sum of $10,000.00 is appropriated from the state trunk line fund for the fiscal year ending June 30, 1968, for expenses of the highway location arbitration boards.

HISTORY: New 1967, 1st Ex. Ses., p. 763, Act 12, Imd. Eff. Jan. 16, 1968.

Act 219, 1966, p. 250; Imd. Eff. Jul. 11.

AN ACT to provide for the control of junkyards adjacent to interstate and primary highways and for the administration of such controls.

The People of the State of Michigan enact:

252.201 Junkyards adjacent to interstate and primary highways; definitions.

Sec. 1. As used in this act:

(a) "Junk" means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled or wrecked automobiles, or parts of automobiles, iron, steel and other old or scrap ferrous or nonferrous material.

(b) "Automobile graveyard" means any establishment or place of business which is maintained, used or operated for storing, keeping, buying or selling wrecked, scrapped, ruined or dismantled motor vehicles or motor vehicle parts.

(c) "Junkyard" means an establishment or place of business which is maintained, operated or used for storing, keeping, buying or selling junk, or for the maintenance or operation of an automobile graveyard, including garbage dumps and sanitary fills.

(d) "Interstate highway" means a state trunk line highway on the national system of interstate and defense highways, as designated, or as may hereafter be so designated, by the state highway department and approved by the United States secretary of commerce, pursuant to the provisions of title 23 of the United States code.

(e) "Primary highway" means a state trunk line highway as designated, or as may hereafter be so designated, by the state highway department, and approved by the United States secretary of commerce, pursuant to the provisions of title 23 of the United States code.

HISTORY: New 1966, p. 250, Act 219, Imd. Eff. Jul. 11.

252.202 Purpose of act; regulation; nonconforming junkyards, public nuisance.

Sec. 2. In order to promote the public safety, health, welfare, convenience and enjoyment of public travel, to protect the public investment in public highways, to preserve and enhance the scenic beauty of lands bordering public highways, to attract tourists and promote the prosperity, economic well-being and general welfare of the

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state, and to provide a statutory basis for controlling junkyards consistent with the public policy declared by congress in title 23 of the United States code, it is declared to be in the public interest to regulate and restrict the establishment, operation and maintenance of junkyards in areas adjacent to interstate and primary highways within this state. All junkyards which do not conform to the requirements of this act are public nuisances.

HISTORY: New 1966, p. 251, Act 219, Imd. Eff. Jul. 11.

252.203 Screening of junkyards; prohibited areas; exceptions.

Sec. 3. Except as provided by section 4, no person shall establish, expand or maintain a junkyard, any portion of which is within 1,000 feet of the nearest edge of the right of way of any interstate or primary highway, except the following:

(a) Those which are screened by natural objects, plantings, fences, or other appropriate means so as not to be visible from the main-traveled way of the highway, or otherwise removed from sight, in accordance with rules and regulations of the state highway department.

(b) Those located within areas which are zoned for industrial use under authority of law.

(c) Those located within unzoned industrial areas, which areas shall be determined from actual land uses and defined by regulations to be promulgated by the state highway department.

(d) Those which are not visible from the main-traveled way of an interstate or primary highway.

HISTORY: New 1966, p. 251, Act 219, Imd. Eff. Jul. 11.

252.204 Screening or removal of nonconforming junkyards; removal cost.

Sec. 4. Any junkyard lawfully in existence on the effective date of this act which does not conform to the requirements for exception in section 3 and any other junkyard along any highway hereafter designated as an interstate or primary highway and which does not conform to the requirements for exception in section 3, shall be screened or removed by the state highway department as a cost of constructing state trunk line highways. Nonconforming junkyards existing on the effective date of this act shall be removed or screened by July 1, 1970.

HISTORY: New 1966, p. 251, Act 219, Imd. Eff. Jul. 11.

252.205 Screening by state highway department; acquisition of land.

Sec. 5. Junkyards referred to in section 4 shall be screened, if feasible, by the state highway department at locations on the highway right of way or in areas acquired for screening purposes outside the right of way so as not to be visible from the main-traveled way of the highways. The state highway department may acquire such land, or interests in land, necessary to provide adequate screening of junkyards.

HISTORY: New 1966, p. 251, Act 219, Imd. Eff. Jul. 11.

252.206 Junkyards; relocation, removal or disposal; costs.

Sec. 6. If the state highway department determines that the topography of the land adjacent to the highway will not permit adequate screening of junkyards referred to in section 4 or that the screening of junkyards would not be economically feasible, the state highway department may acquire land or interests in land necessary to secure the relocation, removal or disposal of the junkyards; and to pay for the costs of relocation, removal or disposal.

HISTORY: New 1966, p. 252, Act 219, Imd. Eff. Jul. 11.

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252.207 Construction or maintenance of junkyards; rules and regulations; standards.

Sec. 7. The state highway department is authorized to promulgate rules and regulations, in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948, which shall govern the location, planting, construction and maintenance of, and the materials used in screening or fencing required by this act, and to promulgate rules and regulations for determining unzoned industrial areas for the purposes of this act, consistent with the national standards promulgated by the United States secretary of commerce pursuant to title 23 of the United States code. Regulations shall not be more restrictive than the national standards.

HISTORY: New 1966, p. 252, Act 219, Imd. Eff. Jul. 11.

252.208 Injunction to compel conformity to statutory requirements.

Sec. 8. If a junkyard is established, expanded or maintained after the effective date of this act but not in conformity with the provisions of section 3, the state highway department may apply to the court of proper jurisdiction for an injunction to compel conformity with this act.

HISTORY: New 1966, p. 252, Act 219, Imd. Eff. Jul. 11.

252.209 Construction of act.

Sec. 9. Nothing in this act shall be construed to abrogate or affect the provisions of any law or ordinance which is more restrictive than the provisions of this act.

HISTORY: New 1966, p. 252, Act 219, Imd. Eff. Jul. 11.

252.210 Control of junkyards; agreement with United States secretary of commerce.

Sec. 10. The state highway department is authorized to enter into agreements with the United States secretary of commerce as provided by title 23 of the United States code, relating to the control of junkyards in areas adjacent to the interstate and primary systems, and to take action in the name of the state to comply with the terms of such agreement.

HISTORY: New 1966, p. 252, Act 219, Imd. Eff. Jul. 11.

252.211 Interests in land to be acquired; methods.

Sec. 11. The interests in land authorized to be acquired under this act may be the fee simple or any lesser estate, as determined by the state highway department to be reasonably necessary to accomplish the purposes of this act. Acquisitions may be by gift, purchase, exchange or condemnation and shall be made in accordance with statutes governing acquisitions for highway purposes.

HISTORY: New 1966, p. 252, Act 219, Imd. Eff. Jul. 11.

Act 333, 1966, p. 613; Imd. Eff. Sep. 14.

AN ACT to provide for scenic and rest areas within and adjacent to state trunk line highways; to regulate and control signs adjacent to the interstate and primary highway systems; and to provide penalties for violations.

The People of the State of Michigan enact:

252.251 Highway scenic and rest areas; definitions.

Sec. 1. As used in this act:

(a) "Business area" means any part of an adjacent area which is at any time zoned industrial or commercial under the authority of any law of this state, which shall in-

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clude, without limiting the generality of the foregoing, zoning districts customarily referred to as "b" or business, "c" or commercial, "i" or industrial, "m" or manufacturing and "s" or service and all other similar classifications; or not so zoned, but which constitutes an unzoned commercial or industrial area.

(b) "Center line of highway" means a line equal distance from the edge of the median separating the main travelled ways of a divided highway, or the center line of the main travelled way of a nondivided highway.

(c) "Adjacent area" means an area which on or at any time after September 1, 1965, is adjacent to and within 660 feet of the nearest edge of the right of way of any interstate or primary highway within this state, which 660 foot distance shall be measured horizontally along a line normal or perpendicular to the center line of the highway.

(d) "Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw or in any other way bring into being or establish.

(e) "Interstate highway" means a portion of the national system of interstate and defense highways.

(f) "Maintain" means to allow to exist.

(g) "Primary highway" means any highway which is part of the federal aid primary system as defined in section 103 of title 23 of the United States code, as amended.

(h) "Sign" means any outdoor sign, display, device, notice, figure, painting, drawing, message, placard, poster, billboard or other thing which is designated, intended, or used to advertise or inform, any part of the advertising or informative contents of which is located within an adjacent area and is visible from any place on the main travelled way of any portion of any interstate or primary highway.

(i) "Unzoned commercial or industrial area" means (1) an adjacent area not zoned commercial or industrial which is used for, or occupied by, one or more commercial or industrial activities, other than an outdoor advertising sign, or (2) an adjacent area regardless of its zoning which is located within the approaches to an incorporated or unincorporated municipality which is reasonably appropriate for outdoor advertising, as determined by the state highway commission.

(j) "Location" means a place where there is located not more than 2 double faced or V-type signs.

HISTORY: New 1966, p. 614, Act 333, Imd. Eff. Sep. 14.

252.252 Acquisition of property; scenic and rest areas.

Sec. 2. In order to promote the safety, convenience and enjoyment of highway travel, the department of state highways is authorized to acquire, maintain and improve:

(a) Real or personal property not lying within areas which are defined in this act as business areas, unless acquired by purchase, which is reasonably necessary for the restoration, preservation and enhancement of scenic beauty within and adjacent to state trunk line highways.

(b) Real or personal property for the acquisition, construction, improvement and maintenance of publicly owned and controlled rest areas and sanitary and other facilities within or adjacent to the highway right of way, which is reasonably necessary to accommodate the traveling public.

HISTORY: New 1966, p. 614, Act 333, Imd. Eff. Sep. 14.

252.253 Acquisition of property; methods; estates acquired.

Sec. 3. The interest in any personal or real property authorized to be acquired under this act may be in fee simple or any lesser estate, as determined by the department of state highways to be reasonably necessary to accomplish the purposes of this act. Acquisition may be by negotiation and purchase, gift, exchange or condemnation and

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shall be made in accordance with statutes governing acquisitions for real and personal property for highway purposes.

HISTORY: New 1966, p. 614, Act 333, Imd. Eff. Sep. 14.

252.254 Outdoor advertising adjacent to interstate and primary highway systems; findings.

Sec. 4. To further improve and enhance scenic beauty consistent with the provision of section 131 of title 23 of the United States code, as amended, the legislature finds it appropriate to regulate and control outdoor advertising adjacent to the interstate and primary highway systems within this state and further that outdoor advertising adjacent to the interstate and primary system of highways within this state is a legitimate commercial use of private property and is an integral part of the marketing function and an established segment of the economy of this state.

HISTORY: New 1966, p. 615, Act 333, Imd. Eff. Sep. 14.

252.255 Outdoor advertising; prohibition; signs, exception.

Sec. 5. In order to promote the reasonable, orderly and effective display of outdoor advertising, consistent with customary use no sign shall be erected or maintained, subject to the provisions of this section in an adjacent area after January 1, 1968, except the following:

(a) Directional and other official signs, including, but not limited to, signs pertaining to natural wonders, scenic and historical attractions, which are required or authorized by law, and which comply with regulations which shall be promulgated by the state highway commission relative to the lighting, size, number and spacing thereof.

(b) Signs advertising the sale or lease of property upon which they are located.

(c) Signs advertising activities conducted or maintained on the property on which they are located.

(d) Signs located or to be located in business areas and which comply with the provisions of section 6.

HISTORY: New 1966, p. 615, Act 333, Imd. Eff. Sep. 14.

252.256 Outdoor advertising; signs in business areas; requirements.

Sec. 6. After January 1, 1968, all signs erected or maintained in business areas shall:

(a) Have a minimum size of 250 square feet including border and trim but excluding uprights, or maximum size which is consistent with customary use in the outdoor advertising industry, as determined by the state highway commission.

(b) If lighted, be illuminated in accordance with the customary use, in such a manner so as to permit them to deliver the intended advertising message to the traveling public, such illumination must be displayed so as to prevent rays or beams of light from impeding the vision of the operator of any motor vehicle, or interfering with official traffic signs or devices.

(c) Conform to the following standards with respect to spacing:

(i) Within a business area, located inside the limits of a municipality, no location shall be within 150 feet of another location on the same side of the highway unless separated by a building, structure or roadway.

(ii) Within a business area, which does not meet the requirements of subdivision (i), which is on the primary system or within the approaches to an incorporated or unincorporated municipality, no location shall be within 300 feet of another location on the same side of the highway.

(iii) Within a business area, which does not meet the requirements of subdivisions (i) or (ii), which is on the interstate system, no location shall be within 500 feet of another location on the same side of the highway.

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(d) All locations within an unzoned commercial or industrial area as defined in subdivision (1) of subsection (i) of section 1, shall be within 3,500 feet in the case of an adjacent area along the interstate system, or 2,100 feet in the case of an adjacent area along the primary system, of the boundary line of property on which a commercial or industrial activity is located and may be on either side of the road. No such sign shall be within 300 feet of the boundary line of property on which a residence is located unless written approval of the owner of such property is secured.

(e) Any sign, lawfully in existence along the interstate system or the federal aid primary system on September 1, 1965, which does not conform to the requirements of this act shall not be required to be removed until July 1, 1970. Any other sign, lawfully erected which does not so conform shall not be required to be removed until the end of the fifth year after it becomes nonconforming.

HISTORY: New 1966, p. 615, Act 333, Imd. Eff. Sep. 14.

252.257 Outdoor advertising; prohibited signs.

Sec. 7. The following signs shall not be permitted:

(a) Signs which are obsolete.

(b) Signs which are illegal under state laws or regulations.

(c) Signs that are not clean and in good repair.

(d) Signs not securely affixed to a substantial structure.

(e) Signs which attempt or appear to attempt to regulate, warn or direct the movement of traffic or which interfere with, imitate or resemble any official traffic sign, signal or device.

(f) Signs which are erected or maintained upon trees or painted or drawn upon rocks or other natural features.

(g) Signs which are not consistent with the standards in this act.

HISTORY: New 1966, p. 616, Act 333, Imd. Eff. Sep. 14.

252.258 Local zoning codes; commercial or industrial areas.

Sec. 8. Each governmental subdivision of this state presently vested by law with authority to enact zoning codes shall have full authority under their own zoning codes to establish areas for commercial or industrial purposes, and the actions of such governmental subdivisions in this regard will be accepted for the purposes of this act.

HISTORY: New 1966, p. 616, Act 333, Imd. Eff. Sep. 14.

252.259 Outdoor advertising; compensation for signs removed after effective date of act.

Sec. 9. Just compensation shall be paid upon the removal, on or after the effective date of this act, of any of the following signs:

(a) Those lawfully in existence on the date of enactment of this act.

(b) Those lawfully located within 660 feet of the nearest edge of the right of way of any highway, which 660 foot distance shall be measured horizontally along a line normal or perpendicular to the center line of the highway made a part of the interstate or primary system on or after October 21, 1965, and before January 1, 1968.

(c) Those lawfully erected on or after January 1, 1968.

(d) Each removal, whether by the sign owner, by the department of highways or otherwise, shall be deemed to constitute a taking and appropriation by the state of the following:

(i) From the owner of such sign, all right, title, and interest in and to the sign, and his leasehold related thereto.

(ii) From the owner of the real property on which the sign is located immediately prior to its removal, the right to erect and maintain signs thereon, other than those de-

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scribed in subdivisions (a), (b) and (c) of section 5; full and just compensation therefor shall be included in the amounts paid to the respective owners.

(e) Except for signs erected after September 1, 1965 and before the effective date of this act, no sign shall be acquired, the cost of which shall not be eligible for 75% federal reimbursement.

(f) The compensation to be paid pursuant to this section shall be paid to the persons entitled thereto upon presentation to the department of state highways of such information as it may reasonably require.

HISTORY: New 1966, p. 616, Act 333, Imd. Eff. Sep. 14.

252.260 Outdoor advertising; agreements with secretary of commerce.

Sec. 10. The state highway commission in behalf of this state shall seek agreement to the provisions of this act via the secretary of commerce on the basis of such provisions being consistent with section 131 of title 23 of the United States code, as amended, and customary usages and zoning principles and standards which hold and govern in this state. In the event that such agreement cannot be achieved, the disagreement shall be resolved with the attorney general of this state participating, and taking such appeals provided for in subsection (1) of section 131 of title 23 of the United States code, as amended, as he deems advisable.

HISTORY: New 1966, p. 617, Act 333, Imd. Eff. Sep. 14.

252.261 Unlawful advertising; removal, procedure; jurisdiction.

Sec. 11. Unlawful advertising shall be any sign, display or device which violates the provisions of this act. The department of state highways shall, in the case of an unlawful sign, give 30 days' notice by certified mail to the owner of the sign, and to the owner of the land on which such sign is located, ordering such owners to remove such sign if it is unauthorized under the provisions of this act; or ordering such owners to cause it to conform to the provisions of this act if it is an authorized sign. If the owner of the sign, display or device involved fails to act within 30 days, as required in the notice, the department shall remove the sign, display or device at the expense of the owner thereof. Any party in interest, being dissatisfied with any order of the department directing the removal of an unauthorized sign or the alteration of an authorized sign, may within 30 days from the issuance of such order and notice thereof commence an action in the circuit court for the county of Ingham, against the department as defendant to vacate and set aside any such order on the ground that it is unlawful or unreasonable; in which suit the department shall be served with a summons and a copy of the complaint. The department shall file its answer, and on leave of court any interested party may file an answer to the complaint. Upon the commencement of said action, the order of the department shall be stayed until a final determination in the matter has been made. Upon the filing of the answer of the department the action shall be at issue and stand ready for hearing upon 10 days' notice by either party. All actions brought under this section shall have precedence over any civil cause of a different nature pending in such court, and the circuit court shall always be deemed open for the hearing thereof, and the same shall proceed, be tried and determined as other actions. Any party to such action may introduce original evidence, and the circuit court is given jurisdiction of such actions and empowered to affirm, vacate or set aside the order of the department in whole or in part, and to make such other order or decree as the court shall decide to be in accordance with the facts and the law.

HISTORY: New 1966, p. 617, Act 333, Imd. Eff. Sep. 14.

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252.262 Violation of act; misdemeanor.

Sec. 12. Any person, firm or corporation violating the provisions of this act is guilty of a misdemeanor.

HISTORY: New 1966, p. 617, Act 333, Imd. Eff. Sep. 14.

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CHAPTER 253. HIGHWAYS—GRADE CROSSINGS

SEPARATE GRADES FOR HIGHWAYS AND RAILROADS
Act 92 of 1893

253.1 Agreement to separate grade crossings; parties; judicial proceedings; representative board or officer.
253.2 Agreement to separate grade crossings; map and plan, cost, damages, approval.
253.3 Settlement with land owners; failure to settle, resolution, certificate, filing, recording; necessity; damages.
253.4 Railroad and street crossing board; appointment, terms.
253.5 Railroad and street crossing board; ineligibility to appointment.
253.6 Railroad and street crossing board; removal, filling of vacancy.
253.7 Railroad and street crossing board; oath and bond of appointee.
253.8 Railroad and street crossing board; compensation, expenses, audit, payment.
253.9 Investigation by board of necessity; notices, determination, plan, profile and map; report, filing; engineer and assistants, expense.
253.10 Proceedings; institution, court having jurisdiction.
253.11 Petition; filing with court, contents, respondents; summons.
253.12 Service of summons; absent respondents, guardian ad litem; publication, affidavit, alias and pluries summons.
253.13 Jury; empaneling, duties.
253.14 Jury; members, selection, summoning, vacancies, empaneling, challenges, new jury.
253.15 Jury; oath, proofs, instructions, report; disagreement, new jury, maps and papers, verdict; setting aside, corrections, signatures; court stenographer.
253.16 Jury; determinations in verdict; amendments; new trial; order of confirmation; finality.
253.17 Appeal; notice; records, certification, transmission.
253.18 Appeal; hearing, costs, expenses, damages.
253.19 Compensation; payment.
253.20 Certified copy of verdict and judgment; transmission.
253.21 Assessment of parties benefited; assessment district, determination; hearing, notice, publication, form.
253.22 Opportunity to show cause; determination by council; advantage, determination; assessment, apportionment, levy, collection.
253.23 Certified statement of assessment; transmission to clerk of court, duties; collection, disposition; treasurer, duties; payment of award to company.
253.24 Assessment roll prima facie evidence; compensation apportioned to municipality, raising as general tax.
253.25 Sums set aside for awards; treasurer's duties; transfer of funds; grade separation bonds.
253.26 Separation of grades; not delayed by nonpayment of award.
253.27 Separation of grades; in accordance with plan, plat, and profile; grade change; duty of railroad, municipality.
253.28 Order of confirmation; payment of assessment and change in grade; judgment, effect, enforcement.
253.29 Compensation of officers, jurors, and witnesses.
253.30 Costs of proceedings, payment; attorney fee.
253.31 Discontinuance of proceedings; new trial; appeal.
253.32 Averments in petition true unless contradicted.
253.33 Detroit; head of legal department; duties.

SEPARATE GRADES FOR HIGHWAYS AND RAILROADS
Act 114 of 1925

253.51 Grade separations; supervision of public service commission.
253.52 Grade separations; application, submission of plans and agreement.
253.53 Grade separations; hearing, notice, parties' right to appear, witnesses; agreement between municipal and railroad authorities.
253.54 Grade separations; approval, refusal, change, closing highways; powers of commission concerning plans and specifications.
253.55 Grade separations; apportionment of cost of construction.
253.56 Grade separations; apportionment of cost of maintenance.
253.57 Grade separations; items included in cost of construction.
253.58 Right of way; acquisition.
253.59 Compensation to abutting owners; determination of damages.
253.60 Construction of act.
253.61 Institution of proceedings to determine damages; jurisdiction.
253.62 Institution of proceedings to determine damages; petition, contents; determination of necessity.
253.63 Guardian ad litem; order for hearing; publication, service.
253.64 Jury; impaneling; procedure; peremptory challenges.
253.65 Trial; evidence; instructions; deliberations of jury.
253.66 Verdict set aside; amendments to proceedings.
253.67 Motion for new trial; confirmation of verdict; appeal.
253.68 Court to settle case for appeal; transmittal to supreme court.
253.69 Judgment on appeal; costs; off-setting of costs.
253.70 Payment of compensation following judgment becoming final.
253.71 Fees of officers, jurors, and witnesses; taxing of attorney fee.
253.72 Discontinuance by petitioner; motion for new trial; appeal.
253.73 Evidence of ownership.

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253.74 Recording of notice of filing of petition; copy of evidence.

CITY GRADE SEPARATION BONDS

Act 235 of 1931

253.91 Grade separation bonds of cities; limitations; referendum.

Act 92, 1893, p. 96; Eff. Aug. 28.

AN ACT to provide separate grades for railroads and public highways and streets where railroads intersect such highways and streets.

The People of the State of Michigan enact:

253.1 Agreement to separate grade crossings; parties; judicial proceedings; representative board or officer.

Sec. 1. That where any railroad crosses or shall hereafter cross any public street or highway the separation of the grades at such crossing by carrying such street or highway, either over or under such railroad or railroads at the point of intersection may be effected as follows:

An agreement therefor as hereinafter provided may be made with such railroad or railroads:

(a) Where said crossing is within the limits of any city, by the common council of said city;

(b) Where said crossing is within any county outside the limits of any city and upon any state or territorial road, by the board of supervisors of said county;

(c) Where said crossing is within any county outside the limits of any city and upon any county road, by the board of commissioners of county roads, provided for in section 49 of article 4 of the constitution;

(d) Where said crossing is within any township outside the limits of any city and upon any township road, by the township commissioner of highways;

(e) Where said crossing is on the line between any city and the territory outside such city, as follows:

1. Where the crossing is on a state or territorial road, by the joint action of the common council of the city and the board of county supervisors;

2. Where the crossing is on a county road, by the joint action of the common council of the city and the board of commissioners of county roads;

3. Where the crossing is on a township road, by the joint action of the common council of the city and the township commissioner of highways;

(f) Where the crossing is on the line between 2 or more counties, or between 2 or more townships of the same county, by the joint action of the boards of county supervisors, boards of commissioners of county roads, or township commissioners of highways, according as the crossing is on a state or territorial road, a county road, or a township road. Or judicial proceedings may be instituted to obtain such separation of grades in accordance with the provisions of section 10 of this act. The words "representative board or officer" where occurring hereinafter shall be understood to mean board or boards of supervisors, board or boards of commissioners of county roads, township commissioners or commissioners of highways, common council, or any 2 or more of them as the case may be.

HISTORY: CL 1897, 4229;—CL 1915, 4750;—CL 1929, 4481;—CL 1948, 253.1.

NOTE: Sec. 49 of Art. 4 of the Constitution of 1850, above referred to in subd. (c), is Sec. 26 of Art. 8 of the Constitution of 1908.

HIGHWAY ACROSS R.R. RIGHT OF WAY: Method of laying out, see Compilers' §§ 221.27 and 464.9 subd. 5.

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RAILROAD CROSSINGS: Improvement, see Compilers' § 469.1 et seq.
GRADE SEPARATION: Supervision by public utilities commission, see Compilers' § 253.51 et seq.
FOURTH CLASS CITIES: See Compilers' § 91.6.

253.2 Agreement to separate grade crossings; map and plan, cost, damages, approval.

Sec. 2. Such representative board or officer, as the case may be, may enter into an agreement with any railroad company or companies crossing any such street or highway providing for the separation of the grades at such crossing by carrying said street or highway either over or under said railroad at the point of intersection. Said agreement shall have attached thereto as a part thereof, an accurate profile and map of those portions of the street or highway and railroad or railroads of which the grade is to be changed according to the said agreement and a plan showing the details of construction necessary for the separation of the grades at such crossing. Said agreement shall also provide for paying the cost of making and maintaining such separation of the grades and for the division of the total expense thereof between the parties to such agreement, and shall fix the amount of damages, if any, to be paid to said railroad company or companies as compensation for any injury to it or them resulting from said changes of grade, exclusive of the expense of construction and maintenance above provided for: Provided, That no agreement made by a board of county supervisors, board of county commissioners of highways, or township highway commissioner which necessitates the borrowing or raising by tax of a greater sum by the county or township than such board or (commissioner) commissioners is authorized to raise, shall be enforceable until the authority to raise such excess has been duly given; nor shall any agreement made by a township commissioner of highways be valid until the same is approved by the township board.

HISTORY: CL 1897, 4230;—Am. 1909, p. 458, Act 268, Eff. Sept. 1;—CL 1915, 4751;—CL 1929, 4482;—CL 1948, 253.2.

253.3 Settlement with land owners; failure to settle, resolution, certificate, filing, recording; necessity; damages.

Sec. 3. When the common council of any city shall have entered into any such agreement, it shall be authorized to settle or compromise with any person having an interest in any lands abutting on that portion of the street or highway within the city of which the grade is to be changed according to the said agreement, and which may be damaged by the proposed change of grade, and with any street railroad company operating or interested in any line of street railway upon such part of such street or highway and which may be damaged thereby. When a common council, being a party to such agreement, cannot effect such settlement or compromise, or shall deem it inexpedient to attempt it, or whenever the representative board or officer of any county or township is a party to such agreement, such common council, or representative board may pass a resolution, or such representative officer may make a certificate, declaring it necessary for the public benefit to make such separation of grades in accordance with the plan prescribed by said agreement, which resolution or certificates shall have attached thereto as a part thereof, a copy of the said agreement. Upon the passage of such resolution, or the making of such certificate, it shall be filed in the office of the city attorney of the city where the crossing is within the city, or upon the line between any city or county, or part of a county outside of such city, and in the office of the prosecuting attorney of the county where the crossing is outside of the limits of any city and within such county. Where the crossing is on the line between 2 or more counties, the resolution so passed shall be transmitted to the railroad and street crossing board hereinafter provided for, who shall file the same in the office of the prosecuting attorney of either of the counties interested as the said crossing board shall determine. And said resolution shall also be recorded in the office of the register of deeds of the county or counties in which such crossing is situate within 20 days after its

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adoption. The question of the necessity of making the proposed change, or changes of grade, shall then be passed upon and the damages, if any, shall be appraised in judicial proceedings in the manner hereinafter provided. But in any proceedings instituted on any such resolution said agreement shall be conclusive evidence of the amount of compensation to be awarded to said railroad company or companies, and no benefits shall be assessed against any railroad company that is a party to such agreement.

HISTORY: CL 1897, 4231;—CL 1915, 4752;—CL 1929, 4483;—CL 1948, 253.3.

INSTITUTION OF PROCEEDINGS: See Compilers' § 253.10 et seq.

253.4 Railroad and street crossing board; appointment, terms.

Sec. 4. The governor, within 10 days after this act shall take effect, shall appoint, by and with the advice and consent of the senate, 2 persons who, together with the commissioner of railroads, shall constitute a railroad and street crossing board. Said board shall have and keep their office at the office of the said commissioner of railroads. One of said persons so appointed and to be named shall hold office until the first day of January in the year of our Lord 1895 and until his successor is appointed and qualified, and the other until January 1, 1897, and until his successor is appointed and qualified. At the regular session of the legislature next thereafter and every 2 years thereafter, the governor, by and with the advice and consent of the senate, shall appoint 1 member of said board, who shall hold office for the term of 4 years from the first of January in the year of his appointment and until his successor is appointed and qualified.

HISTORY: CL 1897, 4232;—CL 1915, 4753;—CL 1929, 4484;—CL 1948, 253.4.

RAILROAD AND STREET CROSSING BOARD: Abolished; powers and duties transferred to the Michigan railroad commission, which in turn has been abolished and superseded by the Michigan public utilities commission, see Compilers' §§ 462.49 and 460.53 respectively.

253.5 Railroad and street crossing board; ineligibility to appointment.

Sec. 5. No person shall be appointed as a member of said board who is not a citizen of this state, and who, at the time of his appointment, is in any way connected with any railroad corporation, and who is directly or indirectly interested in any stock, bond or other property of, or is in the employ of any railroad corporation, and no person so appointed shall, during the term of his office, become interested in any stock, bond or other property of any railroad company, or in any manner be employed by or connected with any railroad corporation.

HISTORY: CL 1897, 4233;—CL 1915, 4754;—CL 1929, 4485;—CL 1948, 253.5.

253.6 Railroad and street crossing board; removal, filling of vacancy.

Sec. 6. The governor shall have power to remove for cause any such member, and appoint another to fill the vacancy at any time in his discretion, but the reasons for such removal shall be laid before the senate at the next regular or special session of the legislature thereafter, and in case of a vacancy in the office of any such member, the governor may appoint another person to fill the same.

HISTORY: CL 1897, 4234;—CL 1915, 4755;—CL 1929, 4486;—CL 1948, 253.6.

253.7 Railroad and street crossing board; oath and bond of appointee.

Sec. 7. Before entering upon the duties of his office the person so appointed shall make, subscribe and file in the office of the secretary of state, an oath of office in the form prescribed by section 1, article 18, of the constitution of this state, and shall enter into bonds with the people of the state of Michigan in the sum of 10,000 dollars, with sureties, to be approved by the governor, conditioned upon the faithful performance of his duties.

HISTORY: CL 1897, 4235;—CL 1915, 4756;—CL 1929, 4487;—CL 1948, 253.7.

NOTE: Sec. 1 of Art. 18 of the Constitution of 1850, above referred to, is Sec. 1 of Art. 10 of the Constitution of 1963.

253.8 Railroad and street crossing board; compensation, expenses, audit, payment.

Sec. 8. Each of said members, other than the commissioner of railroads, shall receive as compensation the sum of 10 dollars for each and every day spent in the perform-

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ance of his duties. He shall be reimbursed for all actual cash outlay for railroad and hotel fares, and other expenses incurred in the performance of his duties. His bills for services and expenses shall be audited by the board of state auditors and paid from the state treasury.

HISTORY: CL 1897, 4236;—CL 1915, 4757;—CL 1929, 4488;—CL 1948, 253.8.

253.9 Investigation by board of necessity; notices, determination, plan, profile and map; report, filing; engineer and assistants, expense.

Sec. 9. If any railroad company operating a railroad which crosses any such street or highway and the representative board or officer are unable to agree, in accordance with the provisions of section 2 of this act, or if such agreement having been made fails to become enforceable by reason either of a failure to agree with the abutting property owners or with any street railway company under the provisions of section 3 of this act, or of a finding of the commissioners hereinafter provided for against the necessity of the proposed separation of grades, then on presentation to the board of railroad and street crossings of a certificate made by such representative officer, or of a certified copy of a resolution passed by said representative board or boards, or when more than 1 board is interested, by any 1 of them declaring that the separation of the grades at said crossing is necessary for the public benefit, or on presentation to said crossing board of a petition signed by 20 owners of real estate abutting on said street or highway praying said board to investigate the necessity of separating the grades at such crossing, it shall thereupon be the duty of the said board to investigate the necessity of the separation of the grades at such crossing. Before proceeding with such investigation said board shall cause a notice of the time and place at which the investigation will commence to be served at least 10 days before the time set for the investigation upon the prosecuting attorney of each county interested, if any, and upon the highway commissioner of each township interested, if any, upon the city attorney of the city interested if any, either personally or by leaving such notice at the office of such prosecuting attorney or city attorney or commissioner with some person in charge thereof, or if such office is not open so as to admit of service, by leaving such notice at the residence of such attorney or commissioner, with some person of suitable age and discretion. Within the same time said board shall cause such notices to be served upon each railroad company interested in said crossing by leaving a copy thereof at the principal business office of such company situate within this state with either the president, vice president, general superintendent or general manager of such company, or if none of said officers can be found, then by leaving said copy with any officer or agent of said company in charge of any of its stations or depots within this state. Any corporation or body politic so notified and any other person interested in said crossing may attend upon said investigation. If the board or a majority thereof determine that a separation of grades is necessary they shall determine whether the grade of said railroad or railroads shall be raised or lowered, and how much, and whether the grade of said street or highway shall be raised or lowered, and how much: Provided, That in such separation of the grades the maximum of 1 foot in 10 for the new grade of the street or highway and 1 foot in 100 for the new grade of the railroad shall not be exceeded. And having determined the manner of making such separation as they, or a majority of them shall deem best, they shall also estimate as near as may be and determine the cost and expense of doing and constructing the work provided by section 27, to be done by said railroad company or companies, and the portion of such cost or expense if any which would be just and equitable that the city, county or township, by whom it is provided herein, the expense of such separation shall be paid, shall pay to said company or companies, as its fair share thereof, and they shall also determine the cost and expense of the work to be done or constructed by the city, county or township as provided by said section 27, and the portion thereof if any, which would be just and equi-

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table, that said company or companies should pay to said city, county or township as its or their fair share of the said cost and expense. They shall adopt a plan showing the details of construction necessary for the separation of the grades at such crossings by carrying such street or highway either over or under said railroad or railroads as they or a majority of them shall deem best. They shall have an accurate profile and map made of those portions of the street or highway and railroad or railroads of which the grade is to be changed. They shall make report signed by a majority of the said board, setting forth in detail the plan by them adopted as aforesaid, to which report shall be attached as a part thereof the plan of construction, and profile and map above referred to and in which report shall be stated the cost and expense as determined by them of doing and constructing the work to be done by said railroad company or companies, and the portion thereof, if any, which it would be just and equitable that the city, county or township shall pay to said company or companies, as above provided, and also the cost and expense of the work to be done or constructed by the city, county or township and the portion thereof if any, which would be just and equitable that said company or companies should pay to said city, county or township, as above provided, which report shall be filed in the office of the city attorney of the city, when the crossing is within a city or on a line between a city and the county, and in the office of the prosecuting attorney of any county where the crossing is outside of any city and within such county, or on the line between such county and any other county or counties. To assist said board in determining upon and making said plan, profile, map, estimates, and the report herein mentioned, they may employ an engineer, and such clerical assistance as they may need. The expense of such employment shall be audited and paid in the same manner as provided for their other expenses.

HISTORY: Am. 1895, p. 275, Act 143, Eff. Aug. 30;—CL 1897, 4237;—CL 1915, 4758;—CL 1929, 4489;—CL 1948, 253.9.

253.10 Proceedings; institution, court having jurisdiction.

Sec. 10. Upon the filing either of the resolution or certificate referred to in section 3, or of the report referred to in section 9, it shall be the duty of the officer with whom said resolution, certificate or report is filed, to institute proceedings without delay in behalf of the city or county, or of the township whose commissioner made the certificate, as the case may be, in the proper court to carry out the object of said resolution, certificate or report. When said resolution, certificate or report is filed with the prosecuting attorney of a county, said proceedings shall be had in the circuit court for that county. When said resolution, certificate or report is filed with the city attorney of a city, said proceedings shall be had in the recorder's court of the city, if there be one, but if not, then in the superior court of the city, if there be one, and if there be neither recorder's court nor superior court then in the circuit court of the county in which the city is situated: Provided, That if the crossing be on the line between the city and territory outside the city limits, the proceedings shall be had in the circuit court of the county in which the city is situate.

HISTORY: CL 1897, 4238;—CL 1915, 4759;—CL 1929, 4490;—CL 1948, 253.10.

253.11 Petition; filing with court, contents, respondents; summons.

Sec. 11. Said prosecuting attorney or city attorney, as the case may be, shall prepare and file in the name of the county, township, or city in the court having jurisdiction of the proceedings, a petition signed by him in his official character, and duly verified by him, to which petition a certified copy of the resolution, or certificate of the representative board or officer referred to in section 3, or of the report of said railroad and street crossing board, as the case may be, shall be annexed, which certified copy shall be prima facie evidence of the action taken by said board or officer and of the proceedings prior thereto, and of the regularity thereof. The petition shall state that it is made and filed as commencement of judicial proceedings by the county, township or

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city, as the case may be, in pursuance of this act for the purpose of separating the grades of the street or highway or of 2 or more streets or highways and railroad or railroads at their intersection, designated by any proper descriptive words, in accordance with the plan set forth in said resolution, certificate or report, as the case may be, referring thereto, and for making just compensation, to all persons sustaining damage thereby, shall give a description of the property abutting on that part of said street or highway of which the grade is to be or has been changed, also a statement of the manner in which said property and any street railroad line on said street or highway will be affected by said change, and to what extent, and shall state that such representative board or officer or said railroad and street crossing board, as the case may be, has declared it necessary for the public benefit to make said separation of grades in accordance with the plan set forth in said resolution or certificate or in said report, as the case may be, shall contain the names of the railroad companies and street railroad companies to be affected by the proposed change, and of all persons interested as mortgagees, lessees, or otherwise, in the property of such companies, of the owners and others interested in the property, abutting on that portion of said street or highway of which the grade is to be or has been changed so far as the same can be ascertained, including those in possession of the premises, and in cases where the crossing is of a class embraced in clause (e) or (f) of section 1 of this act, the name of the city, or of the county or counties, township or townships interested, other than the county or township in whose name the proceedings are taken as the case may be. If the name of any person interested in any of the abutting property is unknown, the petition shall state the fact and the interest owned by such person or persons. All persons, corporations and bodies politic and corporate, so named in said petition shall be made parties respondent in said petition. Said petition shall ask that a jury be summoned and empanelled to ascertain and determine the public necessity of said improvement in accordance with said plan and to ascertain and determine the just compensation to be made to street railroad companies, if any, and to the persons interested in said abutting property. And to assess the compensation, cost and expense by them awarded against the city and county or counties, township or townships, company or companies, as the case may be, that are parties to the proceeding, as provided by law. Upon receiving such petition, it shall be the duty of the clerk of said court to issue a summons against the respondents named in said petition, stating briefly the object of said petition and commanding them in the name of the people of the state of Michigan to appear before said court at a time and place to be named in said summons not less than 20 nor more than 40 days from the date of the same, and show cause, if any they have, why the prayer of said petition should not be granted. The filing of said petition, if done within 1 year, after the making of said separation of grades, whether in any railroad or in any street or highway, and all other changes necessary to carry out the plan set forth in the resolution or certificate provided for in section 3 shall be deemed a compliance with the provisions of this act requiring the filing of said petition for any work done or to be done in connection with any separation of grades as herein provided.

HISTORY: Am. 1895, p. 277, Act 143, Eff. Aug. 30;—CL 1897, 4239;—Am. 1909, p. 459, Act 268, Eff. Sept. 1;—CL 1915, 4760;—CL 1929, 4491;—CL 1948, 253.11.

253.12 Service of summons; absent respondents, guardian ad litem; publication, affidavit, alias and pluries summons.

Sec. 12. Said summons shall be served by the sheriff, under sheriff, or a deputy sheriff of the county, or in proceedings pending in the recorder's court or superior court of any city, by any member of the police force of such city, at least 5 days before the return day thereof upon all the respondents found within the county, by exhibiting the original and delivering a copy thereof to each of them. If any respondent who is a resident of the county, cannot be found, the summons shall be served by leaving a copy

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thereof at his usual or last place of abode with some person of suitable age and discretion. If any minor or person of unsound mind is a respondent, service may be made on the guardian of such person, if there be one, and if there is no guardian, the court may appoint some discreet and proper person to be guardian of such person in such proceedings; and such guardian shall have the authority to represent such person in such proceedings, and the proceedings to appoint such guardian shall be the same as provided in chapter 204 of the Compiled Laws of 1871 of the state of Michigan. If it shall appear on the return day of the summons that any respondent cannot be found within the county and has not been personally served, or is a non-resident, and such respondent has not voluntarily appeared, or if the name of any person interested is unknown, the court may make an order for the appearance of all respondents who have not been personally served and have not appeared, at a date not less than 30 days from the date of such order, and that service be made upon them by publishing a copy of such order, at least once in each week for 3 successive weeks, before the date set for said appearance, in a newspaper printed, published and circulated within the city or county as the case may be, and if there be no such paper, then in such paper as the court shall consider to be most generally circulated within the city or county. Alias and pluries summons may be issued and the court may adjourn the proceedings from time to time as there shall be occasion and as in other civil cases. The return of the officer upon the summons and an affidavit of due publication of the order for appearance, if any, shall be filed in the office of the clerk of the court before a jury shall be impaneled and such a return of personal service of such affidavit shall be sufficient evidence of service on the respondents and of the manner of service, and such service shall bind the respondents and unknown parties in interest and the property in which they are interested.

HISTORY: CL 1897, 4240;—CL 1915, 4761;—CL 1929, 4492; CL 1948, 253.12.

NOTE: Ch. 204 of CL 1871, above referred to, was repealed by Jud. Act of 1915 and re-enacted in part as Compilers' repealed §§ 612.26 to 612.31.

253.13 Jury; empaneling, duties.

Sec. 13. On the return day of the summons or on some subsequent day to which the proceedings are adjourned, if no sufficient cause to the contrary has been shown, the court shall make an order that a jury shall be empaneled, in the cause to ascertain and determine the necessity for the public benefit of separating the grades of said streets or highways, and of said railroad or railroads at their intersection, in accordance with said proposed plan and to ascertain and determine the just compensation to be made therefor to the street railroad companies, if any, and persons interested in the abutting property made parties respondent to said petition, and to assess the costs and expenses by the act to be assessed as provided herein.

HISTORY: Am. 1895, p. 278, Act 143, Eff. Aug. 30;—CL 1897, 4241;—CL 1915, 4762;—CL 1929, 4493;—CL 1948, 253.13.

253.14 Jury; members, selection, summoning, vacancies, empaneling, challenges, new jury.

Sec. 14. Such jury shall be composed of 12 freeholders of the city or county as the case may be, and shall be selected and empaneled as follows: The sheriff shall select at least 24 persons freeholders of said city or county, from whom a jury shall be empaneled in the cause, and the names of said 24 or more persons having been selected and returned by the sheriff, as directed by said order, the court shall thereupon cause such persons to be summoned by the usual process of venire to attend the court on a day to be named in said venire to serve as jurors and the court shall then adjourn all further proceedings on said petition till the return day of said venire. Said venire shall be served by the sheriff or his deputy as in other like cases. On the return day of said venire, or on the day to which the proceedings may be adjourned the court shall proceed to empanel a jury of 12 disinterested freeholders from persons so drawn and summoned. And if such jury cannot be found from the persons who shall attend upon such

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summons or if so many of the persons summoned shall be excused or shall be rejected, by the court upon challenge or otherwise that there shall not be a sufficient number left to constitute a jury, the court shall order the sheriff of said county forthwith to summon immediately other freeholders of the said city or county, to attend as jurors until a panel of 12 qualified jurors shall be obtained. In empaneling a jury the practice and proceedings shall be the same as in ordinary civil suits so far as practicable. Four peremptory challenges shall be allowed to the petitioner, and the respondents who are the persons interested in the abutting property and any street railroad company shall collectively be entitled to the same number. If any juror, after being sworn, shall die or become unable to discharge his duties, the court may appoint another qualified person to serve in his place, who shall be sworn and take his place upon the jury, or may, in its discretion, empanel a new jury.

HISTORY: Am. 1895, p. 278, Act 143, Eff. Aug. 30;—CL 1897, 4242;—CL 1915, 4763;—CL 1929, 4494;—CL 1948, 253.14.

253.15 Jury; oath, proofs, instructions, report; disagreement, new jury, maps and papers, verdict; setting aside, corrections, signatures; court stenographer.

Sec. 15. The jury so empaneled shall be sworn or shall affirm that they will justly and impartially ascertain the necessity of separating the grades of said street or highway and of said railroad or railroads as proposed in said petition, and if they deem that such necessity exists that they will impartially ascertain and determine the compensation to be made to the parties respondent and unknown parties in interest named in said petition. The jury shall hear the proofs and allegations of the parties and the arguments of counsel and if so ordered by the court to go to the place of intended improvement, and in charge of an officer, and upon, or as near as practicable, to any property claimed to be damaged in making the same and examine the premises. They shall be instructed as to their duties and the law in the case by the court, and shall retire in charge of an officer and render their verdict in the same manner as on the trial of an ordinary civil case. The testimony given shall be reported, all objections made and the rulings of the court thereon, the exceptions taken being noted by the regular court stenographer and the charge of the court or instructions given to the jury shall likewise be reported by him. The jury shall report in writing as to each distinct parcel of land and as to each street railroad company claimed to be damaged and the interests in the same separately and when all is finished, bring the report into court, and the same shall be filed with the clerk. A disagreement of the jury as to 1 or more distinct parcels of land shall not affect their report as to any lands in regard to which they have agreed, and upon such disagreement the court may upon motion of the petitioner with a view to further proceedings permit the petition to be so amended as thereafter to relate only to the premises affected by such disagreement, and to the persons interested therein and may also cause a new jury to be drawn and empaneled, which new jury shall be drawn and empaneled, in the same manner as above provided, for the drawing of the original jury, and like proceedings as above provided shall thereupon be had, as to the lands concerning which there was such failure to agree and such new proceedings may be ordered by the court as often as may be necessary. The court may allow the jury to take with them when they retire, proper descriptions of the land claimed to be damaged as well as maps of the same and of the premises adjacent thereto and showing the proposed improvement and such other papers as the court in its discretion may deem it proper for them to have, including forms of verdict containing a description of the property and the names of the occupants or owners or other persons interested therein, and in which they may find necessary to make the proposed improvement as aforesaid, or may not find it necessary to make such improvements, such forms to be made under the direction of the court, or the verdict may be prepared by the jury. The verdict of the jury may be set aside by the court and a new

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trial ordered for objections of law and for matters of substance, but not for objections as to matters of form, and in the same manner and on the same ground as an ordinary civil action in courts of general jurisdiction. The court may before the jury is finally discharged refer their verdict and findings back to them, for the correction of any errors, defects or insufficiencies therein contained. The verdict of the jury shall be in writing and shall be signed by them.

HISTORY: Am. 1895, p. 279, Act 143, Eff. Aug. 30;—CL 1897, 4243;—CL 1915, 4764;—CL 1929, 4495;—CL 1948, 253.15.

253.16 Jury; determinations in verdict; amendments; new trial; order of confirmation; finality.

Sec. 16. The jury shall in their verdict, ascertain and determine the necessity for the separation of the grades of said street or highway, and of said railroad or railroads, as proposed in said petition. And if they find that such necessity exists they shall then ascertain and determine the amount of damages to such property as may be damaged thereby, and also to any street railway so damaged and shall award to the parties interested compensation for such damages. If any property damaged shall be subject to a mortgage or lease, or to any lien or estate or interest otherwise arising, they shall apportion the compensation awarded among the parties interested therein as they shall deem just. In case the owner of any interest in any property damaged is unknown, they shall determine the compensation for damages to such interest and the same shall be paid into court for the benefit of such persons. They shall state separately the several amounts of damages by them awarded, and any apportionment of damages among different interests by them made. The amount of cost and expense which it would be just and equitable that the city, county or township should pay to said railroad company or companies, for the doing and construction of the work to be done by it or them and °determine by said crossing board and stated in their report as provided by said section 9, and the amount of cost and expense which it would be just and equitable that said company or companies should pay to the city, county or township for the work to be done or constructed by the city, county or township, and determined by said crossing board, and stated in their said report shall be final and conclusive. And the said jury shall assess in their said verdict the total compensation by them awarded for damages for such property as may be damaged by such improvements to the parties interested therein and to any street railroad company, and also assess the amount determined by said report of the crossing board to be paid by said city, township or county, as its fair share of the expense of the work to be done said railroad company or companies, when the crossing is within the limits of the petitioner, against the petitioner, and in all other cases against the city, and county or counties, township or townships as the case may be that are parties to the proceedings in equal shares. Said last mentioned amount to be assessed in favor of and to be paid to said railroad company or companies. And they shall likewise assess against the said railroad company or companies and in favor of and to be paid to said city, county or township the portion of the cost or expense which it was determined by said crossing board would be just and equitable, that said company or companies should pay to the petitioner or other body politic to whom the same are awarded in the report of said crossing board. Amendments either in form or substance may be allowed in any paper, petition, resolution, process, record or proceeding, or in the description of property damaged or claimed to be damaged or in the name of any person whether contained in the resolution or certificate of the representative board or officer, in the petition of property owners or in the report of railroad and street crossing board or elsewhere, wherever the amendment will not interfere with the substantial rights of the parties. Any such amendment may be made after, as well as before the order confirming the verdict of the jury. Motions for a new trial or to arrest proceedings shall be made within 2 days after the rendition of the verdict unless further time is allowed by the court. And if no

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such motion is made, or if being made is overruled, the court shall enter an order confirming the verdict of the jury, containing a recital of the substance of the proceedings and a description of each parcel of real estate for damages to which compensation is awarded, with the statement of the interest of any unknown party therein, and the name of each railroad company, street railroad company, municipality, or other party in interest in the proceedings to whom compensation for damages is awarded or to whom any of said costs or expense may be awarded or against whom the payment of any sum by said jury may be charged or assessed, which order shall also direct by whom, to whom, and in what time the payment of the sums awarded is to be made, and said order of confirmation, unless reversed by the supreme court, shall be final and conclusive as to all persons interested therein.

HISTORY: Am. 1895, p. 280, Act 143, Eff. Aug. 30;—CL 1897, 4244;—CL 1915, 4765;—CL 1929, 4496;—CL 1948, 253.16.
*It is evident that the word "determine" should be "determined".

253.17 Appeal; notice; records, certification, transmission.

Sec. 17. Any party to said proceedings, considering himself aggrieved, may appeal from the order of the court confirming the verdict of the jury, by filing with the clerk of the court a written notice of such appeal within 5 days of the confirmation, and within the same time serving a copy thereof upon the attorneys of the adverse parties, and filing a bond in said court, to be approved by the judge thereof, conditioned for the prosecution of said appeal to judgment and payment of all costs, damages and expense that may be awarded against him in case the judgment of confirmation shall be affirmed. Such appeal shall be perfected within the same time and prosecuted in the same manner as appeals under the general act for taking private property for public use in cities and villages. In case of such an appeal the clerk of the court, on payment of his legal fees and charges, shall transmit to the supreme court a certified copy of the necessary files, records and proceedings in the case; and the judge of the court shall, at the request of the appellant, settle a case according to the usual practice of said court, showing the material evidence and instructions given to the jury bearing upon any disputed points to which exception is taken, and the objections, rulings and exceptions in the case, all of which shall be returned by said clerk as part of the records to the clerk of the supreme court.

HISTORY: CL 1897, 4245;—CL 1915, 4766;—CL 1929, 4497;—CL 1948, 253.17.
APPEAL: See Compilers' §§ 213.33 to 213.36.
By municipality, see Compilers' § 253.31.

253.18 Appeal; hearing, costs, expenses, damages.

Sec. 18. The said appeal may be brought on for a hearing at any term of the supreme court, and said court may affirm, or for any substantial error reverse the judgment, and may grant a new trial. The said court shall allow the prevailing party his reasonable costs and expenses to be taxed, and give judgment as in chancery appeals, and all costs, damages and expenses awarded to the city, township or county, if it so elect, may be applied on or deducted from the compensation, if any to be paid, or execution may issue on the judgment. Damages may be awarded against a party appealing without reasonable cause.

HISTORY: CL 1897, 4246;—CL 1915, 4767;—CL 1929, 4498;—CL 1948, 253.18.

253.19 Compensation; payment.

Sec. 19. The total compensation for damages and expenses, if fixed by agreement, settlement or compromise under the provisions of sections 2 and 3 of this act, or if fixed by a jury, such total compensation less the total amount assessed against the railroad company or companies as hereinbefore provided, shall be paid by the city, township or county in whose name the proceedings are instituted, except in cases where some city, county or township is a party respondent, in which case it shall be paid by the city and county or counties, township or townships that are parties to the proceed-

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ings, as the case may be, in equal shares. Any sum assessed against any railroad company as hereinbefore provided, shall be paid by such company to the petitioner.

HISTORY: CL 1897, 4247;—CL 1915, 4768;—CL 1929, 4499;—CL 1948, 253.19.

253.20 Certified copy of verdict and judgment; transmission.

Sec. 20. When the verdict of the jury shall have been finally confirmed by the court, and the time in which to take an appeal has expired, or if an appeal is taken on the filing in the court below of a certified copy of the order of the supreme court affirming the judgment of confirmation, it shall be the duty of the clerk of the court to transmit to the common council of the city, when a city was a party to the proceedings, and to the county clerk of each county, and to the township clerk of each township that was a party to said proceedings, a certified copy of the verdict and of the judgment of confirmation, and of the judgment, if any, of affirmance; and thereupon the proper and necessary proceedings in due course shall be taken for the collection of the sum or sums awarded by the jury.

HISTORY: CL 1897, 4248;—CL 1915, 4769;—CL 1929, 4500;—CL 1948, 253.20.

253.21 Assessment of parties benefited; assessment district, determination; hearing, notice, publication, form.

Sec. 21. If the common council of any city which has been such party believe that either a portion of said city in the vicinity of the proposed separation of grades, or any street railroad company which owns or operates a line, any part of which is within said city, and which was a party to such proceedings, or both such portion of the city, and any such company or companies will be especially benefited by such separation, they may, by an entry in their minutes, provisionally determine that the whole or any just proportion of that part of the compensation awarded for damages and expenses which is apportioned to said city, shall be assessed upon the owners or occupants of real estate, or upon such company or companies, or upon both such portion of the city and such company or companies deemed to be thus benefited; and thereupon they shall, by resolution, provisionally determine the district or portion of the city benefited, if any, and the amount to be assessed upon the owners or occupants of real estate therein, or upon said company or companies or upon both. The assessment district and the amount to be assessed having been thus provisionally determined, said common council shall fix a date for the hearing of persons objecting to the constitution of said assessment district, and to the amount to be assessed, and to the assessment of said company or companies, and shall cause a notice to be published once in each week, immediately preceding said hearing, for 3 successive weeks, in a newspaper printed, published and circulated in the said city, or if there be no such paper, then in such newspaper printed and published in the state, as said board shall deem to be most generally circulated in said city, which notice shall be substantially as follows: To (stating the name of all owners and occupants of real estate in said assessment district so far as known) and to all other persons owning and occupying or otherwise interested in the following described real estate (giving the description of all real estate in said district), and to (giving the names of the street railroad companies to be assessed, if any), you are hereby notified that the sum of ..... dollars is the proportion of the amount of compensation awarded in consequence of the separation of grades of the street (or highway and railroad or railroads or any of these as the case may be) to be made at the intersection of (describing the intersecting street or highway and railroad or railroads by their names and in appropriate language) provisionally determined by the (giving name of the common council) to be assessed upon the above described real estate which has been provisionally constituted an assessment district therefor (upon said street railroad companies, naming them, or upon both said companies and said real estate as the case may be). You will be given opportunity at the meeting of (giving name

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of said common council) to be held on ..... to show cause, if any there be, why any of the above described real estate should not be included in said assessment district or (why said companies should not be assessed, or both, as the case may be) and why the amount to be assessed should not be fixed at the sum above stated.

Signed—(name of presiding officer of said common council).

HISTORY: CL 1897, 4249;—CL 1915, 4770;—CL 1929, 4501;—CL 1948, 253.21.

253.22 Opportunity to show cause; determination by council; advantage, determination; assessment, apportionment, levy, collection.

Sec. 22. At the meeting of said common council designated in said notice, opportunity shall be given to said street railroad companies to show cause why they should not be assessed, and to any persons owning, occupying or otherwise interested in any real estate included in said assessment district, to show cause why their real estate should not be included in said district, and to said companies and to any persons so interested as aforesaid, opportunity to show cause why the amount to be assessed should not be fixed at the sum provisionally determined as aforesaid. Said common council shall, at the same meeting, or at any subsequent meeting to which the consideration of the matter may be adjourned, determine said assessment district, either as originally made or with the omission of such parcels of real estate as in their judgment should be omitted therefrom, and determine whether said companies shall or shall not be assessed; and shall at the same time determine the amount to be assessed, either at the sum originally fixed, or at such less sum as in their judgment shall be just, and such determination shall be final. The amount of benefit thus ascertained shall be assessed upon the owners or occupants of all the real estate in said assessment district which is not public property, and upon said companies, as follows: The assessing officers hereinafter referred to shall determine the amount of advantage acquired by each parcel of real estate not public property in said assessment district by reason of said separation of grades and the amount of advantage acquired by said street railroad company or by each of said companies, as the case may be, by reason of said separation of grades. They shall apportion and assess the total amount to be assessed upon all said lots and parcels of real estate in said district and upon said company or companies in proportion as nearly as may be to the relative amount of advantage by them so determined to be acquired by said several lots and parcels of land and by said company or companies. The amount thus apportioned and assessed to said company or companies they shall charge against it or them. The amount thus apportioned to said assessment district shall be assessed thereon, levied and collected in the same manner and by the same officers and proceedings, as near as may be, as is provided in the charter of the city for assessing, levying and collecting the expense of a public improvement when a street is graded.

HISTORY: CL 1897, 4250;—CL 1915, 4771;—CL 1929, 4502;—CL 1948, 253.22.

253.23 Certified statement of assessment; transmission to clerk of court, duties; collection, disposition; treasurer, duties; payment of award to company.

Sec. 23. A certified statement of the amount of the assessment against any street railroad company, shall be transmitted by said city assessing officers, to the clerk of the court in which said proceedings were had. Said clerk shall, on receiving such certified statement, make an entry thereof on the record of said proceedings, and such statement so entered shall operate as a payment pro rata of the amount of any award made to said company in said proceedings, and where such assessment was made by the officers of a city other than that in whose name said proceedings were instituted, shall operate as a payment pro rata of the portion of the total compensation awarded in said proceedings, assessed therein against the city by whose officer such certified

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statement was made and transmitted. Said clerk shall send a certificate to the county treasurer or city treasurer of the city or county in whose name said proceedings were instituted, as the case may be, in all cases, stating whether the amount of assessments against such company is less than the amount of compensation so awarded to it, or is equal thereto, or is greater than the amount of said award, and stating the amount of the excess or deficiency, if any, as the case may be. Said clerk shall certify the total of the assessments against any such company, where no award was made to said company in said proceedings, or the excess, if any, of said total of said assessments over the amount of such award, where such award was made:

(a) In cases where said proceedings were instituted in the name of any city, to the receiver of taxes of said city or other officer by whom general taxes are collected.

(b) In cases where said proceedings are instituted in the name of any county, to the township treasurer of the township in which said crossing, or the part of said crossing within said county is situate: Provided, That if said crossing, or the part thereof within said county, lies in more than 1 township of said county, said certificate shall be made to the township treasurer of either of said townships.

(c) In cases where said proceedings are instituted in the name of any township, to the township treasurer of the township. The amount of the assessment so certified shall then be collected by the same officer, at the same time and in the same manner as general personal taxes are or may be collected, and shall, when collected by said collecting officers, be paid over to the treasurer of the city, county or township by which said proceedings were instituted, as the case may be, by whom it shall be placed to the credit of the fund created for the payment of the compensation on account of said changes of grade. Whether the amount of the assessments is greater than, equal to, or less than the amount of the award to said company, the treasurer of the city, county or township in whose name the proceedings were instituted shall, upon receiving certificate thereof, make an entry to that effect in the proper record, and when the fund for payment of compensation is provided, shall pay to said company the excess only of its award over said assessment.

HISTORY: CL 1897, 4251;—CL 1915, 4772;—CL 1929, 4503;—CL 1948, 253.23.

253.24 Assessment roll prima facie evidence; compensation apportioned to municipality, raising as general tax.

Sec. 24. The assessment roll containing said assessments on a city district, when ratified and confirmed by the common council, shall be prima facie evidence of the regularity and legality of all proceedings prior thereto and up to and including said confirmation, and all assessments therein contained shall be and continue a lien on the premises against which the same are assessed, until payment thereof. Such part of the compensation apportioned as above provided to any city for payment as is not raised in the manner hereinbefore provided, and all that part of the compensation which is apportioned, as above provided, to any county or township, shall be assessed, levied and collected on all taxable property of said city, county or township, as the case may be, in the same manner as general taxes are assessed and collected.

HISTORY: CL 1897, 4252;—CL 1915, 4773;—CL 1929, 4504;—CL 1948, 253.24.

GENERAL TAX LAW: See Compilers' § 211.1 et seq.

253.25 Sums set aside for awards; treasurer's duties; transfer of funds; grade separation bonds.

Sec. 25. As soon as may be after any agreement made under the provisions of section 2 of this act becomes enforceable, and as soon as may be after the final confirmation of any verdict in judicial proceedings under the provisions of this act, each city, county and township, upon which, under the terms of such agreement, or of any settlement or compromise of damages made under the provisions of section 3 of this act,

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or of any such verdict, the payment of any sum or sums of money is charged, shall set apart and cause to be provided in its treasury, unless already provided, its proportion of the amount required to pay all such sums, and shall, in the resolution setting apart and providing said amount, direct its treasurer to pay to the persons respectively entitled to the money so provided, each his proportion thereof, as determined by said agreement, settlement, or verdict, except that in cases where the crossing is of either of the classes referred to in clauses (e) and (f) of section 1 of this act the proportions so provided by said body politic and corporate other than the one in whose name the said proceedings were instituted, less the amount of any assessments by any city made against any street railroad company or companies as hereinbefore provided, shall be paid over by the treasurers thereof, respectively, to the treasurer of said city, county or township in whose name the proceedings were instituted, to be by him credited to the funds provided for the payment of said awards of compensation and disbursed by him to the parties entitled to the said award. It shall be the duty of the treasurer securely to hold such money in the treasury for the purpose of paying said awards and to pay out the same to persons entitled thereto, according to the said verdict, on demand, and not to use or pay out said money for any other purposes whatever. Said cities, counties and townships may provide their respective proportions of said amount by borrowing from any other money or fund in their respective treasuries and repay such loan from the money raised to pay the compensation so awarded, when collected or otherwise, as they may provide. And may cause the whole or any part of the appropriation required to pay all such sums, to be made by issue of bonds in lieu of raising the same by taxation. Said bonds shall be issued in the name of the city, county or township in the same manner as are other city, county or township bonds, and shall be denominated "Grade separation bonds."

HISTORY: CL 1897, 4253;—Am. 1909, p. 460, Act 288, Eff. Sept. 1;—CL 1915, 4774;—CL 1929, 4505;—CL 1948, 253.25.

253.26 Separation of grades; not delayed by non-payment of award.

Sec. 26. The making of said separation of grades whether in any railroad or in any street or highway, and of all other changes necessary to carry out the plan set forth in the resolution or certificate provided for by section 3, or in the report provided for in section 9, shall not be postponed or delayed on account of the non-payment of any of the sums so awarded as compensation, nor shall the payment of any of the sums so awarded as compensation be a condition precedent to the making of any said changes to carry out the said plan.

HISTORY: CL 1897, 4254;—CL 1915, 4775;—CL 1929, 4506;—CL 1948, 253.26.

253.27 Separation of grades; in accordance with plan, plat, and profile; grade change; duty of railroad, municipality.

Sec. 27. The separation of grades provided for either in the said agreement mentioned in section 2 or in the resolution, certificate or report attached to the petition provided for in section 11 as the case may be, shall be made and carried out in accordance with the plan, plat and profile, set forth in said agreement, resolution, certificate or report. All changes of grades in any railroad or railroads, and all changes in said railroad or railroads consequent on said separation of grades, shall be made and carried out by the railroad company or companies operating the same. When, according to said plan of separation of grades, the street or highway will cross the railroad by an overhead bridge, the frame work of that part of said bridge within the side lines of the right of way and all abutments and supports sustaining that part of said bridge, shall be built, maintained and kept in repair by the railroad company, or where such bridge crosses the right of way of more than 1 railroad company, by said companies. Where, according to said plan of separation of grades, the street or highway will pass under a railroad or railroads, the railroad bridge, its abutments and the sustaining walls along

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the highway within the side lines of its own right of way shall be built, maintained and kept in repair by each railroad company. The surface and approaches of such bridge over which the street or highway passes, and such public way under such railroad or railroads and the approaches thereto, shall be constructed, maintained and kept in repair by the township, county or city within which the same are situate, or in the case of line crossings, by the joint action and under the joint supervision of the representative board or officer of the county or township and of the persons or bodies in whom by the charter of the city, the power to contract for and supervise the *payment of streets is vested, as the case may be. The expense of all work to be done by any railroad shall be paid by said railroad, or in case work is to be done by 2 or more railroads jointly the expense shall be shared equally among them. The expense of all work to be done by any city, county or township shall be paid by such city, county or township, or in case work is to be done by a city, and county or counties, township or townships jointly, the expense shall be shared equally among them. Such expense imposed on any city, county or township shall be provided for by taxation in like manner as its other expenses are provided for.

HISTORY: CL 1897, 4255;—Am. 1909, p. 461, Act 268, Eff. Sept. 1;—CL 1915, 4776;—CL 1929, 4507;—CL 1948, 253.27.

*NOTE: It is apparent to the Compiler that the word "payment" should be "pavement".

253.28 Order of confirmation; payment of assessment and change in grade; judgment, effect, enforcement.

Sec. 28. Said order of confirmation shall, after reciting the substance of the verdict, and declaring the same confirmed, provide that the several amounts therein assessed against the railroad company or companies and the several bodies politic and corporate who are parties to the proceedings shall be paid by them respectively within 1 year from the date of final confirmation, and that the change or changes of grade found to be necessary by said verdict shall be made, if not already made, by the parties on whom the duty of making them respectively is imposed, within such reasonable time as the court shall in said order determine, not exceeding 1 year from the date of said order. Said judgment shall have the force and effect of a decree in chancery and may be enforced by the court making the same in any manner provided for the enforcement of chancery decrees.

HISTORY: CL 1897, 4256;—Am. 1909, p. 462, Act 268, Eff. Sept. 1;—CL 1915, 4777;—CL 1929, 4508;—CL 1948, 253.28.

253.29 Compensation of officers, jurors, and witnesses.

Sec. 29. The officers, jurors and witnesses in any proceedings under this act shall be entitled to receive from the city, county or township instituting the proceedings, the same fees and compensation as are provided by law for similar services in an ordinary action at law in the circuit courts of the state.

HISTORY: CL 1897, 4257;—CL 1915, 4778;—CL 1929, 4509;—CL 1948, 253.29.

253.30 Costs of proceedings, payment; attorney fee.

Sec. 30. All the expenses and costs of proceedings under this act incurred by any municipality, county or township instituting the same, shall be paid out of the general fund, highway fund, or the fund provided for such purposes as the case may be. It shall be lawful for the judge in any case to order the payment, by the city, county or township instituting the proceedings, to any respondent, of such reasonable attorney fee as he may deem just, not exceeding 25 dollars, which may be taxed with the other costs.

HISTORY: CL 1897, 4258;—CL 1915, 4779;—CL 1929, 4510;—CL 1948, 253.30.

253.31 Discontinuance of proceedings; new trial; appeal.

Sec. 31. The city attorney or prosecuting attorney as the case may be, may by permission of the court, after a hearing by all parties interested, discontinue the proceedings, but not after a verdict shall have been rendered, but he may in behalf of peti-

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tioner move for a new trial or take an appeal to the supreme court, but in cases of appeal by the petitioner, no bonds shall be required of it, nor shall it be required to pay any fees to the clerk of the court in which such proceedings were instituted for services in relation to taking of said appeal.

HISTORY: Am. 1895, p. 282, Act 143, Eff. Aug. 30;—CL 1897, 4259;—CL 1915, 4780;—CL 1929, 4511;—CL 1948, 253.31.

253.32 Averments in petition true unless contradicted.

Sec. 32. It shall not be necessary in any proceedings under this act to give evidence in making out the prima facie case, of the party instituting the proceedings, of the ownership of interest of any of the respondents in any of the lands described in said petition as damaged or affected by said changes of grades, but the averments of said petition as to such matters shall, unless evidence is put in by the respondents contradictory thereof, be taken as true.

HISTORY: CL 1897, 4260;—CL 1915, 4781;—CL 1929, 4512;—CL 1948, 253.32.

253.33 Detroit; head of legal department; duties.

Sec. 33. In the city of Detroit the city counselor or other officer who may be the head of the legal department of said city shall perform the duties required by this act to be performed by the city attorney, and wherever the term city attorney shall be used herein, it shall as to and in said city be deemed to mean the city counselor or other head of the legal department.

HISTORY: Add. 1895, p. 350, Act 187, Eff. Aug. 30;—CL 1897, 4261;—CL 1915, 4782;—CL 1929, 4513;—CL 1948, 253.33.

Act 114, 1925, p. 155; Eff. Aug. 27.

AN ACT to regulate the separating of grades; the reconstruction of existing grade separations; and the alteration of existing grade separations for increased highway or railroad facilities at crossings of railroads with public streets and highways; to authorize the relocation of such crossings and the closing of certain highways; and to provide for apportioning the cost thereof against the railroad company and the state, county, township, city or village, or the board, commission or other agency interested therein; and to provide the procedure for the judicial determination of grade separation damages to abutting property. Am. 1931, p. 798, Act 335, Imd. Eff. Jun. 24;—Am. 1941, p. 505, Act 295, Eff. Jan. 10, 1942.

The People of the State of Michigan enact:

253.51 Grade separations; supervision of public service commission.

Sec. 1. Where any railroad crosses or shall hereafter cross any public street or highway, or where any public street or highway shall be hereafter laid out, established or constructed across any railroad, the separation of grades at such crossing, the reconstruction of existing grade separations or the alteration of existing grade separations for increased highway or railroad facilities, by carrying such street or highway either over or under such railroad or railroads at the point of intersection, shall first be approved by, and, to the extent and in the manner herein provided, shall be subject to the supervision and regulation of the Michigan public service commission, hereinafter, for brevity, called the commission.

HISTORY: Am. 1929, p. 342, Act 150, Eff. Aug. 28;—CL 1929, 4514;—Am. 1931, p. 798, Act 335, Imd. Eff. June 24;—Am. 1941, p. 505, Act 295, Eff. Jan. 10, 1942;—CL 1948, 253.51.

253.52 Grade separations; application, submission of plans and agreement.

Sec. 2. Whenever it is proposed to separate the grades, to reconstruct existing grade separations or to alter existing grade separations for increased highway or railroad facilities at any such crossing, the public authority, or authorities, having jurisdiction

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over any such street or highway, or the railroad company or companies, shall make application in writing to the commission for permission, and authority to make such improvements. There shall be submitted with said application proposed profiles, plans, maps and specifications therefor, showing the portions of the street or highway and the railroad or railroads, the grade of which is to be changed, and the details of construction necessary for such improvements. If said authorities, where permitted by law, have agreed with the railroad or railroads upon such separation of grades and the profiles, plans, maps and specifications therefor, a copy of such agreement shall be attached to said application.

HISTORY: CL 1929, 4515;—Am. 1931, p. 796, Act 335, Imd. Eff. June 24;—CL 1948, 253.52.

253.53 Grade separations; hearing, notice, parties' right to appear, witnesses; agreement between municipal and railroad authorities.

Sec. 3. On the filing of such application it shall be the duty of the commission to set a day for hearing thereon, and to cause written notice thereof, together with a copy of the application, to be served upon the railroad or railroad companies or highway authorities interested in said proceeding, at least 10 days prior to the day set for such hearing, and on the day set for hearing, or at any adjournment or continuance thereof, the parties in interest shall be entitled to be heard. Said commission is authorized and empowered to issue summons, or subpoenas, to enforce the attendance of witnesses at such hearing, and is also authorized and empowered to make such examination of the location of such crossing as it may deem necessary. If an agreement has been entered into between the public authority or authorities having jurisdiction over any such street or highway and the railroad authorities, the commission shall waive a formal hearing and issue an order based upon the terms of such agreement.

HISTORY: CL 1929, 4516;—Am. 1931, p. 799, Act 335, Imd. Eff. June 24;—CL 1948, 253.53.

253.54 Grade separations; approval, refusal, change, closing highways; powers of commission concerning plans and specifications.

Sec. 4. If after such hearing the said commission shall find that the separation of grades, the reconstruction of existing grade separations or the alteration of existing grade separations for increased highway or railroad facilities at said crossing is necessary for the public convenience, welfare and safety, it may by proper order authorize, permit and approve such separation of grades, the reconstruction of existing grade separations or the alteration of existing grade separations for increased highway or railroad facilities, together with the profiles, plans, maps and specifications to govern the work; and if it shall find that there is no such necessity it may by proper order refuse such permission, authority and approval. The commission shall also have power, when in their judgment they deem it necessary for the public convenience, welfare and safety, to change the location of any such crossing and to require a separation of the grades thereat. When existing grade crossings of any highways with the railroad involved in a grade separation, plans for which are approved under the provisions of this act, are situated within a reasonable distance of the site approved for grade separation, and when it is considered practical and reasonable to abolish any of such crossings by connecting the highways to the highway directly served by the approved grade separation project, the commission is hereby authorized to order such crossings closed and to specify or approve the nature of connections to the highways interrupted by closing these crossings, requiring that such work be included as a part of the grade separation project. Profiles, plans, maps and specifications for structures and railroad and highway approaches shall be prepared, unless otherwise agreed upon, by the party whose traffic is to be carried thereon, and likewise, unless otherwise agreed upon, the work of construction shall be performed by the party whose traffic is to be carried by such construction: Provided, however, That if such profiles, plans, maps and specifications

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of any party or parties have not been agreed to in writing by the other parties interested in said improvement prior to the day set for hearing on such application before the commission, as hereinbefore provided, the commission shall in its order prescribe the manner in which the separation of grades, the reconstruction of existing grade separations or the alteration of existing grade separations shall be effected, fix and approve the profiles, plans, maps and specifications therefor, and in this behalf may approve in whole or in part, modify or alter, the plans submitted by said applicant.

HISTORY: CL 1929, 4517;—Am. 1931, p. 799, Act 335, Imd. Eff. June 24;—CL 1948, 253.54.

253.55 Grade separations; apportionment of cost of construction.

Sec. 5. Unless otherwise agreed upon by both public and railroad authorities, the cost of constructing and making all such separation of grades, the reconstruction of existing grade separations or the alteration of existing grade separations for increased highway or railroad facilities, computed as hereinafter provided, shall be borne according to benefits, but not to exceed 15 per cent thereof by the railroad or railroads interested and the balance thereof by the state, or subdivision thereof, city or village, or the board, commission or other agency interested therein, or jointly by any or all of the parties, except, where the reconstruction of existing grade separations or the alteration of existing grade separations has not been agreed to by both public and railroad authorities, in which event the commission shall prescribe in its order who shall bear and pay the cost of said improvement, in whole, or in proportion to the benefits to the respective parties: Provided, That the railroad or railroads interested shall not be requested to pay in excess of 15 per cent thereof. Where more than 1 railroad is interested, if they do not agree on the division of the amount to be borne by them, then such division shall be made by said commission, and prescribed in said order; and in case the amount to be borne by the state, subdivision thereof, city or village, or said agencies hereinbefore recited, is not agreed upon, the division of the amount to be borne by them shall be made by said commission and prescribed in said order.

HISTORY: CL 1929, 4518;—Am. 1931, p. 800, Act 335, Imd. Eff. June 24;—Am. 1939, p. 553, Act 285, Eff. Sept. 29;—CL 1948, 253.55.

253.56 Grade separations; apportionment of cost of maintenance.

Sec. 6. Except as otherwise provided by law or by agreement of the parties in interest, said commission shall determine the parts or sections of said grade separation undertaking the maintenance of which shall be borne by the railroad or railroad companies interested and the parts or sections thereof, which shall be maintained by the state, or subdivision thereof, city, village or the agencies hereinbefore mentioned: Provided, however, That unless there are special conditions which complicate a direct allotment of the division of maintenance responsibilities, the maintenance of the structure and approaches and corresponding items of work shall be performed and the cost of same shall be borne entirely by the party whose traffic is carried thereon: Provided, further, That the railroad company implicated will repair or replace, at its sole expense, any portions thereof which may be damaged or destroyed by accident or otherwise arising from railroad traffic, and the state, or subdivision thereof, city, village or the agencies hereinbefore mentioned, will repair or replace, at their sole expense, any portions thereof which may be damaged or destroyed by highway traffic.

HISTORY: CL 1929, 4519;—Am. 1931, p. 800, Act 335, Imd. Eff. June 24;—Am. 1939, p. 553, Act 285, Eff. Sept. 29;—CL 1948, 253.56.

253.57 Grade separations; items included in cost of construction.

Sec. 7. In computing the costs of said improvement the expense of procuring the right of way for such street or highway shall not be included, but there shall be included abuttal damages, all the costs of construction, both temporary and permanent, including railroad and highway approaches to the structure incident to said separation of grades, reconstruction of existing grade separations and the alteration of existing grade separations for increased highway or railroad facilities, as set forth in the pro-

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files, plans, maps and specifications so approved by the commission: Provided, That additional property acquired or to be acquired for the mutual interests of both railroad companies and the public for economizing the cost of the improvement and necessary to the grade separation structure and immediate approaches for preserving the existing highway or railroad, may be deemed a construction cost and included in the cost of said improvement.

HISTORY: CL 1929, 4520;—Am. 1931, p. 800, Act 335, Imd. Eff. June 24;—CL 1948, 253.57.

253.58 Right of way; acquisition.

Sec. 8. Whenever permission is granted for the construction or relocation of a railroad crossing, either at grade or otherwise, or for the reconstruction of existing grade separations, and the alteration of existing grade separations for increased highway or railroad facilities, the right of way and other property rights, if any, for said highway across the land and tracks of the railroad company shall, unless otherwise agreed upon, be acquired in the same manner as property is acquired for other highway purposes.

HISTORY: CL 1929, 4521;—Am. 1931, p. 800, Act 335, Imd. Eff. June 24;—CL 1948, 253.58.

PURCHASE AND CONDEMNATION OF PROPERTY: See Act 149 of 1911, being Compilers' § 213.21 et seq. and Act 352 of 1925, being Compilers' § 213.171 et seq.

253.59 Compensation to abutting owners; determination of damages.

Sec. 9. The state, county, township, city, village, board, commission or other agency, participating in the cost of grade separation as provided in this act, shall pay compensation to the owners and others having an interest greater than month-to-month tenancy in the property abutting on that portion of said highway of which the grade is to be or has been changed, including those in possession of the premises having an interest greater than month-to-month tenancy, for damages, if any, sustained by reason of the change of grade of said highway incident to said separation of grades; and the public authority having jurisdiction over the street or highway involved in said grade separation may settle or compromise such damages with the persons entitled thereto, or, if it is unable to effect such settlement or compromise, or deems it inexpedient so to do, shall institute judicial proceedings for the determination of such damages under the provisions of Act 92 of the Public Acts of 1893, as amended, relative thereto, or in accordance with the procedure hereinafter set forth in sections 11 through 24 of this act. No benefits shall be assessed against any railroad company interested in said improvement.

HISTORY: Add. 1931, p. 801, Act 335, Imd. Eff. June 24;—Am. 1941, p. 508, Act 295, Eff. Jan. 10, 1942;—CL 1948, 253.59.

NOTE: Act 92, 1893, above referred to, is Compilers' § 253.1 et seq.

253.60 Construction of act.

Sec. 10. Nothing in this act shall be construed as amending or limiting in any way Act 92 of the Public Acts of 1893, as amended.

HISTORY: Add. 1935, p. 801, Act 335, Imd. Eff. June 24;—CL 1948, 253.60.

NOTE: Act 92, 1893, above referred to, is Compilers' § 253.1 et seq.

253.61 Institution of proceedings to determine damages; jurisdiction.

Sec. 11. Said public authority having jurisdiction over the street or highway shall within 1 year after the completion of such grade separation project, adopt a resolution setting forth the fact that the Michigan public service commission has, after finding such separation of grades to be necessary for the public convenience, welfare and safety, by proper order authorized, permitted and approved such separation of grades, and setting forth that it cannot effect such settlement or compromise, or that it deems it inexpedient so to do, and directing its attorney to institute the necessary judicial proceedings in its behalf for the determination of damages, if any, to such abutting property. Said proceedings may be instituted in the circuit court of the county in which such abutting property is situated, or if such property is in a city, the proceed-

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ing may be instituted in the recorders court or superior court in said city if there be one.

HISTORY: Add. 1941, p. 506, Act 295, Eff. Jan. 10, 1942;—CL 1948, 253.61.

253.62 Institution of proceedings to determine damages; petition, contents; determination of necessity.

Sec. 12. Said public authority shall deliver a certified copy of such resolution to its attorney, and it shall be the duty of such attorney to prepare and file in the proper court in the name of such public authority, a petition signed by him in his official character, and duly verified by him, to which petition a certified copy of such resolution shall be annexed, together with a certified copy of the order of the Michigan public service commission authorizing, permitting and approving such separation of grades, which certified copies shall be prima facie evidence of the actions taken thereunder and of the passage thereof. The order of the public service commission authorizing, permitting and approving said separation of grades, after finding the same to be necessary for the public convenience, welfare and safety, shall constitute a final determination of the question of the necessity of such separation of grades. The petition shall state among other things that it is made and filed as commencement of judicial proceedings in pursuance of this act for the purpose of determining the damages, if any, to be paid to the owners and others interested in the property abutting on that portion of the street, highway or highways, designating the same, of which the grade has been changed by reason of the separation of grades thereof with a certain railroad or railroads, designating the same; shall contain a description of such abutting property and a plan showing the extent to which the grade of the street or highway has been changed adjacent to said abutting property; shall contain the names of the owners or other parties in interest in said abutting property to whom damages are payable pursuant to the provisions of this act, so far as can be ascertained; and shall ask that a jury be summoned and impaneled to ascertain the damages, if any, to be paid to such persons by reason of the construction of such grade separation. The petition may state any other pertinent matter or things, and may pray for any other or further relief to which the petitioner may be entitled within the objects of this act.

HISTORY: Add. 1941, p. 506, Act 295, Eff. Jan. 10, 1942;—CL 1948, 253.62.

253.63 Guardian ad litem; order for hearing; publication, service.

Sec. 13. Upon the filing of such petition the court shall appoint a guardian ad litem for any minor, insane or incompetent person named as a respondent therein, which guardian shall be a resident of the county, and shall make an order fixing a day for hearing on such petition which shall be not less than 3 weeks thereafter. Such order shall recite the names of the persons mentioned in the petition as parties in interest and state the purpose of the petition, and shall order such persons to appear before said court at the time fixed in said order for the hearing on the petition, and show cause, if any they have, why the prayer in said petition should not be granted. Such order shall be published once in each week for 3 successive weeks in some newspaper published and circulated in the county to be designated by the court, and a copy of said order shall be served on each person named in the petition interested in the land described therein who resides within the county and upon each such guardian at least 6 days before the day of hearing. Such service may be made personally or by leaving at the place of residence of the person to be served. Such publication shall constitute service of such order upon all nonresidents of the county and all persons absent from the jurisdiction or unknown, or who are evading service, or who for any other reason cannot be found. Proof of publication and service may be made by affidavit of any person or persons having knowledge of the facts. Such proof shall be filed with the court upon the day of hearing and thereupon the court shall have jurisdiction of the

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subject matter involved in the proceedings and of the parties interested therein. Service of such order in either mode prescribed shall be sufficient notice of the proceeding to bind the parties in interest named therein and the property represented by them as described in the petition.

HISTORY: Add. 1941, p. 507, Act 295, Eff. Jan. 10, 1942;—CL 1948, 253.63.

253.64 Jury; impaneling; procedure; peremptory challenges.

Sec. 14. On the day of hearing or on some subsequent day to which the proceedings may be adjourned, a jury shall be selected and impaneled in the cause from the jurors summoned to serve at that term of the court before which such proceedings are had and shall be composed of 12 disinterested freeholders of the county. Six peremptory challenges shall be allowed to the petitioner, and the respondents, collectively, shall be entitled to the same number. The practice and proceedings under this act relative to the impaneling, summoning and excusing of jurors and imposing penalties and fines upon them for non-attendance shall, except as herein provided, be the same as the practice and proceedings of the circuit courts of the state relative to petit jurors in civil cases.

HISTORY: Add. 1941, p. 507, Act 295, Eff. Jan. 10, 1942;—CL 1948, 253.64.

253.65 Trial; evidence; instructions; deliberations of jury.

Sec. 15. The jury so impaneled shall be sworn or shall affirm that they will impartially ascertain and determine the compensation to be made to the parties respondent named in said petition. The jury shall hear the proofs and allegations of the parties and, if so ordered by the court shall, whenever practicable, visit the abutting property described in the petition and examine it. The jury shall be instructed as to its duties and the law in the case by the court and shall retire in charge of an officer and render its verdict in the same manner as in the trial of an ordinary civil case, but the same shall be in writing and shall be signed by all of the jurors. The court may allow the jury to take with it when it retires, proper descriptions of the abutting property as well as maps of the same and of the premises adjacent thereto, showing the improvement and such other papers as the court in its discretion may deem it proper for them to have including exhibits allowed in evidence and a form of verdict containing a description of the abutting property and the names of the respondents interested therein.

HISTORY: Add. 1941, p. 508, Act 295, Eff. Jan. 10, 1942;—CL 1948, 253.65.

253.66 Verdict set aside; amendments to proceedings.

Sec. 16. The verdict of the jury may be set aside by the court and a new trial ordered as in civil suits at law in the circuit courts of the state except as herein otherwise provided. Amendments either in form or substance may be allowed in any paper, petition, process, record or proceedings or in the description of the property proposed to be taken, or the name of any person whether contained in the resolution passed by the public authority or otherwise, whenever the amendment will not interfere with the substantial rights of the parties. Any such amendment may be made after as well as before judgment confirming the verdict of the jury.

HISTORY: Add. 1941, p. 508, Act 295, Eff. Jan. 10, 1942;—CL 1948, 253.66.

253.67 Motion for new trial; confirmation of verdict; appeal.

Sec. 17. Motions for a new trial or to arrest the proceedings shall be made within 2 days after the rendition of the verdict, unless further time is allowed by the court, and if no such motion is made, or being made is overruled, the court shall enter an order or judgment confirming the verdict of the jury, and such judgment or confirmation, unless reversed by the supreme court, shall be final and conclusive as to all persons interested therein. Any party to the proceedings considering himself aggrieved may appeal from the judgment of the court confirming the verdict of the jury by filing in writing with the clerk of said court a notice of such appeal within 5 days after the confirma-

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tion and within 10 days thereafter serving a copy thereof on the attorney or attorneys who appeared in said cause, and, if such appeal be taken by a respondent, filing a bond in said court to be approved by the judge thereof, conditioned for the prosecution of said appeal to judgment and the payment of all costs, damages and expenses that may be awarded against the party in case the judgment or confirmation shall be affirmed. Such appeal shall be perfected within the same time and prosecuted as an appeal in civil cases as near as may be, subject to the provisions of this act.

HISTORY: Add. 1941, p. 508, Act 295, Eff. Jan. 10, 1942;—CL 1948, 253.67.

253.68 Court to settle case for appeal; transmittal to supreme court.

Sec. 18. In case of such an appeal, the clerk of the court on payment of his legal fees and charges shall transmit to the supreme court a certified copy of the necessary files, records and proceedings in the case, and the judge of the court shall at the request of the appellant settle a case according to the usual practice of said court, showing the material evidence and instructions given to the jury bearing upon any disputed points, and the objections, rulings and exceptions in the case, all of which shall be returned by said clerk as a part of the records to the clerk of the supreme court.

HISTORY: Add. 1941, p. 508, Act 295, Eff. Jan. 10, 1942;—CL 1948, 253.68.

253.69 Judgment on appeal; costs; off-setting of costs.

Sec. 19. The said appeal may be brought on for hearing at any term of the supreme court and said court may affirm, or for any substantial error reverse the judgment, and may grant a new trial. The said court shall allow the prevailing party his reasonable costs and expenses, to be taxed, and give judgment as in other civil appeals, and all costs, damages and expenses awarded to the petitioner, if it so elect, may be applied on or deducted from the compensation if any to be paid, or execution may issue on the judgment.

HISTORY: Add. 1941, p. 509, Act 295, Eff. Jan. 10, 1942;—CL 1948, 253.69.

253.70 Payment of compensation following judgment becoming final.

Sec. 20. When the verdict of the jury shall be finally confirmed by the court and the time in which to take an appeal has expired or if an appeal is taken on the filing in the court below of a certified copy of the order of the supreme court affirming the judgment of confirmation, it shall be the duty of the clerk of the court to transmit to the petitioner a certified copy of the verdict of the jury and of the judgment of the confirmance, and of the judgment, if any, of affirmance, and thereupon or within 1 year thereafter said petitioner shall set apart and cause to be provided the amount required to make compensation to the parties respondent interested in said abutting property as awarded by the jury and shall by resolution direct payment to the persons respectively entitled to the money so set apart and awarded.

HISTORY: Add. 1941, p. 509, Act 295, Eff. Jan. 10, 1942;—CL 1948, 253.70.

253.71 Fees of officers, jurors, and witnesses; taxing of attorney fee.

Sec. 21. Officers, jurors, and witnesses in any proceeding under this act shall be entitled to receive from the petitioner the same fees and compensation as are provided by law for similar services in an ordinary action at law in the circuit courts, and it shall be lawful for the judge in any case to order the payment by the petitioner to any respondent of such reasonable attorney fee as he may deem just, not exceeding $25.00, which may be taxed with the costs.

HISTORY: Add. 1941, p. 509, Act 295, Eff. Jan. 10, 1942;—CL 1948, 253.71.

253.72 Discontinuance by petitioner; motion for new trial; appeal.

Sec. 22. The petitioner may discontinue the proceedings at any time prior to the closing of the proofs. In case of such discontinuance the petitioner shall institute new proceedings for the determination of damages under the provisions of this act within

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30 days. The petitioner may move for a new trial or take an appeal to the supreme court, but in cases of appeal by the petitioner no bonds shall be required of it nor shall it be required to pay any fees to the clerk of the court in which such proceedings were instituted for services in relation to the taking of said appeal.

HISTORY: Add. 1941, p. 509, Act 295, Eff. Jan. 10, 1942;—CL 1948, 253.72.

253.73 Evidence of ownership.

Sec. 23. It shall be prima facie evidence as to who are owners of and persons interested in any of the abutting property if the register or deputy register of deeds or an abstractor in the tract index department of the county shall testify in open court that he has examined the records in his office, and state who are shown by such records to be the owners of and persons interested in such property, and the nature and extent of such ownership and interest.

HISTORY: Add. 1941, p. 509, Act 295, Eff. Jan. 10, 1942;—CL 1948, 253.73.

253.74 Recording of notice of filing of petition; copy of evidence.

Sec. 24. To render the filing of a petition in court under this act constructive notice to a purchaser of real estate, the attorney of any petitioning public authority may file for record with the register of deeds of the county a notice of the filing of such petition, setting forth the title of the cause and the general object thereof, together with a description of the land to be affected thereby, and it shall thereupon become the duty of the register of deeds to record such notice in a book kept for that purpose upon the payment of such fee as is provided by law for recording deeds. A copy of such record, authenticated by the register of deeds, shall be evidence of such notice and of the filing of same in all courts and places. The register of deeds shall enter in an indexed book kept in his office such references to said notice as will enable all persons interested to search his office for such notice without inconvenience.

HISTORY: Add. 1941, p. 509, Act 295, Eff. Jan. 10, 1942;—CL 1948, 253.74.

Act 235, 1931, p. 410; Imd. Eff. May 29.

AN ACT authorizing cities to borrow money and to issue bonds for the purpose of defraying part or all of the city's share of the cost and expense of separating grades for railroads and public highways and streets where such railroads intersect such highways and streets, including part or all of the city's share of the cost and expense of the elevation or depression of such railroads, highways and streets, and including the defraying of part or all of the city's share of the damages resulting to abutting property by reason of such separation of grades, or the elevation or depression of such railroads, public highways or streets.

The People of the State of Michigan enact:

253.91 Grade separation bonds of cities; limitations; referendum.

Sec. 1. Any city in this state is hereby authorized to borrow money on the credit of such city and to issue general obligation bonds of such city for the purpose of defraying part or all of the city's share of the cost and expense of separating grades in such city for railroads and public highways and streets where railroads intersect such highways and streets, including part or all of the city's share of the cost and expense of the elevation or depression of such railroads, highways and streets, and including the defraying of part or all of the city's share of the damages resulting to abutting property by reason of such separation of grades, or the elevation or depression of such railroads, public highways or streets: Provided, That the net bonded indebtedness incurred for all public purposes by any such city, inclusive of the above, shall not exceed the limit

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of per cent of bonded indebtedness provided by the charter of such city: And provided further, That no such bonds shall be issued except on a 3/5 affirmative vote of the qualified electors of such city voting thereon at any regular or special election.

HISTORY: CL 1948, 253.91.

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CHAPTER 254. HIGHWAYS—BRIDGES

BRIDGES AND CULVERTS

Act 354 of 1925

254.1 Bridges and culverts; construction, improvement and repair; part of road.
254.2-254.4 Repealed.
254.5 Obstructions to navigation; powers of commissioner; removal costs; failure to remove, penalty.

INTER-MUNICIPAL BRIDGES

254.6 Inter-township, bridge; construction, repair, expense, joint action.
254.7 Repealed.
254.8 Townships and commissioners construed; authority to contract.
254.9 Failure to join; petition to state commissioner.
254.10 Failure to join; hearing, notice.
254.11 Failure to join; commissioner, duties; approval of supervisors of navigable rivers.
254.12 Failure to join; determination of quota, alteration.
254.13 Failure to join; copy of determination, filing; tax levy.
254.14 Inter-county bridge; failure of boards of commissioners to agree on apportionment, petition to state commissioner.
254.15 Interstate bridge; commissioners' authority to contract; supervisors, fund raising, special tax, limitation.
254.16 Repealed.

GENERAL PROVISIONS

254.17 Bridge; specifications by state department without cost.
254.18 Repealed.
254.19 Bridge; carrying capacity.
254.19a Bridges; annual inspection.
254.20 Posting of narrow and one-lane bridges; uniform traffic control devices.
254.21 Movable bridge; warning, protection, penalty.
254.22 Bridge over navigable stream; construction and maintenance.
254.23 Movable span bridge; rules, posting, duty of commissioner.
254.24 Repealed.

ALTERATION OF WATERCOURSES

254.25 Permit for alteration of watercourses.
254.26 Permit for alteration of watercourses; costs, payment, contract.

MILL RACES

254.27 Bridge over race; duty of water workers.
254.28 Bridge over race; failure to maintain, commissioner, duty.
254.29 Bridge over race; expense, collection.
254.30 Bridge and culvert; synonymous.
254.32 Bridges excepted.

BRIDGES OVER NAVIGABLE STREAMS

Act 398 of 1919

254.51 Bridge over navigable waters in certain counties; petition.
254.52 Bridge over navigable waters in certain counties; meeting of county supervisors, notices; plans and specifications.
254.53 Bridge over navigable waters in certain counties; board of supervisors, authority; type of bridge.
254.54 County under road system; authority of commissioners; specifications; type of bridges not to be changed.
254.55 County under road system; special assessment district, hearings, objections, boundary changes.
254.56 County under road system; commissioners' final order.
254.57 County under road system; commissioners' powers and duties.
254.58 County under road system; rights, duties, remedies, limitations; legislative intent.
254.59 County under road system; annual installments, apportionment of cost; announcement of decision, exemption.
254.60 County not under road system; supervisors' authority, delegation.
254.61 County not under road system; powers and duties, legislative intent.
254.62 Bridge deemed public highway; county maintenance.
254.63 Tax limit; borrowing funds.
254.64 Recovery of damages; plaintiffs; actions within year.
254.65 Recovery of damages; action by summons, service; alias and pluries summons.
254.66 Recovery of damages; pleadings, proceedings.
254.67 Recovery of damages; tax levy.

BORROWING POWER OF CITIES

Act 109 of 1927

254.81 Bridges; city borrowing power, referendum.
254.82 Interest rate.
254.83 Saving clause; bonds validated.

INTERSTATE BRIDGE OVER NAVIGABLE STREAM

Act 6 of 1911

254.91 Interstate bridge across navigable stream; joint action between states.
254.92 Interstate bridge across navigable stream; building prerequisites.
254.93 Interstate bridge across navigable stream; authorized city bond issue.
254.94 Declaration of necessity.

BRIDGE ACROSS PORTAGE LAKE

Act 181 of 1921

254.101 Bridge across Portage Lake declared state trunk line highway.
254.102 State highway commissioner's obligations, contracts, execution of leases.
254.103 Payment of costs.
254.104 Work performance; trunk line bridge.
254.105 Rentals, damages, moneys due; disposition.
254.106 State highway commissioner and other officers; authority.
254.107 Saving clause.

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BRIDGE OVER CROOKED LAKE
Act 82 of 1959
254.111 Bridge over Crooked lake to Oden island.
254.112 Plans, changes, acceptance.

INTERSTATE BRIDGE, MICHIGAN AND WISCONSIN
Act 98 of 1927
254.121 Interstate bridge between Michigan and Wisconsin.
254.122 Right of way; construction costs, reimbursements.
254.123 Use of certain funds.
Act 191 of 1955
254.131 Interstate bridge between Michigan And Wisconsin.

EASEMENT FOR BRIDGE IN MACKINAC COUNTY
Act 84 of 1959
254.141 Mackinac county bridge; conveyance of easement.
254.142 Bridge; part of public road system.

STATE BRIDGE, PORT HURON
Act 147 of 1935
254.151 State bridge commission; issuance of revenue bonds for public works.
254.152 State bridge commission; definitions.
254.153 State bridge commission; membership, oath, bond.
254.154 State bridge commission; acquisition of necessary property.
254.155 State bridge commission; purchase of public works.
254.156 Improvement of public works.
254.157 Construction of public works; agreements with other states and Canada.
254.158 Revenue bonds for public works; sale, notice; signature; report to administrative board.
254.159 Lien on bond proceeds.
254.160 Trust indenture; collateral security, surety bonds; expenses.
254.161 Revenues; contracts with state highway department and Ontario; elimination of tolls.
254.162 Powers of commission.
254.163 Action by trustee and bondholders.
254.164 Acceptance of contributions; use.
254.165 Competing ferries.
254.166 Alternative methods of act.
254.167 Construction of act.

STATE BRIDGE COMMISSION, SALE OF LANDS
Act 294 of 1947
254.181 State bridge commission; real estate, sale, purchase by city of Port Huron; deed restriction, proceeds.

STATE BRIDGE; SAULT STE. MARIE
Act 237 of 1935
254.201 Repealed.
254.202 International bridge authority; creation, appointment, term, quorum, rules and regulations, employees.
254.203-254.216 Repealed.

INTERNATIONAL BRIDGE AUTHORITY
Act 99 of 1954
254.221 International bridge authority; definitions.
254.222 Revenue bonds; statement, expenses.
254.223 International bridge authority; powers and duties.
254.224 Real property; purchase and conveyance by Sault Ste. Marie city; condemnation proceedings; title; removal of property.
254.225 Revenue bonds; issuance, principal and interest payments, date, form, signatures, coupon or registered, sale, approval, proceeds, use; interim receipts or temporary bonds.
254.226 Revenue bonds; secured by trust agreement, pledge, provisions, indemnifying bonds, expenses, approval.
254.227 Tolls; collection, contracts with public utilities; supervision and regulation; sinking fund; pledge.
254.228 Trust funds; depository acting as trustee.
254.229 Trust agreement or resolution; enforcement.
254.230 Bonds; negotiable instruments.
254.231 Purpose of project; taxation.
254.232 Bonds made securities.
254.233 Revenue refunding bonds; purpose, regulation.
254.234 Vehicular traffic facilities; covenant with bondholders; limitations.
254.235 Authorization for action; project maintenance and operation, report to governor, failure to pay tolls, surveying.
254.236 Bonds; final payment; disposition of property; dissolution of authority, toll-free bridge.
Surveys and studies; data available.
254.237 Powers; supplemental and additional.
254.238 Construction of act.
254.239 International bridge authority; appointment and terms of present member, confirmation.
254.240 Repeal.

MACKINAC BRIDGE AUTHORITY
Act 21 of 1950 (Ex. Ses.)
254.301 Mackinac bridge authority, definitions.
254.302 Mackinac bridge authority; organization and authority.
254.303 Mackinac bridge authority; expenses, preliminary investigations, appropriation.
254.304 Mackinac bridge authority; employees' qualifications; legislative reports; access to data.
Act 214 of 1952
254.311 Mackinac bridge authority; definitions.
254.312 Mackinac bridge authority; corporate existence, terms.
254.313 Mackinac bridge authority; preliminary investigations, appropriation.
254.314 Mackinac bridge authority; bridge construction, bond proceeds; property acquisition and condemnation, surveys, easements.
254.315 Mackinac bridge authority; bonds; issuance, sale or exchange; fiscal agent; principal and interest, payment; redemption; maturity; statement; signatures; negotiability; sale.

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254.316 Mackinac bridge authority; security, trust indenture; authority, duties; annual audit; depository; collateral security; approval.
254.317 Mackinac bridge authority; bridge construction, tolls, utility lines, lease; appropriation, sale or lease; revenues, priority.
254.318 Mackinac bridge authority; grants or donations.
254.319 Unauthorized indebtedness to state.
254.320 Scope of act.
254.321 Board and state highway department; authority.
254.322 Use of bridge; payment of tolls.
254.323 Federal government approvals.
254.324 Engineering and other services.
254.325 Construction of act.
254.326 Contracts, books, maps; delivery to authority.
254.327 Declared public purpose; tax exemption.
254.328 Authority's rights not limited or altered; competitive vehicular traffic services.
254.329 Bondholders' rights; enforcement actions.
254.330 Operation of ferries.
254.331 Inconsistent acts.

BRIDGE OVER MISSAUKEE LAKE
Act 57 of 1962

254.351 Bridge over Missaukee Lake to Redman Island.
254.352 Bridge over Missaukee lake; plan and specifications; filing, acceptance.

REFUNDING OF MACKINAC BRIDGE AUTHORITY BONDS AND TRANSFER OF AUTHORITY TO HIGHWAY DEPARTMENT
Act 13 of 1966

254.361 Refunding bonds; issuance, purpose.
254.362 Refunding bonds; amount; application of funds, pledge of state credit, appropriation.
254.363 Refunding bonds; issuance and sale, terms and conditions.
254.364 Refunding bonds; negotiability and tax exemption.
254.365 Refunding bonds; execution, officers, manner.
254.366 Issuance and sale of refunding bonds; approval of board, commission or agency.
254.367 Public sale; terms and conditions; disposition of proceeds.
254.368 Powers of commission.
254.369 Transfer to state highway department; when, scope, manner.
254.370 Fixing of tolls, fees, rents, and charges; commission powers, legislative intent.
254.371 Operation of bridge as part of state highway system; expenses, tolls and fees.
254.372 Employees of authority; transfer to commission, credit for time.

Act 354, 1925, p. 665; Imd. Eff. May 27.

AN ACT to provide for the construction, improvement, repair and maintenance of bridges; to provide for inter-municipal and interstate bridges; to provide for bridges over navigable streams and for their operation; to provide for the construction, improvement and maintenance of bridges over mill races; and to regulate the altering of the stage of water, and the widening and deepening of the channel of watercourses.

The People of the State of Michigan enact:

254.1 Bridges and culverts; construction, improvement and repair; part of road.

Sec. 1. Bridges and culverts shall be considered in all respects as a part of the road upon which they are, or are proposed to be located. The construction, improvement, repair and maintenance thereof, including adequate approaches and the doing of any act or the performance of any work necessary for the protection thereof, and also including the maintenance and operation of movable span bridges, shall be considered in all respects except as hereinafter otherwise provided, the same as the construction, improving and maintaining of the road upon which any such bridge or culvert is situated, and, except as hereinafter otherwise provided, shall be paid for accordingly.

HISTORY: CL 1929, 4522;—CL 1948, 254.1.

CITY BORROWING POWER: Construction of bridges, see Compilers' § 254.81 et seq.

COUNTY BORROWING POWER: LIMITATION: Construction of public bridges, see Compilers' § 254.63.

VILLAGES: See Compilers' § 67.17.

CULVERTS: By Compilers' § 254.30 the words "bridge" and "culvert" in this act are to be considered as synonymous terms. See Compilers' § 239.1 et seq.

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254.2-254.4 Repealed. 1958, p. 84, Act 77, Eff. Sep. 13.

Sections provided for bridge plans and specifications, petitions for construction over navigable streams, and removal of obstructions.

254.5 Obstructions to navigation; powers of commissioner; removal costs; failure to remove, penalty.

Sec. 5. The commissioner or commissioners having in charge the construction or maintenance of any bridge shall have the power to provide for the removal of any booms, rafts, logs or other obstruction in the stream and to direct the time in which, and the places where, such booms, rafts, logs or other obstructions in such stream shall be allowed to remain and when the same shall be removed, whenever, in the opinion of such commissioner or commissioners such booms, rafts, logs or other obstructions are a menace to the bridge, or interfere with the construction or maintenance thereof. The person, firm or corporation responsible for any such boom, raft, logs or other obstruction shall be liable for the cost of such removal, to be recovered in an action of trespass on the case, or to be assessed upon any property of such person, firm or corporation when certified by such commissioner or commissioners to the proper township clerk, and any person who shall fail to comply with such directions of the commissioner or commissioners shall be deemed guilty of a misdemeanor and, on conviction thereof, shall be punished by a fine of not more than 500 dollars or by imprisonment in the county jail for not more than 90 days, or by both such fine and imprisonment, in the discretion of the court.

HISTORY: CL 1929, 4526;—CL 1948, 254.5.

INTER-MUNICIPAL BRIDGES.

254.6 Inter-township, bridge; construction, repair, expense, joint action.

Sec. 6. Whenever the commissioners of highways and township boards of any 2 adjoining townships in either the same or different counties shall determine that a bridge on or across the township line over any stream or sink-hole, either crossing or running along the boundary line between such townships, should be constructed, rebuilt or repaired, such bridge shall be constructed, rebuilt or repaired and maintained at the joint expense of such townships. The commissioners of the townships interested, either of whom may give notice to the other of meetings of said commissioners for the purposes herein mentioned, shall jointly agree on the plans and specifications for such bridge, subject to the approval of an engineer assigned to the job by the state highway commissioner in case the structure shall cost more than 2,500 dollars, and upon the proportion of the cost thereof that each such township shall bear.

HISTORY: CL 1929, 4527;—CL 1948, 254.6. This section supersedes Sec. 9 of Ch. VIII of Act 283 of 1909, being CL 1915, 4423.

254.7 Repealed. 1958, p. 84, Act 77, Eff. Sep. 13.

Section provided for township disbursements for bridge construction and maintenance.

254.8 Townships and commissioners construed; authority to contract.

Sec. 8. The word "townships", as used in the 2 last preceding sections, shall be deemed to include cities and incorporated villages, both in their relation to each other and to townships, and when the word commissioner is used with reference to townships, it shall be deemed to include the corporate authorities of cities and incorporated villages. And such commissioners or corporate authorities may make such equitable contracts with the corresponding authorities as will secure the construction, rebuilding or repairing and maintenance of such bridges as they may deem advisable.

HISTORY: CL 1929, 4529;—CL 1948, 254.8. This section supersedes Sec. 11 of Ch. VIII of Act 283 of 1909, being CL 1915, 4425.

254.9 Failure to join; petition to state commissioner.

Sec. 9. Whenever any such township, city or incorporated village shall fail upon request to join in building, rebuilding, or repairing such bridge or to contribute its just share thereto, any such township, city or village desiring the building, rebuilding or re-

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pairing of such bridge may, by its township board or legislative body, as the case may be, by petition in the form of a resolution or otherwise, apply to the state highway commissioner for an order for the construction, rebuilding or repairing of such bridge and for determining the respective proportions which each township, city and village shall contribute for the construction, rebuilding or repairing of such bridge and for keeping the same in repair, as well as for deciding the kind of bridge or road to be constructed.

HISTORY: CL 1929, 4530;—CL 1948, 254.9. This section supersedes part of Sec. 27 of Ch. VIII of Act 283 of 1909, being CL 1915, 4441.

254.10 Failure to join; hearing, notice.

Sec. 10. Upon receipt of such petition, the state highway commissioner shall set a day for hearing, which shall be not less than 10 nor more than 20 days thereafter, and shall give notice thereof to each township, city and village interested or to be affected by registered letter addressed to the clerk of each such township, city and village and mailed at least 7 days before said day of hearing. The hearing shall be held at some convenient place in the county in which it is proposed to construct, rebuild or repair such bridge.

HISTORY: CL 1929, 4531;—CL 1948, 254.10. This section supersedes Sec. 28 of Ch. VIII of Act 283 of 1909, being CL 1915, 4442.

254.11 Failure to join; commissioner, duties; approval of supervisors of navigable rivers.

Sec. 11. The commissioner may adjourn the hearing from time to time in his discretion. He shall hear the parties and may make such independent investigation as he may deem desirable, and shall either grant or refuse the prayer of the petition. If he shall grant the same, he shall designate the kind of bridge to be built, and shall cause to be prepared the plans and specifications therefor: Provided, That if the same be on a navigable stream the approval of the board of supervisors of the proper county shall be secured before any construction work shall be done.

HISTORY: CL 1929, 4532;—CL 1948, 254.11. This section supersedes part of Sec. 29 of Ch. VIII of Act 283 of 1909, being CL 1915, 4443.

254.12 Failure to join; determination of quota, alteration.

Sec. 12. The state highway commissioner shall also determine the quota or proportion which each township, city and village named shall contribute thereto, and whether the whole amount shall be raised the first year, or only a part, and, if only a part, what part the first and what part the second year, but no part of it shall be deferred more than 2 years. He shall also determine the quota of each towards keeping the same in repair, which shall remain the same till altered by him, or by the consent of each township, city and village, which is a party to such proceedings.

HISTORY: CL 1929, 4533;—CL 1948, 254.12. This section supersedes part of Sec. 29 of Ch. VIII of Act 283 of 1909, being CL 1915, 4443.

254.13 Failure to join; copy of determination, filing; tax levy.

Sec. 13. A copy of the determination of the state highway commissioner shall be filed with the clerk of each township, city and village affected, and thereupon such bridge shall be constructed, rebuilt, repaired and maintained in accordance therewith. Each such township, city and village shall cause to be levied and assessed upon the taxable property therein an amount sufficient to pay for its quota of costs as above determined, which shall be disbursed by the treasurers of the respective townships, cities and villages in the manner provided in section 7 hereof.

HISTORY: CL 1929, 4534;—CL 1948, 254.13. This section supersedes part of Sec. 30 of Ch. VIII of Act 283 of 1909, being CL 1915, 4444.

254.14 Inter-county bridge; failure of boards of commissioners to agree on apportionment, petition to state commissioner.

Sec. 14. Whenever the boards of county road commissioners of adjoining counties are unable to agree on the apportionment of the costs of constructing, rebuilding, repairing or maintaining an inter-county bridge on a county road, either of such boards

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may petition the state highway commissioner to decide the issues upon which they have been unable to agree, and thereupon the state highway commissioner shall proceed and may make such orders and determinations in the matter as is herein above provided in case of a similar petition by a township, city or village.

HISTORY: CL 1929, 4535;—CL 1948, 254.14.

254.15 Interstate bridge; commissioners' authority to contract; supervisors, fund raising, special tax, limitation.

Sec. 15. The board of county road commissioners of any county bordering on a stream which is the boundary line between such county and a county in another state, is hereby authorized, in conjunction with the proper highway authorities of such adjoining county or state, to construct, rebuild, repair and maintain a bridge, or bridges, across such stream at such place or places within the limits of such boundary as may be agreed upon by said board of county road commissioners and highway authorities, whenever said board of county road commissioners shall deem it necessary, and to enter into a contract with the proper highway authorities of such adjoining county or state relative thereto: Provided, however, That the board of supervisors of such county shall provide by resolution for the raising of funds to pay for the construction, rebuilding, repairing or maintaining of such bridge, or bridges, and for such purposes the board of supervisors of such county may levy a special tax not to exceed 1 mill on the assessed valuation of all the property of such county for such part of the cost of constructing, rebuilding, repairing or maintaining of such bridge, or bridges, as shall be allotted to such county; and such board of supervisors is hereby authorized, at any regular or special meeting of such board, to borrow on the faith and credit of such county, such sums of money as may be needed to carry out the purposes aforesaid, not exceeding the amount specified in this act, and to levy such amount to be collected with the next ensuing assessment.

HISTORY: Am. 1927, p. 117, Act 81, Imd. Eff. April 25;—CL 1929, 4536;—CL 1948, 254.15.

This section supersedes Sec. 10 of Ch. XVI of Act 283 of 1909, being CL 1915, 4527. See also Compilers' § 236.11.

INTERSTATE BRIDGE: Over navigable stream, see Compilers' § 254.91.

INTERNATIONAL BRIDGE: See Compilers' § 254.32.

254.16 Repealed. 1958, p. 84, Act 77, Eff. Sep. 13.

Section authorized state highway commissioner to enter into contracts for construction and maintenance of bridges on non-trunkline roads.

GENERAL PROVISIONS.

254.17 Bridge; specifications by state department without cost.

Sec. 17. The bridge specifications of the state highway department shall provide such requirements for load capacity, clearances, allowable unit stresses and loads, distributions, workmanship, impact and deterioration allowances as in the judgment of the state highway commissioner are necessary to meet the requirements of existing and future growth of traffic highway improvements and local needs. Such specifications may, at his option, be revised from time to time as he may deem best and shall be furnished free of cost to all proper parties requesting the same.

HISTORY: CL 1929, 4538;—CL 1948, 254.17.

254.18 Repealed. 1958, p. 84, Act 77, Eff. Sep. 13.

Section provided that no bridge be constructed by the state within city or village having a population of 6000, and provided for joint action on a boundary bridge.

254.19 Bridge; carrying capacity.

Sec. 19. Hereafter no bridge shall be constructed which shall have a carrying capacity less than that specified by the bridge specifications of the state highway department, current at the time the work of construction is commenced, or which shall have a roadway width at the narrowest part thereof, of less than 19 feet, measured above top of curb, or which shall have a clear height for vehicles of less than 14 feet: Pro-

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vided, That the provisions of this section as to width shall not be applicable to bridges on township and village roads which have an average traffic count, as determined by the state highway department, of less than 500 vehicles in 14 hours, until on and after the first day of July 1927.

HISTORY: CL 1929, 4540;—CL 1948, 254.19.

254.19a Bridges; annual inspection.

Sec. 19a. The department of state highways shall institute a systematic plan of annual inspection of all bridges under its jurisdiction and report to the legislature on or before February 1 of each year the safety status of such bridges.

HISTORY: Add. 1968, p. 320, Act 222, Eff. Feb. 2, 1969.

254.20 Posting of narrow and one-lane bridges; uniform traffic control devices.

Sec. 20. Every bridge which has a clear 2-way roadway width of less than 19 feet, but more than 17 feet at the narrowest part thereof, shall be posted as a narrow bridge; and every bridge which has a clear 2-way roadway width, as so measured, of 17 feet or less, shall be posted as a 1-lane bridge. Such posting shall be in accordance with the manual of uniform traffic control devices adopted pursuant to section 608 of Act No. 300 of the Public Acts of 1949, being section 257.608 of the Compiled Laws of 1948.

HISTORY: CL 1929, 4541;—CL 1948, 254.20;—Am. 1965, p. 469, Act 274, Imd. Eff. Jul. 21.

254.21 Movable bridge; warning, protection, penalty.

Sec. 21. All movable bridges shall be provided with warning lights, signs, protection gates and other devices as shall be prescribed by the state highway commissioner and as may be required by the board of supervisors in its permit for construction, which said lights, signs, protection gates and other devices shall be so constructed, placed, maintained and operated as to provide reasonable safety to the public. Protection gates or devices shall at all times be closed before the draw or swing span is opened for any purpose and shall be kept closed until the draw or swing is closed, and the bridge is ready for public travel. Any person who shall wilfully violate any of the provisions hereof shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not more than 50 dollars or by imprisonment in the county jail for not more than 30 days, or by both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1929, 4542;—CL 1948, 254.21. This section supersedes Secs. 18, 19 and 20 of Ch. VIII of Act 283 of 1909, being CL 1915, 4432 - 4434.

254.22 Bridge over navigable stream; construction and maintenance.

Sec. 22. Bridges over any navigable streams shall be so constructed as not to prevent or hinder the navigation of such streams by the usual crafts plying thereon. All such bridges shall be so constructed and maintained as not to interfere with the ordinary uses of said streams for driving logs or floating other materials or boats therein, and shall be constructed and maintained so as to offer and afford reasonable, adequate and proper means for the passage of boats, vessels, sawlogs, floating timber and rafts through the same.

HISTORY: CL 1929, 4543;—CL 1948, 254.22. This section supersedes part of Sec. 11 of Ch. XVI of Act 283 of 1909, being CL 1915, 4528.

254.23 Movable span bridge; rules, posting, duty of commissioner.

Sec. 23. The commissioners having charge of movable span bridges shall cause to be posted in each commissioner's or operator's shelter rules and regulations governing the operation of the structure and all parts appertaining thereto, and shall see that every operator complies with such regulations. Such regulations shall be in accordance with the specifications of the state highway department as applying to movable bridges and with such other regulations in regard to signals, lights, etc., as may be prescribed by

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the war department of the United States government or as may be otherwise existent for the control of navigation.

HISTORY: CL 1929, 4544;—CL 1948, 254.23.

254.24 Repealed. 1958, p. 84, Act 77, Eff. Sep. 13.

Section provided for construction, control and maintenance of bridges in villages.

ALTERATION OF WATERCOURSES.

254.25 Permit for alteration of watercourses.

Sec. 25. Hereafter, no person, firm, corporation, or municipality shall artificially alter the stage of water or widen or deepen the channel of any watercourse, except drains established by public authority, without first securing a written permit therefor from the commissioner or commissioners having jurisdiction over all the bridges and culverts on or over said watercourse, or the portion thereof affected by such proposed change.

HISTORY: CL 1929, 4546;—CL 1948, 254.25.

254.26 Permit for alteration of watercourses; costs, payment, contract.

Sec. 26. The person, firm, corporation or municipality to whom any such permit shall hereafter be issued, shall pay the full cost of all bridges and bridge approach work made necessary by such proposed alteration, and every such permit shall require the person, firm, corporation or municipality to whom the same is issued, his, their or its heirs, executors, administrators, successors and assigns, to bear and pay such part of the cost of the reconstruction of such bridges and approaches, or of existing bridges and approaches, and of the maintenance of all such bridges and approaches as the commissioner or commissioners having jurisdiction of the matter shall determine to be caused by such alteration. Such commissioner or commissioners may contract with any such person, firm, corporation or municipality relative to present and future costs of construction, reconstruction, repairs and maintenance of such bridges and approaches.

HISTORY: CL 1929, 4547;—CL 1948, 254.26.

MILL RACES.

254.27 Bridge over race; duty of water workers.

Sec. 27. It shall be the duty of all owners, occupiers, or possessors of mills or other water works, where any race or races appertaining to the same may cross a public highway, to keep and maintain a good and sufficient bridge or bridges over the same, except where said mills have been erected and the races dug previous to the formation of said highway. Such bridges shall be constructed and maintained in compliance with the specifications of the commissioner or commissioners having jurisdiction over the road adjacent thereto.

HISTORY: CL 1929, 4548;—CL 1948, 254.27. This section supersedes Sec. 14 of Ch. VIII of Act 283 of 1909, being CL 1915, 4428.

254.28 Bridge over race; failure to maintain, commissioner, duty.

Sec. 28. In all cases where the owner or owners, occupiers, or possessors of any such mill or mills, or other water works, shall refuse or neglect to construct such bridge or bridges, or shall refuse or neglect to keep the same in good repair, it shall be the duty of the commissioner or commissioners having jurisdiction over the road adjacent thereto to proceed forthwith to erect or repair such bridge or bridges, at the expense of the person or persons whose duty it was to have erected or repaired the same.

HISTORY: CL 1929, 4549;—CL 1948, 254.28. This section supersedes Sec. 15 of Ch. VIII of Act 283 of 1909, being CL 1915, 4429.

254.29 Bridge over race; expense, collection.

Sec. 29. The expense so incurred may be recovered by such commissioner or commissioners in an action of assumpsit, or, at the option of said commissioner or commissioners, may be certified to the clerk of the township in which such mill or water

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works are situated and, when so certified, shall be assessed upon any property of such owner, owners, occupiers or possessors situated in such township and collected in the same manner as other taxes are assessed and collected.

HISTORY: CL 1929, 4550;—CL 1948, 254.29. This section supersedes Sec. 16 of Ch. VIII of Act 283 of 1909, being CL 1915, 4430.

254.30 Bridge and culvert; synonymous.

Sec. 30. The words "bridge" and "culvert" as used in this act shall be considered as synonymous terms.

HISTORY: CL 1929, 4551;—CL 1948, 254.30.

Sec. 31. (This was a repeal section.)

HISTORY: CL 1929, 4552;—Rep. 1945, p. 406, Act 267, Imd. Eff. May 25.
ACT REPEALED: Ch. 8 and Secs. 2, 3, 4 and 10, Ch. 16, Act 283, 1909.

254.32 Bridges excepted.

Sec. 32. The provisions of this act shall not apply to any bridge across any river forming the boundary between this state and any foreign country.

HISTORY: CL 1929, 4553;—CL 1948, 254.32.

Act 398, 1919, p. 698; Imd. Eff. May 13.

AN ACT to authorize the construction of bridges over navigable streams and waters in certain cases, for the continuance of public highways over such water as avenues of public travel; to authorize the levying, spreading and collecting of special taxes and assessments for any such bridge; to authorize the borrowing of money and issuance of bonds under certain restrictions, regulations and limitations; to provide for the recovery by the owners of property or property rights abutting upon or adjoining any such highway of their damages resulting by reason of the construction of such bridge and providing the procedure for recovery of such damages; and to prescribe the powers and duties of certain officers with reference thereto.

The People of the State of Michigan enact:

254.51 Bridge over navigable waters in certain counties; petition.

Sec. 1. Whenever in any county within this state there are any 2 or more organized townships, or any 1 or more townships and 1 or more villages, or 1 or more townships and 1 or more cities, or any combination of townships, villages and cities, or any combination of any of them, lying contiguous in such county, through the territory of which extends any public highway which crosses within said county and within or along the boundary line of any such township, village or city, any navigable water or stream, or which intersects with or leads to any highway so crossing such navigable water or stream, any 1 or more of such townships, villages or cities may, by its or their respective legislative bodies, petition the board of supervisors of said county for the construction or reconstruction of a bridge over such stream or water, whereon such highway may be continued as an avenue of public travel between points upon opposite sides of such water or stream. Such petition may be presented at any regular meeting of the said board of supervisors or at any special meeting thereof duly called for the presentation of such petition: Provided, That the provisions of this act shall apply only to counties having a population of 400,000 or more.

HISTORY: CL 1929, 4554;—CL 1948, 254.51.
WAYNE COUNTY: In 1948 this was the only county meeting the population requirement of this act.
BRIDGES OVER NAVIGABLE STREAMS: See Compilers' § 46.23.
Authorizing city to construct and maintain boundary line bridge, see Compilers' § 254.91 et seq.

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254.52 Bridge over navigable waters in certain counties; meeting of county supervisors, notices; plans and specifications.

Sec. 2. Unless such petition is to be presented to the annual meeting of said board of supervisors, or at an earlier meeting already appointed by the board to be held at least 30 days prior to such annual meeting, it may contain a request for a special meeting of said board, and may be delivered to the clerk of said board, who shall have authority, and whose duty it shall be, to call a special meeting of said board not more than 20 nor less than 10 days from the time he shall receive the petition. It shall be the said clerk's duty to inform all the members of said board to be found in the county of such meeting and the purpose thereof at least 5 days before such meeting is to be held, and at whatever meeting such petition is to be heard. It shall be the duty of such petitioner to give notice in writing to the township board at each township named and to the common council of any city and to the village council of any village named of the intention of the petitioner to ask for the hearing upon the same at such meeting, and of the purpose thereof. Such notice shall be delivered to the clerk of every township, city and village named, and if such clerk is not readily found, then to any member of the township board, and the mayor or some member of the common council of the city or cities named, and to a member of the council of the village or villages named, as the case may be, at least 7 days before said board is to be asked to hear said petition. For the purpose of facilitating by said board their determination of the kind and cost of the bridge proposed to be constructed or reconstructed, each township, city and village named in the said petition may present a plan or plans and specifications of such proposed bridge with or without drawings, and an estimate of each as to the cost thereof.

HISTORY: CL 1929, 4555;—CL 1948, 254.52.

254.53 Bridge over navigable waters in certain counties; board of supervisors, authority; type of bridge.

Sec. 3. Upon presentation of any such petition said board of supervisors shall proceed to a consideration thereof. The said board shall have authority to make any necessary surveys, procure any appropriate plans and specifications, obtain estimates of probable cost of construction and take any other appropriate step for procuring necessary or desirable information with reference to the project embodied in such petition. Said board shall have full authority, by a majority vote of those voting thereon, to grant or deny the object of such petition and to determine the character and type of construction of any such bridge ordered thereon. The several boards of supervisors of the counties of the state shall each likewise have authority, upon their own initiative, respectively, in a proper case, in the discretion of any such board, to order the construction of a bridge over any navigable stream or water within the county, as hereinbefore provided in cases when a petition is presented to a board of supervisors by a city, village or township for the construction of a bridge. Whenever in any case a bridge shall be ordered hereunder, said board shall determine and designate only a bascule type of bridge. No part of such bridge or its approaches shall be suspended over such highway.

HISTORY: CL 1929, 4556;—CL 1948, 254.53.

254.54 County under road system; authority of commissioners; specifications; type of bridges not to be changed.

Sec. 4. In those counties in which the county road system, so-called, shall have been adopted, the board of supervisors shall upon the ordering of any such bridge duly certify such action to the county road commissioners of such county. Thereupon the said county road commissioners shall promptly proceed to establish a road district for the purpose of constructing or reconstructing such bridge. Said commissioners shall have authority to procure, if need be, any further surveys, plans, specifications and esti-

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mates of cost for such work of construction or reconstruction in addition to those which may have been obtained by the said board of supervisors. Such specifications shall not be final, but may be changed by the county road commissioners, but not after the hearing of objections hereinafter provided for, except after due notice and hearing thereon: Provided, Said road commissioners shall not at any time change the type of bridge ordered by the board of supervisors.

HISTORY: CL 1929, 4557;—CL 1948, 254.54.

COUNTY ROAD SYSTEM: See Compilers' § 224.1 et seq.

254.55 County under road system; special assessment district, hearings, objections, boundary changes.

Sec. 5. Said county road commissioners shall speedily prepare a proposed special assessment district for such work, fixing it by resolution which shall embody a description of the boundaries thereof. They shall fix a time and place to hear objections to such proposed special assessment district and give notice thereof as hereinafter provided. Such notice shall set forth a description of the boundaries of the proposed special assessment district or the several parcels of land proposed to be assessed on account of such work, and the time and place of hearing. At this hearing all parties or persons interested shall be given an opportunity to present their objections, if any, to such proposed special assessment district. Notice of this hearing shall be given by the county road commissioners at least 10 days prior to such hearing by causing a notice thereof to be published at least once in each week for 2 weeks in succession in some newspaper published and of general circulation in such county, and by posting in public and conspicuous places 5 notices in each township, city and village within which the assessment district lies in whole or in part, and within the limits of such district, and also by posting such notice in any public place which may be provided in the county seat for the posting of public notices. At this hearing the county road commissioners shall, subject to the foregoing, make any changes in the specifications deemed by them advisable, without further notice or hearing, provided such changes do not increase the estimates more than 10 per cent. If they do increase the estimates more than 10 per cent then a new hearing shall be had and notice thereof given, as in the first instance. At said hearing the county road commissioners may alter the boundaries of the proposed assessment district: Provided, however, That if said district is enlarged or otherwise altered so as to embrace additional lands, hearing thereon after due notice shall be had as hereinbefore provided.

HISTORY: CL 1929, 4558;—CL 1948, 254.55.

254.56 County under road system; commissioners' final order.

Sec. 6. After hearing objections, the county road commissioners shall make their final order in writing, under their hands, determining that the proposed improvement shall be made according to the final specifications adopted by them, a copy of which specifications shall be attached to said order.

HISTORY: CL 1929, 4559;—CL 1948, 254.56.

254.57 County under road system; commissioners' powers and duties.

Sec. 7. In so far as applicable hereto, the same powers are hereby conferred, and the same duties are hereby imposed upon said county road commissioners for the prosecution, completion and payment of such improvement, as are conferred and imposed by section 4684; section 4686 to section 4689, both inclusive; section 4691 to section 4706, both inclusive; section 4711 to section 4731, both inclusive; section 4733 to section 4745, both inclusive, of the Compiled Laws of 1915 as amended and as supplemented by Act No. 125 of the Public Acts of 1917, upon county road commissioners on behalf of the county or improvement district with reference to works provided for in said sections and in said act, except as said Act No. 125 has been held invalid. And

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all the other rights created and all the other duties imposed by said sections and the said act are herewith likewise made applicable, in so far as appropriate to this act, including the method so provided for a board of review.

HISTORY: CL 1929, 4560;—CL 1948, 254.57.

NOTE: CL 1915, 4684, above referred to, was CL 1929, 4329, repealed by Act 221, 1933;—CL 1915, 4686 to 4689, is Compilers' §§ 247.416 to 247.419; CL 1915, 4691 to 4706, is Compilers' §§ 247.421 to 247.436; CL 1915, 4711 to 4731, is Compilers' §§ 247.441 to 247.460. CL 1915, 4733 to 4745, is Compilers' §§ 247.463 to 247.474.

254.58 County under road system; rights, duties, remedies, limitations; legislative intent.

Sec. 8. With reference to the work in this act provided for which shall be done in any county in which the county road system, so-called, shall have been adopted, like rights are hereby created and like duties are hereby imposed; the acts and proceedings of said county road commissioners hereunder shall receive like effect and validity; like rights and remedies are preserved and restricted to any township, village, city and county affected hereunder by the construction or reconstruction of any such bridge; like rights and remedies are preserved and restricted to any persons, partnerships and corporations affected by any act of said county road commissioners made in connection with or following upon the improvement herewith authorized; and like duties are hereby enjoined upon the several city, village, township and county officials of the cities, villages, townships and county affected hereunder by such improvement, as are by the sections specifically enumerated above and by the said Act No. 125 respectively created and imposed; as are given to the acts and proceedings of county road commissioners; as are preserved or restricted to township, village, cities, counties, persons, firms and corporations affected by any order or determination made under the authority of said sections or any of them or under the authority of said Act No. 125, or are enjoined upon the several city, village, township and county officials mentioned in said sections and in said Act No. 125 with reference to the completion by county road commissioners of works of improvement provided for in said sections and in said Act No. 125. It is the legislative intent and purpose for the purpose of effectuating this act to make applicable hereto, in so far as may be, all the rights, duties, privileges, prerogatives, restrictions and limitations which are created and imposed by the sections above enumerated and by the said Act No. 125.

HISTORY: CL 1929, 4561;—CL 1948, 254.58.

NOTE: For Act 125 of 1917, above referred to, see the sections listed in the preceding section.

254.59 County under road system; annual installments, apportionment of cost; announcement of decision, exemption.

Sec. 9. Such county road commissioners shall have power and it shall be their duty to determine the number of annual installments, not exceeding 10, within which the money for the construction or reconstruction of any such bridge shall be raised. It shall apportion the whole cost of such work, in percentages, as between the special assessment area to be designated by them and whatever cities, villages and townships comprising said road districts and the county, or any or all of them, as in its discretion it shall determine. Such apportionment shall be made according to the benefits from such improvement accruing to the lands within such assessment area and the benefits to the public welfare and convenience of each of the cities, villages, townships and county, or any or all of them. The number of such installments, the road district aforesaid, the said special assessment area and said apportionment shall be designated and announced by said county road commissioners as soon as practicable after the approval of said specifications for said work. No township shall be entitled to any exemp-

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tion from the payment of any assessment levied against it because of being entitled to the return of any county road taxes paid by it under section 26, chapter 4 of Act No. 283 of the Public Acts of 1909.

HISTORY: CL 1929, 4562;—CL 1948, 254.59.

NOTE: Sec. 26 of Ch. IV of Act 283 of 1909, above referred to, is Compilers' repealed § 224.26.

254.60 County not under road system; supervisors' authority, delegation.

Sec. 10. Whenever in any county in which the county road system, so-called, shall not have been adopted, the board of supervisors shall, pursuant to sections 1 and 2 hereof, have ordered a bridge to be constructed or reconstructed, full authority of every necessary character shall thereupon be vested in said board to construct or reconstruct as the case may be, such bridge. In furtherance thereof, said board may delegate any of its powers and duties to any of its officers, or to its committee or committees, or to any or all of them as it may deem suitable.

HISTORY: CL 1929, 4563;—CL 1948, 254.60.

254.61 County not under road system; powers and duties, legislative intent.

Sec. 11. Thereafter in any county in which the county road system, so-called, shall not have been adopted, the board of supervisors shall proceed in such manner as it shall determine, either by the board as a whole, or by any of its officers, or its committee or committees or by any or all of them, to construct or reconstruct such bridge. For such purpose, in so far as applicable hereto, the same powers are hereby conferred, and the same duties are hereby imposed upon said board, and upon its officers, its committee or committees, or any or all of them, if said board shall determine to act through them or any of them, as are conferred and imposed by section 4684; section 4686 to section 4689, both inclusive; section 4691 to section 4706, both inclusive; section 4711 to section 4730, both inclusive; section 4733 to section 4745, both inclusive, of the Compiled Laws of 1915 as amended and as supplemented by Act No. 125 of the Public Acts of 1917. It is the legislative intent and purpose in this matter for the purpose of effectuating this act to make applicable hereto, in those counties in which the county road system, so-called, shall not have been adopted, all the rights, duties, privileges, prerogatives, restrictions and limitations which are created and imposed by the said sections and by the said Act No. 125.

HISTORY: CL 1929, 4564;—CL 1948, 254.61.

NOTE: For sections above referred to, see sections listed under Compilers' § 254.57.

254.62 Bridge deemed public highway; county maintenance.

Sec. 12. Upon the completion of any such bridge the same shall be and become a public highway and shall thereafter be maintained and repaired as such by said county.

HISTORY: CL 1929, 4565;—CL 1948, 254.62.

254.63 Tax limit; borrowing funds.

Sec. 13. The limitation as to the sums which may be raised by taxation by the county for all highway purposes whether authorized by this, or other statutes, shall not exceed in any 1 year 5 dollars for each 1,000 dollars of assessed valuation for the preceding year; and the limitation as to sums which may be raised under this act by borrowing upon the faith and credit of the county shall not, with the existing indebtedness of such county, exceed 3 per cent of its assessed valuation, except that in counties having an assessed valuation of 5,000,000 dollars or less, where such limitation last named shall not exceed 5 per cent of the assessed valuation of such county. Nor shall the board of road commissioners or the board of supervisors, as the case may be, borrow in any 1 year upon the faith and credit of the county, either under the provisions of this, or any other act providing for the construction or repair of public buildings or

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bridges, any sum in excess of 1/10 of 1 mill on the assessed valuation of the county unless submitted to the electors of the county and approved by a majority of those voting thereon; except, however, in any county where the assessed valuation is less than 10,000,000 dollars, either said boards may borrow for such purposes to the amount of 1,000 dollars.

HISTORY: CL 1929, 4566;—CL 1948, 254.63.

254.64 Recovery of damages; plaintiffs; actions within year.

Sec. 14. In the event of any owner of property or property rights abutting upon or adjoining said highway, or any township, village or municipality adjoining said stream, being damaged or injured in his or its property or property rights, or the value thereof by reason of the erection of said bridge, the person or persons, township, village or municipality so damaged or injured shall be entitled to recover the money value of such injury or damage suffered, from the county in which said bridge is constructed. Action for the recovery of damages shall be instituted by the person or persons, township, village or municipality injured or damaged, in the circuit court for the county in which said bridge is constructed, and such action shall be commenced within 1 year from the time when said bridge shall be fully completed.

HISTORY: CL 1929, 4567;—CL 1948, 254.64.

254.65 Recovery of damages; action by summons, service; alias and pluries summons.

Sec. 15. Said action may be commenced by summons, in which the county in which said bridge is constructed shall be specified as party defendant, and service of said summons by the sheriff or other proper officer of the county upon any member of the board of supervisors of such county shall be sufficient for all purposes. Said summons shall be served by the sheriff or other proper officer at least 5 days before the return day thereof, by exhibiting the original and delivering a copy of the original. If for any cause service shall not be made in accordance with the foregoing, alias and pluries summons may be issued by the court in which action is instituted, as in other civil cases. Service of such summons shall be sufficient notice of the proceedings to bind the defendant and the property represented by it. The return of the officer upon the summons of due service, shall be filed in the clerk's office before a jury shall be impanelled, and shall be sufficient evidence of service on the defendant and of the manner of service.

HISTORY: CL 1929, 4568;—CL 1948, 254.65.

254.66 Recovery of damages; pleadings, proceedings.

Sec. 16. All pleadings in said cause, and all proceedings thereon shall be in such form as is required under the general laws of this state.

HISTORY: CL 1929, 4569;—CL 1948, 254.66.

254.67 Recovery of damages; tax levy.

Sec. 17. The damages awarded by the jury in such cause, and the expenses thereof shall be paid by such county, to be raised by a general tax to be levied and collected according to the law with reference to general taxes in such county.

HISTORY: CL 1929, 4570;—CL 1948, 254.67.

GENERAL TAX LAW: See Compilers' § 211.1 et seq.

Act 109, 1927, p. 146; Imd. Eff. May 5.

AN ACT to authorize cities to raise by loan, or borrow money for the construction, improvement, repair and maintenance of bridges and to issue bonds of the said cities to secure repayment thereof and validating proceedings heretofore taken authorizing the issuance of such bonds.

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The People of the State of Michigan enact:

254.81 Bridges; city borrowing power, referendum.

Sec. 1. Whenever the legislative body of any city within the state of Michigan shall deem it expedient to construct, improve, repair and maintain any bridge or bridges under the control and management of said city, or under joint control or joint maintenance, with others, said legislative body may by resolution authorize and direct the borrowing or raising by loan on the faith and credit of said city, of such sums of money as in the judgment of said legislative body may be needed, subject to the constitutional and statutory limitations upon such city indebtedness, and said legislative body may, in said resolution, authorize and direct the issue and sale of bonds to secure the repayment of the sums borrowed or raised by loan: Provided, The question of borrowing or raising by loan or issuance of bonds for sums for such purposes shall have been submitted to and approved by 3/5 of the electors of said city voting thereon, at any regular or special election held for that purpose.

HISTORY: CL 1929, 4571;—CL 1948, 254.81.

MUNICIPAL BONDS: See Act 202 of 1943, being Compilers' § 131.1 et seq.

254.82 Interest rate.

Sec. 2. Funds so borrowed or raised and bonds issued therefor if sold at par shall not draw interest at a rate in excess of 6 per cent per annum and such sums shall be payable in not to exceed 30 years. If sold at less than par, the interest rate shall not be more than will produce to the purchaser 6 per cent per annum when the rate of interest and discount are computed to maturity.

HISTORY: CL 1929, 4572;—CL 1948, 254.82.

254.83 Saving clause; bonds validated.

Sec. 3. Nothing in this act shall invalidate any bonds heretofore authorized or any proceedings heretofore taken to authorize the borrowing or raising by loan or the issuance of bonds by any city of the state, but all proceedings and elections heretofore since January first, 1923, taken and held to authorize the borrowing or raising by loan or issuance of bonds of any city, and all bonds heretofore authorized, either issued or to be issued, under authority of a vote of a majority of the electors of said city, voting upon the question at an election held for that purpose are hereby validated, approved and confirmed.

HISTORY: CL 1929, 4573;—CL 1948, 254.83.

Act 6, 1911, p. 8; Imd. Eff. Mar. 7.

AN ACT to authorize any city within this state, bordering upon any navigable stream which is the boundary line between this state and any other state, in conjunction with any city bordering upon said navigable stream in said other state, to construct and maintain bridges across said stream between said cities.

The People of the State of Michigan enact:

254.91 Interstate bridge across navigable stream; joint action between states.

Sec. 1. Any city within this state bordering upon any navigable stream which is the boundary line between this state and any other state, in conjunction with any city situated in said other state bordering upon said stream, is hereby authorized and empowered at the joint expenses of said cities to construct and maintain bridges and approaches thereto across said stream between said cities at such points as may be agreed upon by the common councils or other governing bodies of said cities, and to

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enter into contracts with the common council or governing body of the adjoining city of such other state for the construction, maintenance and repair of said bridges.

HISTORY: CL 1915, 4862;—CL 1929, 4574;—CL 1948, 254.91.

BRIDGES OVER NAVIGABLE STREAMS: See Compilers' § 254.51 and notes thereto.

INTERSTATE BRIDGE: See Compilers' §§ 254.15 and 254.121.

254.92 Interstate bridge across navigable stream; building prerequisites.

Sec. 2. Previous to the building of said bridges, highways leading thereto shall be laid out and opened so that access thereto may be had from the common traveled streets in said cities, and authority or permission to build such bridges from the owner or owners of the land to which said bridges shall be attached and over which same shall pass, shall be obtained.

HISTORY: CL 1915, 4863;—CL 1929, 4575;—CL 1948, 254.92.

254.93 Interstate bridge across navigable stream; authorized city bond issue.

Sec. 3. The common council or other governing body of the city is hereby authorized to borrow on the faith and credit of said city, such sums of money as may be necessary to carry out the purposes of this act, and to issue the bonds of said city therefor, payable at such time and at such rate of interest as the common council or other governing body of said city shall determine: Provided, however, That if the charter of any such city now in force provides any other method of raising such sums of money such method may be pursued: And Provided further, That the amount of bonds so issued shall not exceed in amount the limit now prescribed by law.

HISTORY: CL 1915, 4864;—CL 1929, 4576;—CL 1948, 254.93.

254.94 Declaration of necessity.

Sec. 4. This act affects the public safety and shall take immediate effect after its passage by the legislature and signing by the governor.

HISTORY: CL 1915, 4865;—CL 1929, 4577;—CL 1948, 254.94.

Act 181, 1921, p. 362; Eff. Aug. 18.

AN ACT to supplement the laws relating to the improvement and maintenance of trunk line highways and bridges; to provide for the improvement, repair and maintenance of the bridge across Portage lake between the village of Houghton and city of Hancock in the county of Houghton, state of Michigan, as a part of the trunk line highway system; to define the duties of the state highway commissioner with respect thereto; and to provide for the payment of the costs thereof.

The People of the State of Michigan enact:

254.101 Bridge across Portage Lake declared state trunk line highway.

Sec. 1. The bridge across Portage lake extending from Dakotah street in the village of Houghton to Front street in the city of Hancock, Houghton county, is declared a part of the state trunk line highway system, and the improvement, repair and maintenance thereof shall be under the supervision and control of the state highway commissioner. The county of Houghton is hereby relieved of all duties, powers and obligations with respect to the future repair, maintenance and improvement of said bridge.

HISTORY: CL 1929, 4578;—CL 1948, 254.101.

254.102 State highway commissioner's obligations, contracts, execution of leases.

Sec. 2. The state highway commissioner is authorized to carry out or assume the obligations of any contracts now existing with railroad companies or other corporations

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or persons with respect to rentals, damages, use, improvement, repair and maintenance of said bridge. Said state highway commissioner is authorized to make contracts for the enjoyment of the use of said bridge, jointly with railroad companies or other corporations or persons, and for the future maintenance, repair and improvement thereof, and to execute any leases, or other agreements necessary and proper in the premises.

HISTORY: CL 1929, 4579;—CL 1948, 254.102.

254.103 Payment of costs.

Sec. 3. The cost of all work herein provided with respect to said bridge shall be payable out of any funds available for the construction, repair and maintenance of trunk line bridges.

HISTORY: CL 1929, 4580;—CL 1948, 254.103.

254.104 Work performance; trunk line bridge.

Sec. 4. All work involved in or incidental to the maintenance, repair and improvement of said bridge shall be performed in such manner as is or may be provided by law for the maintenance, repair and improvement of trunk line bridges, except when the manner of performing such work is prescribed by any existing contract and in such cases the work shall be performed in accordance with such contract, it being the intent hereof that said bridge in so far as the public interest therein is concerned, shall be regarded as a trunk line bridge.

HISTORY: CL 1929, 4581;—CL 1948, 254.104.

254.105 Rentals, damages, moneys due; disposition.

Sec. 5. Any rentals, damages or other moneys becoming due and payable under any such contracts with respect to said bridge shall be paid to the state and placed to the credit of the general highway fund.

HISTORY: CL 1929, 4582;—CL 1948, 254.105.

254.106 State highway commissioner and other officers; authority.

Sec. 6. The state highway commissioner and other proper officers are hereby authorized, empowered and directed to do all acts or things necessary to carry out the purpose of this act.

HISTORY: CL 1929, 4583;—CL 1948, 254.106.

254.107 Saving clause.

Sec. 7. Nothing in this act contained shall operate to relieve any person, firm or corporation from the obligations of any existing contract, or the county of Houghton from any municipal obligation under its police powers.

HISTORY: CL 1929, 4584;—CL 1948, 254.107.

Act 82, 1959, p. 90; Imd. Eff. Jun. 29.

AN ACT to authorize a bridge over the public navigable waters of Crooked lake in Emmet county.

The People of the State of Michigan enact:

254.111 Bridge over Crooked lake to Oden island.

Sec. 1. Authority is hereby given for the construction of a bridge over the public navigable waters of Crooked lake in Emmet county to connect Oden island and the mainland.

HISTORY: New 1959, p. 90, Act 82, Imd. Eff. Jun. 29.

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254.112 Plans, changes, acceptance.

Sec. 2. Before the bridge authorized by this act is constructed, the board of county road commissioners of Emmet county shall file with the department of conservation evidence of its acceptance of the bridge and roads connecting thereto as a part of the public road system; and shall submit plans and specifications relative to the structure. The department of conservation may make such recommended changes in the plans and specifications as are necessary to protect the public interest in the public navigable waters.

HISTORY: New 1959, p. 90, Act 82, Imd. Eff. Jun. 29.

Act 98, 1927, p. 137; Imd. Eff. Apr. 30.

AN ACT authorizing the state highway commissioner of the state of Michigan to enter into an agreement with the Wisconsin state highway commission to construct an interstate bridge project extending from approximately the intersection of Ogden avenue and Chandler street in the city of Menominee, Michigan, in a straight line terminating at the approximate center of Dunlap square in the city of Marinette, Wisconsin, and to provide for the cost and expense thereof.

The People of the State of Michigan enact:

254.121 Interstate bridge between Michigan and Wisconsin.

Sec. 1. The state highway commissioner is hereby authorized to enter into an agreement with the Wisconsin state highway commission for the construction of an interstate bridge project extending from approximately the intersection of Ogden avenue and Chandler street in the city of Menominee, Michigan, in a straight line terminating at approximately the center of Dunlap square in the city of Marinette, Wisconsin. This bridge is designed to replace the existing Bridge street bridge commonly known as the Middle bridge which is in an unsafe condition and in urgent need of reconstruction.

HISTORY: CL 1929, 4585;—CL 1948, 254.121.

254.122 Right of way; construction costs, reimbursements.

Sec. 2. The agreement provided in section 1 of this act is hereby made contingent upon the purchase of right of way and settlement of property damages the full cost of which shall be assumed and borne by others: Provided, That the expense of the construction of said bridge project including the river bridge, approach fills, grade separation, drainage structure, paving and lighting exclusive of cost and expense of securing right of way and property damages, shall be divided between the state of Michigan and the state of Wisconsin, as the state highway commissioner shall deem just and proper: Provided further, That the state highway commissioner is hereby authorized to make contracts with other parties for securing portions of the cost of said bridge project to reimburse the state of Michigan in part for its share of the cost and expense of said project.

HISTORY: CL 1929, 4586;—CL 1948, 254.122.

254.123 Use of certain funds.

Sec. 3. The state highway commissioner is hereby authorized to use such money as may be necessary to carry into effect the provisions of this act from any funds appropriated for trunk line and federal aid construction purposes.

HISTORY: CL 1929, 4587;—CL 1948, 254.123.

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Act 191, 1955, p. 292; Imd. Eff. Jun. 14.

AN ACT authorizing the state highway commissioner of Michigan to enter into negotiations with the Wisconsin state highway commissioner in the preparation of plans, specifications and designs of an interstate bridge extending from First street in Menominee across the Menominee river to Ogden street in Marinette, Wisconsin, and to provide for the cost and expense of such plans, specifications and designs.

The People of the State of Michigan enact:

254.131 Interstate bridge between Michigan And Wisconsin.

Sec. 1. The state highway commissioner is hereby authorized to enter into negotiations with the Wisconsin state highway commission in the preparation of plans, specifications and design for a new interstate bridge across the Menominee river extending from the south end of First street in the city of Menominee to Ogden street in Marinette, Wisconsin, at 1/2 the expense of such plans, specifications and design which is hereby appropriated from the motor vehicle highway fund as administration expenses, upon payment of the other half of the expense thereof being approved by the Wisconsin state highway commission, or Wisconsin municipalities. The bridge to be designed is to replace the existing bridge commonly known as the Draw bridge.

HISTORY: New 1955, p. 292, Act 191, Imd. Eff. Jun. 14.

Act 84, 1959, p. 91; Imd. Eff. Jun. 29.

AN ACT to authorize the department of conservation to grant an easement over certain unpatented lake bottom lands in Mackinac county.

The People of the State of Michigan enact:

254.141 Mackinac county bridge; conveyance of easement.

Sec. 1. The state department of conservation is hereby authorized and directed to convey to the board of county road commissioners of Mackinac county an easement over the unpatented lake bottom lands between Hill's island and island number 8 in the Les Cheneaux islands in Mackinac county for the purpose of a bridge connecting Hill's island and island number 8.

HISTORY: New 1959, p. 91, Act 84, Imd. Eff. Jun. 29.

254.142 Bridge; part of public road system.

Sec. 2. Before the conveyance authorized by this act is made, the board of county road commissioners of Mackinac county shall file with the department of conservation evidence of its acceptance of the bridge and roads connecting thereto as a part of the public road system and shall submit plans and specifications relative to the structure. The department of conservation may make such recommended changes in the plans and specifications as are necessary to protect the public interest in the public navigable waters.

HISTORY: New 1959, p. 91, Act 84, Imd. Eff. Jun. 29.

Act 147, 1935, p. 225; Imd. Eff. Jun. 4.

AN ACT authorizing the acquisition, improvement, construction, operation and maintenance of certain public works by the state; providing for the creation of the state bridge commission; authorizing the issuance of revenue bonds of the state payable solely from earnings to pay the cost of such works; making such bonds exempt from taxation and making them eligible for certain investments; providing for the col-

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lection of fees, rents, tolls and other charges for the payment of such bonds and for the cost of maintenance, operation and repair of the works; declaring that no debt of the state shall be incurred in the exercise of any of the powers granted by this act; and providing for condemnation.

The People of the State of Michigan enact:

254.151 State bridge commission; issuance of revenue bonds for public works.

Sec. 1. Issuance of revenue bonds for public works. The state bridge commission hereinafter created is hereby authorized and empowered to acquire by purchase and to construct, or partly acquire and partly construct, and to improve, enlarge, reconstruct, own, equip, operate and maintain the public works hereinafter specified, and to issue revenue bonds, payable solely from earnings, to pay the cost of such works.

HISTORY: CL 1948, 254.151.

COMPILERS' NOTE: The catchlines following the act section numbers were incorporated as part of the act as enacted.

By Act 302 of 1931 the state gave its consent to the construction of a bridge across the Saint Clair river at or near Port Huron by the Great Lakes bridge commission, created by act of congress.

CITED IN OTHER SECTIONS: Sections 254.151 to 254.167 are cited in § 16.456.

254.152 State bridge commission; definitions.

Sec. 2. Definitions. As used in this act, the following words and terms shall have the following meanings:

(a) The word "commission" shall mean the state bridge commission hereinafter created, or, if said state bridge commission shall be abolished, any board or officer succeeding to the principal functions thereof or upon whom the powers given by this act to said commission shall be given by law.

(b) The word "works" shall include all property, rights, easements and franchises relating thereto and deemed necessary or convenient for their operation, and shall embrace an international bridge over, and ferries across the Saint Clair River at or near Port Huron.

(c) The word "improvements" shall mean such repairs, replacements, additions and betterments of and to works acquired by purchase as are deemed necessary to place them in a safe and efficient condition for the use of the public, if such repairs, replacements, additions and betterments are ordered prior to the sale of any bonds for the acquisition of such works.

(d) The term "cost of works" as applied to works to be acquired by purchase, shall include the purchase price, cost of improvements, financing charges, interest during any period of disuse before completion of improvements, cost of engineering and legal expenses, plans, specifications and surveys, estimates of cost and of revenues, other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense and such other expenses as may be necessary or incident to the financing herein authorized, and the acquisition of the works and the placing of the same in operation.

(e) The term "cost of works" as applied to works to be constructed, shall embrace the cost of construction, the cost of all land, property, rights, easements and franchises acquired which are deemed necessary for such construction, the cost of all machinery and equipment, financing charges, interest prior to and during construction and for 6 months after completion of construction, cost of engineering and legal expenses, plans, specifications, surveys, estimates of cost and of revenues, other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense and such other expenses as may be necessary or incident to the financing

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herein authorized and the construction of the works and the placing of the same in operation.

(f) The word "owner" shall include all individuals, incorporated companies, societies or associations having any title or interest in any properties, rights, easements or franchises to be acquired.

HISTORY: CL 1948, 254.152.

254.153 State bridge commission; membership, oath, bond.

Sec. 3. State bridge commission. There is hereby created a commission to be known as the "state bridge commission," and by that name the commission may sue and be sued; plead and be impleaded; contract and be contracted with; and have a common seal. The said commission shall consist of 3 members, who shall be appointed by the governor, with the advice and consent of the senate. The governor shall appoint the members of such commission as soon as may be after this act becomes effective. The said commissioners shall immediately enter upon their duties and shall hold office until the expiration of 2, 4 and 6 years, respectively, from the first day of April, 1935, the term of each to be designated by the governor, but their successors shall be appointed for the term of 6 years, excepting that any person appointed to fill a vacancy shall serve only for the unexpired term; and any commissioner shall be eligible for reappointment. Each commissioner before entering upon his duties shall take, subscribe and file his oath of office as required by law. Before the issuance of any bonds under the provisions of this act, each commissioner shall execute a bond, to be approved by the governor, in the penalty of 10,000 dollars, conditioned according to law, which bond shall be filed and recorded as are other bonds required of state officials. The commission shall elect 1 of its members as chairman and shall also elect a secretary who may not be a member of the commission. The state treasurer shall act as treasurer of the commission.

HISTORY: CL 1948, 254.153.

254.154 State bridge commission; acquisition of necessary property.

Sec. 4. Acquisition of necessary property. The commission shall have power to acquire by purchase upon such terms and conditions and in such manner as it may deem proper, and to acquire by condemnation in accordance with and subject to the provisions of any and all existing laws applicable to the condemnation of property for public use, any land, rights, easements, franchises and other property deemed necessary or proper for the construction, operation and maintenance of such works. Title to all property acquired or condemned shall be taken in the name of the state. The state shall be under no obligation to accept and pay for any property condemned under this act except from the funds provided by this act, and in any proceedings to condemn such orders may be made by the court having jurisdiction of the suit, action or proceeding as may be just to the state and to the owners of the property to be condemned. No property shall be acquired under this act upon which any lien or other encumbrance exists, unless at the time such property is acquired a sufficient sum of money be deposited in trust to pay and redeem such lien or encumbrance in full.

HISTORY: CL 1948, 254.154.

CONDEMNATION: See Compilers' § 213.21 et seq.

254.155 State bridge commission; purchase of public works.

Sec. 5. Purchase of works. The commission is hereby authorized to acquire by purchase whenever it shall deem such purchase expedient, but solely by means of or with the proceeds of revenue bonds hereinafter authorized, any public works hereinabove specified, or any such works wholly or partly constructed, and any franchises, easements, permits and contracts for the construction of any such works, upon such terms

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and at such prices as may be considered by it to be reasonable and can be agreed upon between it and the owner thereof, title thereto to be taken in the name of the state.

HISTORY: CL 1948, 254.155.

254.156 Improvement of public works.

Sec. 6. Improvement of works purchased. At or before the time any such works shall be acquired by purchase, it shall be the duty of the commission to determine what repairs, replacements, additions or betterments will be necessary to place the works in safe and efficient condition for use, and to cause an estimate of the cost of such improvement to be made, and submitted to the commission by an engineer or engineers appointed by it; such improvements shall be ordered by the commission before the sale of any revenue bonds hereinafter authorized for the acquisition of such works, and shall be paid for out of the proceeds of such bonds.

HISTORY: CL 1948, 254.156.

254.157 Construction of public works; agreements with other states and Canada.

Sec. 7. Construction of works. The commission is hereby authorized to construct, whenever it shall deem such construction expedient, any public works hereinabove specified, the cost of such construction to be paid wholly by means of or with the proceeds of revenue bonds hereinafter authorized. The commission is hereby authorized to make agreements with any company, corporation or commission, incorporated or created under the laws of an adjoining state or of Canada, respecting the construction, maintenance and use of any public works which said commission is authorized by this act to acquire or construct, together with all appurtenances of such works, and is authorized to purchase within this state and within any adjoining state or within the Dominion of Canada, solely from funds provided under the authority of this act, any such works already constructed or partly constructed, and such lands, structures, rights of way, franchises, surveys, plans, works, plant, machinery, and easements and other interests in lands, including lands under water and riparian rights of any person, railroad or other corporation or municipality or political subdivision, deemed necessary for the construction of any such works or for the operation thereof, upon such terms and at such prices as may be considered by it to be reasonable and can be agreed upon between it and the owner thereof, title thereto to be taken in the name of the state.

HISTORY: CL 1948, 254.157.

254.158 Revenue bonds for public works; sale, notice; signature; report to administrative board.

Sec. 8. Revenue bonds. The commission is hereby authorized to provide by resolution for the issuance of revenue bonds of the state (A) for the purpose of paying the cost as hereinabove defined of any 1 or more public works which said commission is authorized by this act to acquire or construct, which resolution shall recite an estimate of such cost, or (B) to refund any revenue bonds, heretofore or hereafter issued under the provisions of this act, not earlier than 1 year prior to either the date of maturity of such revenue bonds or the date upon which they may be redeemed prior to maturity, or at any time, upon the surrender for payment of at least an equal par amount of revenue bonds authorized by said resolution to be refunded: Provided, That any issue of such refunding bonds shall not exceed the total par amount of outstanding revenue bonds, less any available funds and sinking fund balances. Such refunding bonds shall be sold to the highest bidder upon sealed bids, the same to be publicly opened by the commission. No bid shall be accepted by the commission except upon the express approval of the state treasurer. Highest bidder is hereby defined as the person, firm or corporation submitting a proposal which shall effect the greatest saving of interest upon the bonds refunded. Notice of such sale shall be published at least 7 days prior to

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the day of opening bids in the Michigan Investor, the Bond Buyer and such other financial journals as the commission may deem advisable. No sale of such refunding bonds shall be made at a figure of less than that required to redeem and pay the bonds refunded and effect a net saving of at least 1/2 of 1% upon the bonds refunded. The principal and interest of such bonds shall be payable solely from the special fund herein provided for such payment. Such revenue bonds shall bear interest at not more than 6 per centum per annum, payable semi-annually, and shall mature at such time or times not more than 40 years from their date or dates as may be fixed by such resolution. All such revenue bonds may be made redeemable before maturity at the option of the commission at such price or prices and under such terms and conditions as may be fixed by the commission prior to the issuance of the bonds. The principal and interest of such revenue bonds may be made payable in any lawful medium. The commission shall determine the form of the bonds and the interest coupons to be attached thereto and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest thereof, which may be at any bank or trust company within or without the state. Revenue bonds issued by the commission shall be signed by the governor and by the chairman of the commission, under the great seal of the state, attested by the secretary of state, and the coupons attached thereto shall bear the facsimile signature of said chairman of the commission. Any refunding bonds issued shall be signed solely by the chairman and the secretary of the commission, under the seal of the commission. All bonds issued under this act shall contain a statement on their face that the state shall not be obligated to pay the same or the interest thereon except from the revenues of the works. In case any of the officers whose signatures appear on the bonds and coupons shall cease to be such officers before the delivery of such bonds, such signatures shall nevertheless be valid and sufficient for all purposes the same as if they had remained in office until such delivery. All such revenue bonds shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the negotiable instruments law of the state. Such bonds shall be exempt from all taxation, state, county and municipal, and unless otherwise provided by law, shall be lawful investments in the same manner and to the same extent as other bonds of the state. Provision may be made for the registration of any of the bonds in the name of the owner as to principal alone or as to both principal and interest. The commission may sell such bonds in such manner and for such price as it may determine to be for the best interests of the state, taking into consideration the financial responsibility of the purchaser and the terms and conditions of the purchase, and especially the availability of the proceeds of the bonds when required for payment of the cost of the works, but no such sale shall be made at a price so low as to require the payment of more than 6 per cent interest on the money received therefor, computed with relation to the absolute maturity of the bonds in accordance with standard tables of bond values. The proceeds of such bonds shall be used solely for the payment of the cost of the works, or, in the case of refunding bonds, for the payment of the revenue bonds refunded, and shall be checked out in such manner and under such restrictions, if any, as the commission may provide. If the proceeds of the revenue bonds, by error of calculation or otherwise, shall be less than the cost of the works, additional bonds may in like manner be issued to provide the amount of such deficit and, unless otherwise provided in the trust indenture hereinafter mentioned, shall be deemed to be of the same issue and shall be entitled to payment from the same fund, without preference or priority of the bonds first issued for the same works. If the proceeds of bonds issued for any such works shall exceed the cost thereof, the surplus shall be paid into the fund hereinafter provided for the payment of principal and interest of such bonds. Prior to the preparation of definitive bonds, the commission may under like restrictions issue temporary bonds with or without coupons, exchangeable for definitive

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bonds upon the issuance of the latter. Such revenue bonds may be issued without any other proceedings or the happening of any other conditions or things than those proceedings, conditions and things which are specified and required by this act or by the constitution of the state. In the discretion of the commission revenue bonds of a single issue may be issued for the purpose of paying the cost of any 1 or more public works, whether of the same class or 2 or more classes.

A report shall be made by the commission to the state administrative board on or before the fifteenth day of January, fifteenth day of April, fifteenth day of July, fifteenth day of October of each year, which report shall state the receipts and disbursements during the preceding quarter, and shall contain such further information as the state administrative board shall require.

HISTORY: Am. 1945, p. 60, Act 63, Imd. Eff. March 28;—CL 1948, 254.158.

254.159 Lien on bond proceeds.

Sec. 9. Lien upon bond proceeds. All moneys received from any revenue bonds issued pursuant to this act shall be applied solely to the payment of the cost of the works or to the appurtenant sinking fund, and there shall be and hereby is created and granted a lien upon such moneys until so applied, in favor of the holders of the bonds or the trustee hereinafter provided for in respect of such bonds.

HISTORY: CL 1948, 254.159.

254.160 Trust indenture; collateral security, surety bonds; expenses.

Sec. 10. Trust indenture. In the discretion of the commission, any series or issue of such revenue bonds may be secured by a trust indenture by and between the commission and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or outside of the state, but no such trust indenture shall convey or mortgage the works or any part thereof. Either the resolution providing for the issuance of revenue bonds or such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper, not in violation of law, including covenants setting forth the duties of the state and the commission in relation to the acquisition, construction, improvement, maintenance, operation, repair and insurance of the works, the custody, safeguarding and application of all moneys, and may provide that the works shall be acquired, constructed, or partly acquired and partly constructed, and paid for under the supervision and approval of consulting engineers employed or designated by the commission and satisfactory to the original purchasers of the bonds issued therefor, who may be given the right to require that security given by contractors and by any depositary of the proceeds of the bonds or revenues of the works or other moneys pertaining thereto, be satisfactory to such purchasers, their successors, assigns or nominees. Such resolution or indenture may set forth the rights and remedies of the bondholders and trustee, restricting the individual right of action of bondholders as is customary in trust indentures securing bonds and debentures of corporations. Except as in this act otherwise provided, the commission may provide by resolution or by such trust indenture for the payment of the proceeds of the sale of the bonds and the revenues of the works to such officer, board or depositary as it may determine for the custody thereof, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. Any bank or trust company designated as a depositary, notwithstanding any provision of law to the contrary, is hereby authorized, with the approval of the commissioner of the state banking department, to pledge as collateral security for moneys deposited by the trustee in such depositary, direct obligations of, or obligations the principal and interest of which are unconditionally guaranteed by, the United States government, or other marketable securities eligible as security for the deposit of trust funds under regulations of the federal reserve board and having

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a market value (exclusive of accrued interest) at least equal to the amount of such deposit, or in lieu of such collateral security as to all or any part of such deposit, there shall have been lodged with the trustee, or with the secretary of the commission in the case of moneys deposited or remaining on deposit with the trustee, and remain in full force and effect as security for the moneys deposited, the indemnifying bond or bonds of a surety company or companies qualified as surety for United States government deposits and qualified to transact business in the state of Michigan in a sum at least equal to the amount of moneys deposited with such bank or trust company or such part thereof, such bond or bonds to be approved in writing by the commission: Provided, however, That it shall not be necessary for the trustee to give collateral security or file a surety bond as security for the deposit of that amount of the proceeds of the bonds which shall be paid out of the construction fund simultaneously with the delivery of the bonds: And provided further, however, That the cost of any surety bond furnished by the trustee may be paid for out of funds from time to time in the hands of the trustee. All expenses incurred in carrying out such trust indenture may be treated as a part of the cost of maintenance, operation and repairs of the works affected by such indenture.

HISTORY: Am. 1937, p. 14, Act 11, Imd. Eff. April 22;—CL 1948, 254.160.

254.161 Revenues; contracts with state highway department and Ontario; elimination of tolls.

Sec. 11. Tolls, fees, rents, rates or other charges shall be fixed, charged and collected for the use of such works and shall be so fixed and adjusted, in respect to the aggregate of such tolls, fees, rents, rates or other charges from the works for which a single issue of revenue bonds is issued, as to provide a fund sufficient to pay (a) operating, repair and maintenance expenses, until such time as the bridge shall become a free bridge as hereinafter provided, and (b) such issue of bonds and the interest thereon, subject, however, to any applicable law or regulation of the United States of America now in force or hereafter to be enacted or made. Such tolls, fees, rents, rates or other charges shall not be subject to supervision or regulation by any state bureau, board, commission or agency. At or before the issuance of any revenue bonds, the commission shall by resolution create a sinking fund for the payment of the bonds and the interest thereon, and the payment of the charges of banks or trust companies for making payment of such bonds or interest, and shall set aside and pledge a sufficient amount of the net revenues of the works, hereby defined to be the revenues of the works remaining after the payment of the reasonable expense of operation, maintenance and repairs, such amount to be paid into such sinking fund at intervals to be determined by the commission prior to the issuance of the bonds, for (a) the interest upon such bonds as such interest shall fall due and (b) the necessary fiscal agency charges for paying bonds and interest and (c) the payment of the bonds as they fall due, or, if all bonds mature at 1 time, the proper maintenance of a sinking fund sufficient for the payment thereof at such time, and (d) a margin for the payment of premiums upon bonds retired by call or purchase as herein provided. Such required payments shall constitute a first charge upon all the net revenues of the works. Prior to the issuance of revenue bonds, the commission may provide by resolution or by such trust indenture for using the sinking fund or any part thereof in the purchase of any of the outstanding bonds payable therefrom at the market price thereof, but not exceeding the price, if any, at which the same shall at the next interest date be payable or redeemable, and all bonds redeemed or purchased shall forthwith be cancelled and shall not again be issued. The moneys in the sinking fund, less a reserve for payment of not exceeding 1 year's interest on the bonds, if not used within a reasonable time for the purchase of bonds for cancellation as above provided, shall be applied to the redemption of bonds by lot at the redemption price then applicable.

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The commission is authorized and empowered to enter into any contract or contracts with the state highway department of the state of Michigan and the department of highways of the province of Ontario, for the maintenance of said bridge and its approaches.

When the bonds authorized and issued under the provisions of this act have been paid and retired, tolls or charges for its use by the public may be charged only to cover the payment of the reasonable expenses of operation, maintenance and repairs.

HISTORY: Am. 1937, p. 15, Act 11, Imd. Eff. April 22;—CL 1948, 254.161;—Am. 1955, p. 105, Act 65, Eff. Oct. 14.

254.162 Powers of commission.

Sec. 12. Powers. The commission shall have power to make and enter into all contracts or agreements necessary or incidental to the execution of its powers under this act, and may employ engineering, architectural and construction experts and inspectors and attorneys, and such other employes as may be deemed necessary, and may fix their compensation. All such compensation and all expenses incurred in carrying out the provisions of this act shall be paid solely from funds provided under the authority of this act, and no liability or obligation shall be incurred hereunder beyond the extent to which money shall have been provided under the authority of this act. The commission may accept from any federal agency grants for or in aid of the construction of any public works under this act, and may exercise any powers which may be conferred upon it by acts of the congress of the United States or which are necessary or convenient for the execution of its powers under this act. All public or private property damaged or destroyed in carrying out the powers granted under this act shall be restored or repaired and placed in their original condition, as nearly as practicable, or adequate compensation made therefor, out of funds provided by this act.

HISTORY: CL 1948, 254.162.

254.163 Action by trustee and bondholders.

Sec. 13. Action by trustee and bondholders. Any holder of any of such revenue bonds or any of the coupons attached thereto, and the trustee, if any, except to the extent the rights herein given may be restricted by resolution passed before the issuance of the revenue bonds or by the trust indenture may, either at law or in equity, by suit, action, mandamus or other proceeding protect and enforce any and all rights granted hereunder or under such resolution or trust indenture and may enforce and compel performance of all duties required by this act or by such resolution or trust indenture to be performed by the commission, including the fixing, charging and collecting of tolls, fees, rents, rates and other charges for the use of such works.

HISTORY: CL 1948, 254.163.

254.164 Acceptance of contributions; use.

Sec. 14. Contributions. The commission shall have authority to receive and accept contributions of either money or property or other things of value to be held, used and applied for the purposes in this act provided. The state highway department, subject to the approval of the state administrative board, is hereby authorized to cooperate with the commission in the construction of any bridge under the provisions of this act and in securing federal aid therefor.

HISTORY: CL 1948, 254.164.

254.165 Competing ferries.

Sec. 15. Competing ferries. If the commission shall provide for the issuance hereunder of a single issue of revenue bonds for the purpose of paying the cost of constructing a bridge or tunnel and of acquiring a ferry or ferries within 5 miles of the location which shall be selected for such bridge or tunnel, the commission shall not be required to maintain or operate any such ferry but in the discretion of the commission any such ferry, with the appurtenances and property thereto connected and belong-

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ing, may be sold or otherwise disposed of or may be abandoned and dismantled whenever in the judgment of the commission it may seem expedient so to do. The proceeds of any sale or disposition of any ferry or ferries shall be paid into the sinking fund hereinabove provided for the bonds.

HISTORY: CL 1948, 254.165.

254.166 Alternative methods of act.

Sec. 16. Act provides alternative method. This act shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing.

HISTORY: CL 1948, 254.166.

254.167 Construction of act.

Sec. 17. Act liberally construed. This act, being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect the purposes hereof.

HISTORY: CL 1948, 254.167.

Sec. 18. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 414, Act 267, Imd. Eff. May 25.

Act 294, 1947, p. 465; Imd. Eff. Jun. 30.

AN ACT to enable the state bridge commission to sell certain real estate subject to certain limitations and to direct the disposition of the proceeds of said sale.

The People of the State of Michigan enact:

254.181 State bridge commission; real estate, sale, purchase by city of Port Huron; deed restriction, proceeds.

Sec. 1. The state bridge commission, created under Act No. 147 of the Public Acts of 1935, is hereby authorized and empowered to sell all or any part or parcel of the following described real estate now held in the name of the state of Michigan, and under the control of said state bridge commission:

All those certain parcels or tracts of land and premises situate, lying and being in the city of Sarnia, in the county of Lambton, and province of Ontario, and being composed of all of the land and land under water now owned by the state of Michigan and lying and being within the following general area, south of Lochiel street, west of the Canadian national railway right of way, north of Cromwell street produced, and east of the river St. Clair, and all rights appurtenant thereto, which said parcels or tracts of land are more particularly set out in deed registered in the registry office for the county of Lambton as number 57178 for the city of Sarnia.

And also: Lots 7, 8 and 9, block 1 of Butler's plat, of a part of the city of Port Huron, and lots 1, 2, 3 and 4 of Thorn's plat of a part of the city of Port Huron south of Quay street: Provided, That the city of Port Huron is hereby authorized to purchase any of said lands or to meet the bid of the highest bidder for the purchase of said lands, in which case the land shall be sold to the city of Port Huron under the provisions of this act.

Said state bridge commission is hereby authorized to sell said lands at public or private sale in such manner and for such prices as said state bridge commission shall deem for the best interest of the state of Michigan: Provided, however, That no sale shall be consummated and no deed or conveyance of said properties shall be executed and delivered without such sale having been formally approved and ratified by the state administrative board. Each such deed or conveyance shall contain a restrictive

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clause providing that no part or portion of said premises shall be used directly or indirectly by the grantee or his representatives or assigns for any purpose whatsoever in connection with the operation for toll or hire of any ferry between the city of Port Huron and the Canadian shore, or for any terminal, dock or wharf used in connection with said ferry operation until such time as the Blue Water Bridge shall have become toll free.

It is further provided that said state bridge commission is hereby ordered to pay the proceeds of the sale of any or all of said lands into the sinking fund maintained by its trustee under the bond indenture for use in the payment of either principal or interest upon the outstanding bonded indebtedness.

HISTORY: CL 1948, 254.181.

NOTE: Act 147, 1935, above referred to, is Compilers' § 254.151 et seq.

Act 237, 1935, p. 400; Eff. Sep. 21.

AN ACT providing for the creation of the international bridge or tunnel authority; authorizing said authority to investigate the feasibility of a bridge or tunnel between Michigan and Ontario, Canada; to construct, maintain and operate such bridge or tunnel connecting the United States and Canada at Sault Ste. Marie; to acquire by condemnation or purchase in the name of the state such lands, structures, rights-of-way, easements or other interest in lands including lands under water and riparian rights deemed necessary to the construction of such bridge or tunnel; to facilitate vehicular and/or passenger and freight transportation as well as terminal facilities necessary thereto; authorizing the issuance of bridge or tunnel revenue bonds of the state and entering into trust agreements relative thereto, such bonds payable solely from bridge or tunnel earnings to pay the cost of such bridge or tunnel; providing for the collection of bridge or tunnel tolls for the payment of such bonds and for the cost of maintenance, operation and repair of the bridge or tunnel; fixing certain powers and duties of the bridge or tunnel authority; declaring that no debt of the state shall be incurred in the exercise of any of the powers granted hereby; and to authorize the state of Michigan to grant the use of lands held by the state, and directing state departments to furnish necessary records. Am. 1953, p. 46, Act 51, Eff. Oct. 2.

The People of the State of Michigan enact:

254.201 Repealed. 1954, p. 123, Act 99, Imd. Eff. Apr. 12.

Section defined terms with respect to international bridge authority.

254.202 International bridge authority; creation, appointment, term, quorum, rules and regulations, employees.

Sec. 2. There shall be, and there is hereby created an authority to be known as "The International Bridge Authority of Michigan," and the same is hereby made a body corporate, and by that name the authority may sue, and be sued; plead, and be impleaded; contract, and be contracted with, and have a common seal. The said authority shall consist of 3 members, all of whom shall be residents of the state of Michigan and not more than 2 of whom shall be members of any one political party, who shall be appointed by the governor, with the consent of the senate. The governor shall appoint the said authority as soon as may be after this act become effective, and before the first day of April, 1935, and shall designate the chairman thereof at the time of such appointment. The said members of the authority shall immediately enter upon their duties and hold office until the expiration of 2, 4 and 6 years, respectively, from the first day of July, 1935, the term of each to be designated by the governor, but their successors shall be appointed for the term of 4 years, excepting that any person ap-

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pointed to fill a vacancy shall serve only for the unexpired term, and any member of the authority shall be eligible for reappointment.

Upon the appointment and qualification of the members of the authority they shall at once proceed to organize. A majority of the appointive members of the authority shall constitute a quorum and may bind the authority. The authority shall make necessary rules and regulations for its own government and shall have power and authority to employ engineering and construction experts and inspectors and attorneys, and such other employes as may be necessary in its judgment, and fix their compensation, all of whom shall do such work as the authority shall direct.

HISTORY: CL 1948; 254.202.

CITED IN OTHER SECTIONS: The above section is cited in §§ 16.458 and 254.221.

254.203-254.216 Repealed. 1954, p. 123, Act 99, Imd. Eff. Apr. 12.

Sections were major portion of international bridge authority act.

Sec. 17. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 414, Act 267, Imd. Eff. May 25.

Sec. 18. (This was a construction section.)

HISTORY: Rep. 1947, p. 169, Act 129, Eff. Oct. 11.

Act 99, 1954, p. 116; Imd. Eff. Apr. 12.

AN ACT authorizing the international bridge authority of Michigan, created by Act No. 237 of the Public Acts of 1935, as amended, being sections 254.201 to 254.216, inclusive, of the Compiled Laws of 1948, to construct, maintain, repair and operate a bridge or tunnel project from the Upper Peninsula of Michigan to the province of Ontario, Canada, and providing for the acquisition and operation of the existing ferry system and buses in connection with such project; defining the powers and duties of the authority; granting to the authority power to acquire necessary real and personal property and to exercise the power of condemnation; providing for financing such project by the issuance of revenue bonds of the authority, payable solely from tolls and other revenues; providing that no debt of the state shall be incurred in the exercise of any such powers; providing for the collection of tolls and other revenues to pay such bonds and the interest thereon and the cost of maintenance, repair and operation of such project; exempting from taxes and assessments such project and such bonds and the income therefrom; authorizing the issuance of revenue refunding bonds; prescribing the rights and remedies of the holders of bonds issued under the provisions of this act; making an appropriation; and repealing certain acts and parts of acts.

The People of the State of Michigan enact:

254.221 International bridge authority; definitions.

Sec. 1. As used in this act, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(a) The word "authority" shall mean the international bridge authority of Michigan, created by section 2 of Act No. 237 of the Public Acts of 1935, being section 254.202 of the Compiled Laws of 1948, or, if said authority shall be abolished, the board, body or commission succeeding to the principal functions thereof or to whom the powers given by this act to the authority shall be given by law.

(b) The word "project" shall include a bridge or tunnel, overpasses, underpasses, entrance plazas, toll houses, administration, storage and other buildings and facilities and all equipment therefor, and may include buses and terminal facilities, the existing ferry system, and such approaches and approach highways as may be determined by the authority to be necessary to facilitate the flow of traffic or to connect the project

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with the existing highway systems, together with all property, rights, easements and interests which may be acquired by the authority for the construction or operation of the project.

(c) The word "cost" as applied to the project shall embrace the cost of construction or acquisition, the cost of the acquisition of all land, rights-of-way, property, rights, easements and interests acquired by the authority for such construction, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the cost of acquiring the existing ferry system, or any portion thereof, operating between Sault Ste. Marie, Michigan, and Sault Ste. Marie in the province of Ontario, Canada, the purchase price of any buses operated by the authority, the cost of all machinery and equipment, financing charges, interest prior to and during construction and, if deemed advisable by the authority, for a period not exceeding 1 year after completion of construction, cost of traffic estimates and of engineering and legal services, plans, specifications, surveys, estimates of cost and of revenues, other expenses necessary or incident to determining the feasibility or practicability of constructing the project, administrative expense, and such other expense as may be necessary or incident to the construction of the project, the financing of such project and the placing of the project in operation. Any moneys paid or advanced to the authority with its approval for traffic surveys, borings, preparation of plans and specifications, and other engineering services in connection with the construction of the project shall be regarded as a part of the cost of the project and shall be reimbursed out of the proceeds of the revenue bonds issued for the project as hereinafter authorized.

(d) The word "bonds" or the words "revenue bonds" shall mean revenue bonds of the authority issued under the provisions of this act.

(e) The word "owner" shall include all individuals, copartnerships, associations or corporations and also municipalities, political subdivisions and all public agencies and instrumentalities having any title or interest in any property, rights, easements and interests authorized to be acquired by this act.

HISTORY: New 1954, p. 116, Act 99, Imd. Eff. Apr. 12.

CITED IN OTHER SECTIONS: Sections 254.221 to 254.240 are cited in § 487.531.

254.222 Revenue bonds; statement, expenses.

Sec. 2. Revenue bonds issued under the provisions of this act shall not be deemed to constitute a debt of the state or of any political subdivision thereof or a pledge of the faith and credit of the state or of any such political subdivision, but shall be payable solely from the funds provided therefor from revenues. All such revenue bonds shall contain on the face thereof a statement to the effect that neither the state nor the authority shall be obligated to pay the same or the interest thereon except from revenues of the project and that neither the faith and credit nor the taxing power of the state or of any political subdivision thereof is pledged to the payment of the principal of or the interest on such bonds.

All expenses incurred in carrying out the provisions of this act shall be payable solely from funds provided under the authority of this act and no liability or obligation shall be incurred by the authority hereunder beyond the extent to which moneys shall have been provided under the provisions of this act.

HISTORY: New 1954, p. 117, Act 99, Imd. Eff. Apr. 12.

254.223 International bridge authority; powers and duties.

Sec. 3. The authority is hereby authorized and empowered:

(a) To adopt by-laws for the regulation of its affairs and the conduct of its business;

(b) To adopt an official seal and alter the same at pleasure;

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(c) To maintain an office at such place or places within the state as it may designate;

(d) To sue and be sued in its own name, plead and be impleaded;

(e) To elect 1 of the appointed members as vice-chairman, a secretary-treasurer who need not be a member of the authority, and such other officers as it shall determine necessary, all of whom shall serve at the pleasure of the authority;

(f) To determine the location of the project, to determine, in its discretion and without reference to any other provisions of this act or any other law, the design standards and the materials of construction, and to construct, maintain, repair and operate the same;

(g) To issue revenue bonds of the authority for any of its corporate purposes, payable solely from the tolls and revenues pledged for their payment, and to refund its bonds, all as provided in this act;

(h) To fix and revise from time to time and charge and collect tolls and other charges for the use of the project;

(i) To establish rules and regulations for the use of the project;

(j) To acquire, hold and dispose of real and personal property in the exercise of its powers and the performance of its duties under this act;

(k) To acquire the existing ferry system, or any portion thereof, operating between Sault Ste. Marie, Michigan, and Sault Ste. Marie, in the province of Ontario, Canada, and to maintain, repair and operate such ferry system or portion thereof until the project shall be opened for traffic;

(l) To acquire, maintain, repair and operate buses between Sault Ste. Marie, Michigan, and Sault Ste. Marie in the province of Ontario, Canada;

(m) To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act;

(n) To employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers and such other employees and agents as may be necessary in its judgment and to fix their compensation;

(o) To receive and accept from any federal agency grants for or in aid of the construction of the project, and to receive and accept aid or contributions from any source of either money, property, labor or other things of value, to be held, used and applied only for the purposes for which such grants and contributions may be made; and

(p) To do all acts and things necessary or convenient to carry out the powers expressly granted in this act.

HISTORY: New 1954, p. 117, Act 99, Imd. Eff. Apr. 12.

254.224 Real property; purchase and conveyance by Sault Ste. Marie city; condemnation proceedings; title; removal of property.

Sec. 4. The authority is hereby authorized and empowered to acquire by purchase, whenever it shall deem such purchase expedient, solely from funds provided under the authority of this act, such lands, structures, property, rights, rights-of-way, franchises, easements and other interests in lands, including lands lying under water and riparian rights, which are located within or without the state, as it may deem necessary or convenient for the construction and operation of the project, upon such terms and at such prices as may be considered by it to be reasonable and can be agreed upon between it and the owner thereof, and to take title thereto in the name of the authority.

Notwithstanding any contrary provision of law, the city of Sault Ste. Marie is hereby authorized and empowered to lease, lend, grant or convey to the authority at its request upon such terms and conditions as the city may deem reasonable and fair and without the necessity for any advertisement, order of court or other action of formal-

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ity, other than the regular and formal action of the governing body of the city, any real property which may be necessary or convenient to the effectuation of the authorized purposes of the authority, including public highways and other real property already devoted to public use.

Whenever a reasonable price cannot be agreed upon, or whenever the owner is legally incapacitated or is absent, unknown or unable to convey valid title, the authority is hereby authorized and empowered to acquire by condemnation or by the exercise of the power of eminent domain any lands, property, rights, rights-of-way, franchises, easements and other property, including public lands, parks, playgrounds, reservations, highways or parkways, or parts thereof or rights therein, of any person, copartnership, association, railroad, public service, public utility or other corporation, municipality or political subdivision deemed necessary or convenient for the construction or the efficient operation of the project or necessary in restoration of public or private property damaged or destroyed. Any such proceedings shall be conducted in accordance with and subject to the provisions of any and all laws applicable to condemnation of property in the name of the state highway commissioner under the laws of the state of Michigan, including but not limited to the provisions of Act No. 149 of the Public Acts of 1911, as amended, being sections 213.21 to 213.41, inclusive, of the Compiled Laws of 1948; Act No. 215 of the Public Acts of 1925, being sections 213.151 to 213.153, inclusive, of the Compiled Laws of 1948; and Act No. 352 of the Public Acts of 1925, as amended, being sections 213.171 to 213.199, inclusive, of the Compiled Laws of 1948. Title to any property acquired by the authority shall be taken in the name of the authority.

If the owner, lessee or occupier of any property to be condemned shall refuse to remove his personal property therefrom or give up possession thereof, the authority may proceed to obtain possession in any manner now or hereafter provided by law.

HISTORY: New 1954, p. 118, Act 99, Imd. Eff. Apr. 12.

254.225 Revenue bonds; issuance, principal and interest payments, date, form, signatures, coupon or registered, sale, approval, proceeds, use; interim receipts or temporary bonds.

Sec. 5. The authority is hereby authorized to provide for the issuance, at one time or from time to time, of revenue bonds of the authority for the purpose of paying all or any part of the cost of the project. The principal of and the interest on such bonds shall be payable solely from the funds herein provided for such payment. The bonds shall be dated, shall bear interest at such rate or rates not exceeding 6% per annum, shall mature at such time or times not exceeding 40 years from their date, as may be determined by the authority, and shall be made redeemable before maturity, at the option of the authority, at such price or prices and under such terms and conditions as may be fixed by the authority prior to the issuance of the bonds. The authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of the principal and interest, which may be at any bank or trust company within or without the state. The bonds shall be signed by the chairman of the authority or shall bear his facsimile signature, and the official seal of the authority or a facsimile thereof shall be impressed or imprinted thereon and attested by the secretary-treasurer of the authority, and any coupons attached thereto shall bear the facsimile signature of the chairman of the authority. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. The bonds may be issued in coupon or in registered form, or

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both, as the authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, for the reconversion into coupon bonds of any bonds registered as to both principal and interest, and for the interchange of registered and coupon bonds. The authority may sell such bonds in such manner and for such price as it may determine will best effect the purposes of this act, subject to the approval of the state administrative board of the state of Michigan.

The proceeds of the bonds shall be used solely for the payment of the cost of the project, and shall be disbursed in such manner and under such restrictions, if any, as the authority may provide in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. If the proceeds of the bonds, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds shall exceed such cost, the surplus shall be deposited to the credit of the sinking fund for such bonds.

Prior to the preparation of definitive bonds, the authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost. Bonds may be issued under the provisions of this act without obtaining the consent of any department, division, commission, board, bureau or agency of the state, and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required by this act.

HISTORY: New 1954, p. 119, Act 99, Imd. Eff. Apr. 12.

254.226 Revenue bonds; secured by trust agreement, pledge, provisions, indemnifying bonds, expenses, approval.

Sec. 6. In the discretion of the authority the bonds issued under the provisions of this act may be secured by a trust agreement by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the state. Such trust agreement or the resolution providing for the issuance of such bonds may pledge or assign the tolls and other revenues to be received, but shall not convey or mortgage the project or any part thereof. Such trust agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation and insurance of the project, the rates of toll to be charged, and the custody, safeguarding and application of all moneys. It shall be lawful for any bank or trust company incorporated under the laws of the state which may act as depository of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the authority. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as a part of the cost of the operation

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of the project. Such trust agreement or resolution shall be subject to the approval of the state administrative board of the state of Michigan.

HISTORY: New 1954, p. 120, Act 99, Imd. Eff. Apr. 12.

254.227 Tolls; collection, contracts with public utilities; supervision and regulation; sinking fund; pledge.

Sec. 7. The authority is hereby authorized to fix, revise, charge and collect tolls for the use of the project, and to contract with any person, partnership, association or corporation desiring the use of any part thereof, for placing thereon telephone, telegraph, pipelines and electric light or power lines, or for any other purpose, and to fix the terms, conditions, rents and rates of charges for such use. Such tolls shall be so fixed and adjusted in respect of the aggregate of tolls from the project as to provide a fund sufficient with other revenues, if any, to pay (a) the cost of maintaining, repairing and operating such project and (b) the principal of and the interest on such bonds as the same shall become due and payable, and to create reserves for such purposes. Such tolls shall not be subject to supervision or regulation by any other commission, board, bureau or agency of the state. The tolls and all other revenues derived from the project, except such part thereof as may be necessary to pay such cost of maintenance, repair and operation and to provide such reserves therefor as may be provided for in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be set aside at such regular intervals as may be provided in such resolution or such trust agreement in a sinking fund which is hereby pledged to, and charged with, the payment of the principal of and the interest on such bonds as the same shall become due, and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made; the tolls and other revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the authority. The use and disposition of moneys to the credit of such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust agreement. Except as may otherwise be provided in such resolution or such trust agreement, such sinking fund shall be a fund for all such bonds without distinction or priority of one over another.

HISTORY: New 1954, p. 120, Act 99, Imd. Eff. Apr. 12.

254.228 Trust funds; depository acting as trustee.

Sec. 8. All moneys received pursuant to the authority of this act, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this act. The resolution authorizing the bonds or the trust agreement securing such bonds shall provide that any officer with whom, or any bank or trust company with which, such moneys shall be deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes hereof, subject to such regulations as this act and such resolution or trust agreement may provide.

HISTORY: New 1954, p. 121, Act 99, Imd. Eff. Apr. 12.

254.229 Trust agreement or resolution; enforcement.

Sec. 9. Any holder of bonds issued under the provisions of this act or any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights herein given may be restricted by such trust agreement or the resolution authorizing the issuance of such bonds, may, either at law or in equity, by suit, ac-

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tion, mandamus or other proceeding, protect and enforce any and all rights under the laws of the state or granted hereunder or under such trust agreement or resolution, and may enforce and compel the performance of all duties required by this act or by such trust agreement or resolution to be performed by the authority or by any officer thereof, including the fixing, charging and collecting of tolls.

HISTORY: New 1954, p. 121, Act 99, Imd. Eff. Apr. 12.

254.230 Bonds; negotiable instruments.

Sec. 10. Notwithstanding any of the foregoing provisions of this act or any recitals in any bonds issued under the provisions of this act, all such bonds shall be deemed to be negotiable instruments under the laws of this state.

HISTORY: New 1954, p. 121, Act 99, Imd. Eff. Apr. 12.

254.231 Purpose of project; taxation.

Sec. 11. The exercise of the powers granted by this act will be in all respects for the benefit of the people of the state, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions, and as the operation and maintenance of the project authorized by this act will constitute the performance of essential governmental functions, the authority shall not be required to pay any taxes or assessments upon the project or any property acquired or used by the authority under the provisions of this act or upon the income therefrom, and any bonds issued under the provisions of this act, their transfer and the income therefrom (including any profit made on the sale thereof) shall at all times be free from taxation within the state.

HISTORY: New 1954, p. 121, Act 99, Imd. Eff. Apr. 12.

254.232 Bonds made securities.

Sec. 12. Bonds issued by the authority under the provisions of this act are hereby made securities in which all banks, bankers, savings banks, trust companies, savings and loan associations, investment companies and other persons carrying on a banking business, all insurance companies, insurance associations, and other persons carrying on an insurance business, and all administrators, executors, guardians, trustees and other fiduciaries may properly and legally invest any funds, including capital belonging to them or within their control.

HISTORY: New 1954, p. 121, Act 99, Imd. Eff. Apr. 12.

254.233 Revenue refunding bonds; purpose, regulation.

Sec. 13. The authority is hereby authorized to provide for the issuance of revenue refunding bonds of the authority for the purpose of refunding any bonds then outstanding which shall have been issued under the provisions of this act, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and, if deemed advisable by the authority, for the additional purpose of constructing improvements to the project. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the authority in respect of the same, shall be governed by the provisions of this act insofar as the same may be applicable.

HISTORY: New 1954, p. 121, Act 99, Imd. Eff. Apr. 12.

254.234 Vehicular traffic facilities; covenant with bondholders; limitations.

Sec. 14. The state of Michigan covenants and agrees with the holders of the bonds issued under the provisions of this act that it will not construct or operate, or permit the construction or operation of, any bridge, tunnel or ferry service for vehicular traffic between the upper peninsula of Michigan and the province of Ontario, Canada, within 10 miles of the project: Provided, however, That nothing herein contained shall be construed to prevent the operation of the existing ferry service. Upon completing

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the construction of the project and opening the same to traffic the authority shall sell or otherwise dispose of all ferries and other property then owned by the authority and belonging to the ferry system, except any such properties as the authority may deem desirable to retain in connection with the operation of the project, and the proceeds of such sale or other disposition shall be applied to the payment of any remaining items of cost of the project or shall be deposited to the credit of the sinking fund for the bonds issued for such project.

HISTORY: New 1954, p. 122, Act 99, Imd. Eff. Apr. 12;—Am. 1955, p. 272, Act 181, Eff. Oct. 14.

254.235 Authorization for action; project maintenance and operation, report to governor, failure to pay tolls, surveying.

Sec. 15. Any action taken by the authority under the provisions of this act may be authorized by resolution at any regular or special meeting, and each such resolution shall take effect immediately and need not be published or posted.

The project, when constructed and opened to traffic, shall be maintained and kept in good condition and repair by the authority. The project shall be operated by such force of toll-takers and other operating employees as the authority may in its discretion employ and shall be policed in such manner as the authority may determine.

All private property damaged or destroyed in carrying out the powers granted by this act shall be restored or repaired and placed in its original condition as nearly as practicable or adequate compensation made thereof out of funds provided under the authority of this act.

Within the first 90 days of each fiscal year of the authority, the authority shall make an annual report to the governor of its activities for the preceding fiscal year. Each such report shall set forth a complete operating and financial statement covering its operation during the year. The authority shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants and the cost thereof may be treated as a part of the cost of construction or operation.

Any person who uses the project and fails or refuses to pay the toll provided therefor shall be punished by a fine of not more than $100.00 or by imprisonment for not more than 30 days, or both, and in addition thereto the authority shall have a lien upon the vehicle driven by such person for the amount of such toll and may take and retain possession thereof until the amount of such toll and all charges in connection therewith shall have been paid.

The authority and its authorized agents and employees may enter upon any lands, waters and premises in the state for the purpose of making surveys, soundings, drillings and examinations as they may deem necessary or convenient for the purpose of this act, and such entry shall not be deemed a trespass, nor shall an entry for such purposes be deemed an entry under any condemnation proceedings which may be then pending. The authority shall make reimbursement for any actual damage resulting to such lands, waters and premises as a result of such activities. The state hereby consents to the use of all lands owned by it, including lands lying under water, which are deemed by the authority to be necessary for the construction or operation of the project.

Each member of the authority shall be reimbursed for his actual expenses necessarily incurred in the performance of his duties.

HISTORY: New 1954, p. 122, Act 99, Imd. Eff. Apr. 12.

254.236 Bonds; final payment; disposition of property; dissolution of authority, toll-free bridge.

Sec. 16. When all bonds issued under the provisions of this act in connection with the project and the interest thereon shall have been paid or a sufficient amount for the payment of all such bonds and the interest thereon to the maturity thereof shall have been set aside in trust for the benefit of the bondholders, that portion of the project in

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Michigan, if then in good condition and repair, shall be conveyed by the authority to the state and that portion of the project in Canada shall be disposed of as directed by the proper authorities in Canada. Thereupon, the authority shall be dissolved and all funds of the authority not required for the payment of the bonds and the interest thereon shall be paid to the state and all machinery, equipment and other property belonging to the authority shall be delivered to the state, and the bridge shall become a free bridge without any tolls or charges for its use by the public.

Surveys and studies; data available.

The authority is hereby authorized and directed to make such surveys and studies of the project as may be necessary to effect the financing authorized by this act at the earliest practicable time, and for this purpose to employ such consulting engineers, traffic engineers, legal and financial experts and such other employees and agents as it may deem necessary. To effect the purpose of this act the state highway department shall make available to the authority all data in its possession which may be useful to the authority in making such surveys and studies.

HISTORY: New 1954, p. 122, Act 99, Imd. Eff. Apr. 12;—Am. 1955, p. 272, Act 181, Eff. Oct. 14;—Am. 1958, p. 214, Act 185, Eff. Sep. 13.

254.237 Powers; supplemental and additional.

Sec. 17. The foregoing sections of this act shall be deemed to provide an additional and alternative method for the doing of the things authorized thereby, and shall be regarded as supplemental and additional to powers conferred by other laws: Provided, however, That the issuance of revenue bonds or revenue refunding bonds under the provisions of this act need not comply with the requirements of any other law applicable to the issuance of bonds.

Except as otherwise expressly provided in this act, none of the powers granted to the authority under the provisions of this act shall be subject to the supervision or regulation or require the approval or consent of any municipality or political subdivision or any commission, board, bureau, official or agency thereof or of the state.

HISTORY: New 1954, p. 123, Act 99, Imd. Eff. Apr. 12.

254.238 Construction of act.

Sec. 18. This act, being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect the purposes thereof.

HISTORY: New 1954, p. 123, Act 99, Imd. Eff. Apr. 12.

254.239 International bridge authority; appointment and terms of present member, confirmation.

Sec. 19. The appointment and terms of the 3 present members of the authority and of its chairman are hereby ratified and confirmed.

HISTORY: New 1954, p. 123, Act 99, Imd. Eff. Apr. 12.

254.240 Repeal.

Sec. 20. The provisions of Act No. 237 of the Public Acts of 1935, as amended, being sections 254.201 to 254.216, inclusive, of the Compiled Laws of 1948, except for the provisions of section 2 thereof, are hereby repealed. All other general or special laws, or parts thereof, inconsistent herewith are hereby declared to be inapplicable to the provisions of this act.

HISTORY: New 1954, p. 123, Act 99, Imd. Eff. Apr. 12.

Act 21, 1950 (Ex. Ses.), p. 26; Imd. Eff. Jun. 6.

AN ACT to create the Mackinac bridge authority, and to prescribe its powers and duties; to provide for the determination of the physical and financial feasibility of a bridge connecting the upper and lower peninsulas of Michigan; to provide for a board

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of consulting engineers, and to prescribe its powers and duties; and to make an appropriation to carry out the provisions of this act.

The People of the State of Michigan enact:

254.301 Mackinac bridge authority, definitions.

Sec. 1. As used in this act the following words and terms shall have the following meanings:

(a) The word "authority" shall mean the Mackinac bridge authority herein created.

(b) The word "board" shall refer to the members of the authority.

(c) The word "bridge" shall mean the project for the acquisition of which this act is adopted and shall mean a bridge or structure extending from the upper peninsula to the lower peninsula of Michigan, and shall be understood to include all of the following forming any part thereof or connected with or used or useful in the operation thereof: causeways, bridges, tunnels, roads, fills and approaches, or any combination thereof, parking space and facilities, park and recreation facilities, lighting facilities, terminal facilities, consisting of areas, structures and buildings in which rest rooms, waiting rooms, restaurant and similar facilities and other accommodations for the traveling public may be installed, including all fixtures, utility lines, accessories and equipment relating to any or all of the above, and including the improvement and beautification of such terminal areas at each end of the structure as may be designed to increase the use thereof, and including in all of the foregoing all real and personal property, tangible or intangible, licenses, franchises, easements and rights-of-way necessary thereto.

(d) The term "cost of the bridge" shall include all expenditures made in connection with the acquisition and construction thereof, financing charges, interest to accrue on the bonds during the period occupied by the construction of the bridge and for such period thereafter as may be determined by the board, with the approval of the state administrative board, cost of engineering and legal expenses, plans, specifications and surveys, other expenses necessary or incidental to determining the feasibility of the project, the cost of all land, property, rights, easements and franchises, reimbursement of all money which may have been heretofore or may hereafter be paid or advanced by the state of Michigan or any of its agencies, departments or subdivisions for any of the foregoing, and all other expenses properly incident to the acquisition of the bridge and the issuance of the bonds.

(e) The words "the state" shall mean the state of Michigan.

HISTORY: New 1950, Ex. Ses., p. 28, Act 21, Imd. Eff. Jun. 6.

CITED IN OTHER SECTIONS: Sections 254.301 to 254.304 are cited in §§ 16.457, 254.311, 254.361, and 487.531.

254.302 Mackinac bridge authority; organization and authority.

Sec. 2. There is hereby created a non-salaried entity as a public benefit corporation and an agency and instrumentality of the state of Michigan to be known as the Mackinac bridge authority, which is hereby made a body corporate, and which may by that name sue and be sued, plead and be impleaded, contract and be contracted with, have a corporate seal and enjoy and carry out all powers herein granted it in furtherance of the duty of the state of Michigan to provide and maintain a system of highways and bridges for the use and convenience of its inhabitants. In addition to the powers expressly granted herein, the authority shall have all powers necessary or convenient to carry out the things herein authorized and to effect the purposes of this act.

The authority shall consist of 7 members, 6 to be appointed by the governor, with the advice and consent of the senate, for terms of 6 years each: Provided, That not more than 3 members appointed by the governor shall be members of the same politi-

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cal party. In appointing the first members the governor shall designate 2 to serve for 2 years, 2 for 4 years, and 2 for 6 years, from July 1, 1950. The seventh member shall be the highway commissioner of the state of Michigan. Each vacancy in office of members of the board, whether caused by resignation, death, expiration of office, or otherwise, shall be filled by appointment by the governor, with the advice and consent of the senate. The governor may remove any member of the board for misfeasance, malfeasance or nonfeasance in office, but only for cause and pursuant to public hearing held after 10 days' notice published in a newspaper having general circulation in the state.

The members of the board shall enter upon their duties after their appointment and shall qualify by taking and filing the oath of office and supplying the bond required by the state administrative board. Each member shall hold office until the appointment and qualification of his successor.

Upon the designation and qualification of the members of the board they shall organize immediately by the election of 1 of the members of the board as chairman of the authority and through the selection of a secretary who may but need not be a member of the board. The treasurer of the state shall serve as treasurer of the authority. The chairman so elected shall serve as chairman throughout his term of office. All funds shall be handled by the state treasurer in the same manner and shall be governed by the same provisions of law as apply to state funds.

A quorum for the transaction of business shall consist of 4 of the members and such quorum may bind the authority. The board shall make all necessary and appropriate rules and regulations for the orderly carrying on of its affairs, subject to the approval of the state administrative board, and shall have authority to employ such engineers and construction experts, inspectors, and other personnel as in its judgment is advisable and to determine the compensation of such employees. The board may delegate to 1 or more of its members or to its officers, agents and employes such powers and duties as it may deem proper.

The corporate existence of the authority shall continue until all of its duties under this act have been completed and such powers and duties as may hereafter be granted and imposed upon it by subsequent legislative act have been performed.

HISTORY: New 1950, Ex. Ses., p. 26, Act 21, Imd. Eff. Jun. 6.

254.303 Mackinac bridge authority; expenses, preliminary investigations, appropriation.

Sec. 3. No member of the board shall receive compensation for his services as such, but each member shall be entitled to reimbursement for all expenses necessarily incurred in the performance of his duties. The authority is empowered and authorized to make all preliminary investigations deemed necessary or advisable, including, but not limited to, the making of surveys, soundings, borings and estimates. The state administrative board is directed and empowered to release to the authority out of the state highway fund not already allocated such sums of money as may be necessary in the judgment of the state administrative board for the accomplishment of the purposes set forth in this act, but not exceeding $100,000.00, which amount is hereby appropriated from the state highway fund, and to pay the cost of the organization of the authority and other preliminary costs incident thereto.

HISTORY: New 1950, Ex. Ses., p. 27, Act 21, Imd. Eff. Jun. 6.

254.304 Mackinac bridge authority; employees' qualifications; legislative reports; access to data.

Sec. 4. The authority shall employ 3 consulting engineers to be recommended by the dean of the college of engineering of the university of Michigan, who shall constitute a board of consulting engineers and who shall determine whether a bridge can be

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safely and feasibly constructed across the straits of Mackinac and the probable cost thereof. Said engineers shall be well qualified and experienced in the design of major bridge structures. It is the intent of the legislature that eminent bridge engineers actually experienced in the design of large major bridges be selected, to the end that the physical and financial feasibility of a straits bridge can be finally determined. None of said engineers shall be eligible as individuals, nor shall any firm or corporation with which they are associated be eligible to act in any capacity in connection with the design, construction and financing of the bridge subsequent to their determination of feasibility, except in an advisory or consulting capacity. The authority shall furnish such geologists and other technicians and such information as may be required by said board of consulting engineers and for that purpose is authorized and empowered to make surveys, soundings, borings, estimates, and all preliminary investigations deemed necessary by said board of consulting engineers to determine the feasibility of such bridge construction. The determination of said board of consulting engineers shall be transmitted to the legislature as a part of the report of the authority. The authority shall submit to the legislature a complete report of its activity and recommendations concerning the construction of a bridge, the probable cost thereof, proposals for the financing thereof, the cost of maintenance and operation and the probable toll required to make the venture self-supporting, and other matters which the authority shall deem of interest to the people of the state. The authority and the said board of consulting engineers shall have access to all relative engineering data and findings heretofore made through the expenditure of state funds.

HISTORY: New 1950, Ex. Ses., p. 27, Act 21, Imd. Eff. Jun. 6.

CITED IN OTHER SECTIONS: The above section is cited in § 254.324.

Act 214, 1952, p. 344; Imd. Eff. Apr. 30.

AN ACT authorizing the Mackinac bridge authority to acquire a bridge connecting the upper and lower peninsulas of Michigan, including causeways, tunnels, roads and all useful related equipment and facilities, including park, parking, recreation, lighting and terminal facilities; extending the corporate existence of the authority; authorizing such authority to enjoy and carry out all powers incident to its corporate objects; authorizing the appropriation and use of state funds for the preliminary purposes of the authority; providing for the payment of the cost of such bridge and in that connection authorizing the authority to issue revenue bonds payable solely from the revenues of the bridge; granting the right of condemnation to the authority; granting the use of state land and property to the authority; making provisions for the payment and security of such bonds and granting certain rights and remedies to the holders thereof; authorizing banks and trust companies to perform certain acts in connection therewith; authorizing the imposition of tolls and charges; authorizing the authority to secure the consent of the United States government to the construction of the bridge and to secure approval of plans, specifications and location of same; authorizing employment of engineers irrespective of whether such engineers have been previously employed to make preliminary inspections or reports with respect to the bridge; authorizing the state highway department to operate and maintain such bridge or to contribute thereto and enter into leases and agreements in connection therewith; exempting such bonds and the property of the authority from taxation; prohibiting competing traffic facilities; authorizing the operation of ferries by the authority; and making an appropriation.

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The People of the State of Michigan enact:

254.311 Mackinac bridge authority; definitions.

Sec. 1. As used in this act the following words and terms shall have the following meanings:

(a) The word "authority" shall mean the Mackinac bridge authority created by Act No. 21 of the Public Acts of the Extra Session of 1950, being sections 254.301 to 254.304, inclusive, of the Compiled Laws of 1948.

(b) The word "board" shall refer to the members of the authority.

(c) The word "bridge" shall mean the project for the acquisition of which this act is adopted and shall mean a bridge or structure extending from the upper peninsula to the lower peninsula of Michigan, and shall be understood to include all of the following forming any part thereof or connected with or used or useful in the operation thereof, causeways, bridges, tunnels, roads, fills and approaches, or any combination thereof, parking space and facilities, park and recreation facilities, lighting facilities, terminal facilities consisting of areas, structures and buildings in whch [sic] rest rooms, waiting rooms, restaurant and similar facilities and other accommodations for the traveling public may be installed, including all fixtures, utility lines, accessories and equipment relating to any or all of the above, and including the improvement and beautification of such terminal areas at each end of the structure as may be designed to increase the use thereof, and including in all of the foregoing all real and personal property, tangible or intangible, licenses, franchises, easements and rights-of-way necessary thereto.

(d) The term "cost of the bridge" shall include all expenditures made in connection with the acquisition and construction thereof, financing charges, interest to accrue on the bonds during the period occupied by the construction of the bridge and for such period thereafter as may be determined by the board, the aggregate of such periods, however, not to exceed 7 years, cost of engineering and legal expenses, plans, specifications and surveys, other expenses necessary or incidental to determining the feasibility of the project, the cost of all land, property, rights, easements and franchises, reimbursement of all money which may have been heretofore or may hereafter be paid or advanced by the state of Michigan or any of its agencies, departments or subdivisions for any of the foregoing, and all other expenses properly incident to the acquisition of the bridge and the issuance of the bonds.

(e) The words "the state" shall mean the state of Michigan.

(f) The words "the bonds" shall mean all bonds authorized to be issued by this act.

(g) The words "to construct" shall mean to acquire through construction, purchase, gift, condemnation or any combination thereof.

HISTORY: New 1952, p. 344, Act 214, Imd. Eff. Apr. 30.

CITED IN OTHER SECTIONS: Sections 254.311 to 254.331 are cited in § 254.361.

254.312 Mackinac bridge authority; corporate existence, terms.

Sec. 2. The corporate existence of the authority shall continue until all of its liabilities have been met and the bonds, including refunding bonds, have been paid in full or otherwise discharged and when all such liabilities and bonds have been discharged in full, all rights and properties of the authority shall pass to and be vested in the state.

HISTORY: New 1952, p. 345, Act 214, Imd. Eff. Apr. 30.

254.313 Mackinac bridge authority; preliminary investigations, appropriation.

Sec. 3. The authority is empowered and authorized to make all preliminary investigations deemed necessary or advisable, including, but not limited to, the making of surveys, soundings, borings and estimates. There is hereby appropriated from state

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highway funds the sum of $1.00 to the authority, which appropriation may be used to pay the cost of the organization of the authority and other preliminary costs incident thereto, and the planning of the bridge and the issuance of the bonds. Any unencumbered moneys in the appropriation made to the Mackinac straits bridge authority under the provisions of section 11 of Act No. 272 of the Public Acts of 1951 shall not revert to state highway funds, but shall be available to the authority in carrying out the provisions of this act.

HISTORY: New 1952, p. 345, Act 214, Imd. Eff. Apr. 30.

254.314 Mackinac bridge authority; bridge construction, bond proceeds; property acquisition and condemnation, surveys, easements.

Sec. 4. The authority is hereby authorized and empowered to construct a suitable bridge (as "construct" and "bridge" are above defined) joining and linking together the upper peninsula and the lower peninsula of Michigan and to operate, maintain, improve and repair such bridge. The cost of such construction of the bridge shall be paid from the proceeds of bonds issued hereunder and from any other funds legally available for the payment of such cost: Provided, That nothing herein contained shall be so construed as to permit the authority to incur obligations which would constitute an indebtedness of the state within the meaning of any constitutional prohibition or limitation.

In connection with the construction of the bridge the authority is hereby empowered to purchase or otherwise acquire all property and rights necessary thereto, including but not limited to roads, structures, rights-of-way, franchises, easements and other interests in lands, including lands under water, and the riparian rights of any person, natural or corporate, political entity or political subdivision, and including the right to cut off light, air and access to real property, upon such terms and at such prices as may be fair and reasonable. Whenever it shall become necessary, any such property may be condemned and the authority is hereby empowered in its discretion to condemn any property or interest therein which it may deem necessary for such purpose. In the condemnation of property or interest therein, the authority may proceed under any act applicable thereto, or it may invoke and proceed under the provisions of Act No. 149 of the Public Acts of 1911, as now or hereafter amended, and in so doing shall have all the rights, powers and privileges granted to "public corporations" as defined in that act. The authority may enter on any lands, waters and premises for the purpose of making surveys, soundings and examinations. The state of Michigan hereby expressly grants to the authority, without consideration, the right to use, and full easements and rights-of-way through, across, under and over any lands or property owned by the state or in which the state has any right, title or interest, which may be necessary or convenient to the construction and efficient operation of the bridge.

HISTORY: New 1952, p. 345, Act 214, Imd. Eff. Apr. 30.

254.315 Mackinac bridge authority; bonds; issuance, sale or exchange; fiscal agent; principal and interest, payment; redemption; maturity; statement; signatures; negotiability; sale.

Sec. 5. The authority is hereby authorized by resolution or resolutions of the board to provide for the issuance of revenue bonds for the purpose of paying the cost of the bridge or for the purpose of refunding the bonds, including refunding bonds, or for any combination of such purposes. Such refunding bonds may be either sold at not less than par and accrued interest or may be delivered in exchange for the bonds to be refunded or may be sold in part and exchanged in part and if sold, the proceeds thereof when received, together with other properly available funds sufficient to pay the balance of the principal, interest and redemption premiums which will be due on the

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bonds to be refunded, shall be deposited with the paying agent for the bonds to be so refunded and used only for the purpose of making said payments. Any such sale or exchange shall be subject to the approval of the state administrative board. The board may enter into such contracts for fiscal agents' services in connection with the financing of the bridge as may be approved by the state administrative board, or the state treasurer may be used as fiscal agent.

Principal of and interest and redemption premiums on the bonds issued hereunder shall be payable solely from the revenues of the authority, except that said payments may also be made from the proceeds of refunding bonds issued hereunder and capitalized interest may be paid from the proceeds of the bonds. Such bonds may be either serial bonds, or term bonds, or any combination thereof. Any serial bonds shall have annual or semi-annual maturities, the first maturity of which shall be payable not more than 10 years from their date. Any term bonds shall be redeemable on any interest payment date at such price or prices and upon such terms and conditions as prescribed by the authorizing resolution of the board, and recited upon the face of the bonds. The bonds shall mature not more than 50 years from their date, shall be coupon bonds bearing interest at not more than 6 per cent per annum, payable semi-annually except as to the first coupon which may be for any number of months not exceeding 10, shall be payable in such medium, shall be in such form and executed in such manner, shall have such privilege of registration as to principal or principal and interest, shall be payable at such place or places within or without the state and shall otherwise have such other details as may be fixed by resolution of the board. Serial bonds may be made redeemable prior to maturity at such price or prices and under such terms and conditions as may be prescribed in the resolution of the board, and recited upon the face of the bonds.

All such bonds shall contain a statement on their face that neither the bonds nor the coupons representing interest thereon constitute an indebtedness of the state of Michigan within the meaning of any constitutional limitations or prohibitions and that neither the authority nor the state is authorized to pay such bonds or interest except from the revenues pledged thereto under the provisions of this act. In case any official whose signature appears on such bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature shall nevertheless be valid and sufficient for all purposes with like effect as though such person had remained in office until delivery. All such bonds are hereby declared to be fully negotiable and to have all of the qualities incident to negotiable instruments under the negotiable instruments law of the state, subject only to the provisions for registration of the bonds which may appear therein. Such bonds shall be exempt from all taxation by the state or any of its political subdivisions and shall be sold at public sale after notice at least 5 days before the sale in a publication approved by the municipal finance commission for the carrying of such notice, but no such sale shall be made at a price that will result in an interest cost of more than 6 per cent per annum: Provided, however, That all or any part of such bonds may be sold to the United States government or any agency thereof, at private sale, without public offering and the authority is authorized to enter into any agreements or contracts with the United States government or any of its agencies necessary to provide for the financing of the bridge in the manner contemplated by this act. Such bonds may be authorized and may be issued from time to time as needed and subsequent series or issues thereof shall enjoy equal or subordinate status with respect to the pledge of revenues from which they are payable as may be provided in the proceedings authorizing their issuance. Any public sale, or negotiated sale of the bonds with the United States government or any of its agencies, shall be subject to the approval of the state administrative board. Prior to the preparation of definitive bonds, the board may provide for the issuance of temporary bonds with or without coupons,

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exchangeable for definitive bonds upon the issuance of the latter. The proceedings authorizing the bonds may provide that such bonds shall contain a recital that they are issued pursuant to this act and such recital shall be conclusive evidence of their validity and the regularity of their issuance.

HISTORY: New 1952, p. 346, Act 214, Imd. Eff. Apr. 30.

254.316 Mackinac bridge authority; security, trust indenture; authority, duties; annual audit; depository; collateral security; approval.

Sec. 6. In the discretion of the board any series of bonds hereunder may be secured by a trust indenture by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or outside of the state, but no such trust indenture shall convey or mortgage the bridge or any part thereof. Either the resolution providing for the issuance of bonds or such trust indenture may contain such provisions for the security and payment of such bonds and for the protection and enforcement of the rights and remedies of the bondholders as may be deemed advisable by the board, not in violation of the constitution of this state, including specifically covenants setting forth: (a) The duties of the authority in relationship to the construction, maintenance, operation, repair and insurance of the bridge; (b) the pledge of the revenues of the bridge or any part thereof; (c) limitations on the amount of money derived from the operation of the bridge which may be expended for operating, administrative or other specified expenses of the authority; (d) the safeguarding and application of the fund from which the cost of the bridge is to be paid and of the revenues pledged to the payment of the bonds, all of which may be deposited in as received and paid out by such bank or banks as may be therein provided, and none of which need be paid into the state treasury; (e) provision for the employment of consulting engineers to supervise the construction of the bridge and to supervise its maintenance and operation, to which consulting engineers may be delegated all rights and duties with respect thereto deemed advisable by the board and the appointment of which consulting engineers shall be subject to such approval by the purchasers or holders of the bonds as may be provided in such resolution or indenture; (f) rights and remedies of the bondholders and the trustee, if any, and such restrictions thereon as may be considered advisable; and (g) any other and additional provisions ordinarily found in trust agreements securing bond issues protecting and enforcing the rights and security of the holders of the bonds and designed to make the bonds more attractive and negotiable at the best available prices. The resolution or trust indenture shall contain a provision requiring an annual audit of the books and records of the authority, or any fiscal agent or trustees specified in such resolution or trust indenture, by the auditor general of the state of Michigan: Provided, That the auditor general may select a certified public accountant or accountants to make the audit, and in case the auditor general shall so select, the cost thereof shall be paid by the authority. No deposit shall be made under the provisions of this act in violation of the provisions of section 15 of article 10 of the Michigan constitution.

Any bank or trust company designated as trustee hereunder or designated as depository for any funds hereunder, notwithstanding any provision of law to the contrary, is hereby authorized to pledge as collateral security for moneys deposited in such bank or trust company direct obligations of or obligations the principal and interest of which are unconditionally guaranteed by the United States government or other marketable securities eligible as security for the deposit of trust funds under regulations of the federal reserve board and having a market value (exclusive of accrued interest) at least equal to the amount of such deposit, or in lieu of such collateral security as to all or any part of such deposit, there may be lodged with the trustee, or with the secretary of the authority in the case of moneys deposited or remaining on deposit with the

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trustee, and remain in full force and effect as security for the moneys deposited in the indemnifying bond or bonds of a surety company or companies qualified as surety for United States government deposits and qualified to transact business in the state of Michigan, in a sum at least equal to the amount of moneys deposited with such bank or trust company, if such indemnity bond or bonds be approved by the state administrative board. All expenses incurred in carrying out such provisions appearing in any trust indenture or bond resolution and the cost of any surety bond furnished as above provided may be treated as part of the cost of maintaining and operating the bridge.

Such resolution or trust indenture may contain such other provisions as the board may deem reasonable and proper for the security of the bondholders, including, but without limitation, covenants prescribing all happenings or occurrences which constitute events of default and the terms and conditions upon which bonds may become or be declared to be due before maturity and as to the rights, liabilities, powers and duties arising upon the breach by the authority of any of its duties or obligations. Any such resolution or trust indenture shall be subject to the approval of the state administrative board.

HISTORY: New 1952, p. 347, Act 214, Imd. Eff. Apr. 30.

254.317 Mackinac bridge authority; bridge construction, tolls, utility lines, lease; appropriation, sale or lease; revenues, priority.

Sec. 7. The authority shall properly construct, maintain, operate, repair, manage and control the bridge, except as hereinafter provided, and shall determine the rates of tolls and charges to be made for the services and facilities afforded thereby and may make and enter into all contracts or agreements deemed necessary or desirable to the performance of its duties and the execution of its powers under this act including, but not limited to, power to permit use of the bridge by public carriers and for telephone, telegraph and other utility lines and to contract for such use and determine the terms and conditions thereof, and the rates to be charged therefor. The authority may in its discretion construct as a part of the bridge telephone, telegraph or other utility lines and mechanical equipment not inconsistent with the appropriate use of the bridge and may lease the right to use the same on such terms and for such considerations as it shall determine. Tolls, fees, rents and charges shall be fixed, imposed and collected for the use of the bridge and its services and facilities so as to make the revenues to be derived from the operation of the bridge fully sufficient, until such time as the principal of and interest on the bonds herein authorized are paid in full (a) pay all expenses of operating, repairing and maintaining the bridge, except to the extent that such expenses may be in whole or in part cared for by the state highway department as hereinafter provided, (b) make possible the prompt payment of principal of and interest on all bonds herein authorized and the making of all payments required to be made for such purpose and for the creation of a reserve therefor and a reserve for contingencies as may be provided in the resolution authorizing or the trust indenture securing the bonds. Such tolls, fees, rents, rates or other charges shall not be subject to supervision or regulation by any bureau, board, commission or agency. When the cost of the bridge, including all principal of and interest on the bonds issued hereunder and all advances made therefor, shall have been fully paid from such tolls, fees, rents, rates and charges, the collection therefor for the use of such bridge shall cease and the bridge shall be maintained and operated by the state as a free bridge.

In the event that the bonds herein authorized are sold prior to December 31, 1953, there shall be appropriated from the funds of the state highway department derived from taxes imposed upon gasoline or other motor fuels and on motor vehicles registered in the state to the Mackinac bridge authority amounts sufficient to pay all expenses of operating, repairing and maintaining the bridge in each fiscal year beginning

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with the fiscal year in which the bridge shall be opened for traffic, and until the cost of bridge, including all principal of and interest on the bonds issued hereunder and all advances made therefor shall have been fully paid: Provided, however, That the amount so appropriated to the authority shall not exceed in the aggregate $417,000.00 in any one fiscal year. The amounts so paid shall be based upon requisitions of the authority subject to the audits hereinbefore described in this act. Inasmuch as the bridge will be an essential part of the public highway system of the state and the operation, repair and maintenance of the bridge will be the performance of an essential governmental function of the state, the provisions of this paragraph shall have the force of contract with the holders of the bonds issued for the bridge, subject only to prior pledges of said funds heretofore made: Provided, That the state of Michigan shall not be liable for any bonds or other obligations issued under the provisions of this act, and the faith and credit of the state shall not be pledged in carrying out any such obligations under this act.

It may be provided in the resolution authorizing or the trust indenture securing the bonds that the authority may not sell, encumber, lease or otherwise dispose of the bridge or any substantial part thereof while the bonds are outstanding, except under such provisions as may be therein provided.

At such time as the cost of the bridge, including all principal of and interest on the bonds issued hereunder and all advances made therefor, shall have been fully paid from such tolls, fees, rents, rates and charges, said bridge shall thereafter be maintained and operated by the state highway commissioner, who is hereby authorized to continue to charge such tolls, fees, rates and charges for the use of said bridge as are deemed necessary by him to reimburse the state highway department for all sums theretofore paid by said department pursuant to the provisions of this act for operation and maintenance of the bridge: Provided, however, That at such time as said reimbursement has been made, said bridge shall thereafter be maintained and operated by the state highway commissioner as a free bridge.

HISTORY: New 1952, p. 348, Act 214, Imd. Eff. Apr. 30;—Am. 1953, p. 145, Act 141, Imd. Eff. May 29.

254.318 Mackinac bridge authority; grants or donations.

Sec. 8. The authority may accept from the United States of America and any department, agency or instrumentality thereof, and from the state of Michigan and any department, agency or instrumentality thereof, grants for or in aid of the construction of the bridge and may enter into any lawful contracts or agreements necessary to obtain such grants. Such grants may consist of money, real or personal property or other things of value. The authority may also accept grants or donations from municipal corporations, counties or other political subdivisions of the state of Michigan and from any other source. The state highway department is hereby authorized and instructed to cooperate to the fullest extent possible with the authority in the construction of the bridge and in the securing of all grants and aids thereto which may be available for such purpose.

HISTORY: New 1952, p. 349, Act 214, Imd. Eff. Apr. 30.

254.319 Unauthorized indebtedness to state.

Sec. 9. Nothing in this act shall be so construed or interpreted as to authorize or permit the incurring of indebtedness of the state of Michigan contrary to the provisions of the constitution of the state.

HISTORY: New 1952, p. 349, Act 214, Imd. Eff. Apr. 30.

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254.320 Scope of act.

Sec. 10. This act shall be deemed to provide an additional and alternative method for the doing of the things herein authorized and shall be regarded as supplemental and additional to powers conferred by other laws.

HISTORY: New 1952, p. 349, Act 214, Imd. Eff. Apr. 30.

254.321 Board and state highway department; authority.

Sec. 11. All things herein authorized to be done by the authority and the board and by the state highway department may be done without the securing of approval or consent from any other board, department, agency or officer, except as herein otherwise provided, and no proceedings therefor shall be required or be necessary other than the adoption of appropriate resolutions.

HISTORY: New 1952, p. 349, Act 214, Imd. Eff. Apr. 30.

254.322 Use of bridge; payment of tolls.

Sec. 12. No free use of such bridge shall be permitted, but all individuals or vehicles using such bridge shall pay the tolls and charges established for such use by the authority. This provision, however, shall not apply to the operating personnel or vehicles of the authority.

HISTORY: New 1952, p. 349, Act 214, Imd. Eff. Apr. 30.

254.323 Federal government approvals.

Sec. 13. The authority is authorized to do all things and perform all acts necessary to secure the consent, if necessary, of the United States government, to the construction and operation of the bridge and charging of tolls for its use, and to secure the approval of any department, agency, instrumentality or officer of the United States government required by law to approve the plans, specifications and location of the bridge, or the tolls to be charged for the use thereof.

HISTORY: New 1952, p. 349, Act 214, Imd. Eff. Apr. 30.

254.324 Engineering and other services.

Sec. 14. The authority, in its own discretion, is authorized to employ such engineering services as it deems necessary and advisable in connection with the acquisition and construction of such bridge, irrespective of whether such engineer or engineers have been previously employed by the authority to make preliminary inspections or reports in connection therewith, it being the legislative intent and purpose that the disability and restrictions expressed in section 4 of Act No. 21 of the Public Acts of the Extra Session of 1950, being section 254.304 of the Compiled Laws of 1948, be removed and rescinded. The authority, in its own discretion is also authorized to employ such legal and financial services as it deems necessary to consummate the financing of the bridge and the issuance and sale of the bonds, and such other personnel and employees necessary to operate and maintain the bridge and carry on the powers and duties contemplated by this act.

HISTORY: New 1952, p. 349, Act 214, Imd. Eff. Apr. 30.

254.325 Construction of act.

Sec. 15. This act being deemed necessary to the public health, welfare, convenience and prosperity, it shall be liberally construed to effect the intents and purposes hereof.

HISTORY: New 1952, p. 350, Act 214, Imd. Eff. Apr. 30.

254.326 Contracts, books, maps; delivery to authority.

Sec. 16. The state highway department shall transfer and deliver to the authority all contracts, books, maps, plans, papers and records or certified copies thereof, pertaining to the subjects and matters relating to the designing and construction of the bridge, and particularly all such records, maps and papers which may have been

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turned over to the state highway department under Act No. 300 of the Public Acts of 1947.

HISTORY: New 1952, p. 350, Act 214, Imd. Eff. Apr. 30.

254.327 Declared public purpose; tax exemption.

Sec. 17. It is hereby found, determined and declared that the creation of the authority and the carrying out of its corporate purposes are in all respects for the benefit of the people of the state and constitute a public purpose, and that the bridge is an essential part of the public highway system of the state and that the authority will be performing an essential governmental function in the exercise of the powers herein conferred upon it. Therefore, all property owned by the authority hereunder shall be exempt from all taxes levied by the state of Michigan and all of its political subdivisions and taxing districts, and the authority shall be required to pay no taxes or assessments upon its activities or upon any of its revenues. If at any time hereafter any taxes of any nature shall be legally imposed on any properties of the authority or the obligations thereof, and such taxes shall be determined to be valid and effective, they shall be paid from the revenues of the authority as 1 of the expenses of maintaining and operating the bridge.

HISTORY: New 1952, p. 350, Act 214, Imd. Eff. Apr. 30.

254.328 Authority's rights not limited or altered; competitive vehicular traffic services.

Sec. 18. The state of Michigan hereby pledges to and agrees with the holders of the bonds that the state will not limit or alter the rights hereby vested in the authority to construct, maintain and operate the bridge and to establish and collect such charges and tolls as may be convenient or necessary to produce sufficient revenues to meet the expenses of maintenance and operation and to fulfill the terms of any agreements made with the holders of the bonds or in any way impair the rights and remedies of the bondholders until the bonds and interest thereon and all costs and expenses in connection with any action or proceedings by and in behalf of the bondholders shall have been fully met and discharged.

The state of Michigan further covenants and agrees with the holders of the bonds that it will not construct or operate any tunnel, bridge or ferry service which will be competitive with the bridge herein authorized, and so far as legally possible it will prohibit the construction or operation of any other tunnel, bridge or ferry service which will afford facilities for vehicular traffic to cross the straits of Mackinac: Provided, That nothing herein contained shall be construed to prevent the operation of ferries by the state highway department between the upper and lower peninsulas until such time as the bridge shall have been placed in operation.

HISTORY: New 1952, p. 350, Act 214, Imd. Eff. Apr. 30.

254.329 Bondholders' rights; enforcement actions.

Sec. 19. Any holder or holders of bonds, including a trustee or trustees for such holders, shall have the right in addition to all other remedies to bring suit by mandamus or other action in any court of competent jurisdiction against the authority and its officers and employees and against officers and employees of the state to enforce his or their rights under the proceedings authorizing the bonds and to enforce all agreements and covenants contained in the bond resolution or trust indenture. The right to bring such action may be limited by the terms of the bond resolution or trust indenture to any percentage of bondholders which may be therein fixed. Such action may be in equity to require the authority to act as if it were the trustee of an express trust for the holders of such bonds, may be a request for injunction or mandamus or may request, and the bondholders shall be entitled as of right to, the appointment of a receiver for the bridge, and such receiver may enter and take possession thereof and of all moneys

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and other property of the authority and may proceed with the construction of the bridge, if it shall not have been completed, and may operate and maintain the bridge and collect and receive all tolls and other revenues thereafter arising therefrom, subject to any pledge thereof or agreement with bondholders relating thereto, and may perform the public duties and carry out the agreements and obligations of the authority, all in such manner as the court may direct.

HISTORY: New 1952, p. 350, Act 214, Imd. Eff. Apr. 30.

254.330 Operation of ferries.

Sec. 20. The authority may, if it sees fit, at any time, when for any reason the bridge may be out of service, acquire through purchase, lease or otherwise and operate 1 or more ferries for the purpose of conveying passengers and freight between the upper and lower peninsulas, in which event the cost thereof may be paid from the revenues of the authority, including, unless prohibited by the terms of the proceedings authorizing the bonds, the proceeds of the sale of bonds hereunder, and all revenues derived from the operation of such ferries shall be regarded and treated as revenues of the bridge for all purposes of this act.

HISTORY: New 1952, p. 351, Act 214, Imd. Eff. Apr. 30.

254.331 Inconsistent acts.

Sec. 21. Insofar as the provisions of this act may be inconsistent with the provisions of any other act, general or special, the provisions of this act shall be controlling.

HISTORY: New 1952, p. 351, Act 214, Imd. Eff. Apr. 30.

Act 57, 1962, p. 47; Eff. Mar. 28, 1963.

AN ACT to authorize a bridge over the public navigable waters of Missaukee lake in Missaukee county.

The People of the State of Michigan enact:

254.351 Bridge over Missaukee Lake to Redman Island.

Sec. 1. Authority is hereby given for the construction of a bridge over the public navigable waters of Missaukee lake in Missaukee county to connect Redman island and the mainland.

HISTORY: New 1962, p. 47, Act 57, Eff. Mar. 28, 1963.

254.352 Bridge over Missaukee lake; plan and specifications; filing, acceptance.

Sec. 2. Before such bridge is constructed, the board of county road commissioners of Missaukee county shall file with the department of conservation evidence of its acceptance of the bridge and roads connecting thereto as a part of the public road system and shall submit plans and specifications relative to the bridge. The department of conservation may make such changes in the plans and specifications as are necessary to protect the public interest in the public navigable waters.

HISTORY: New 1962, p. 47, Act 57, Eff. Mar. 28, 1963.

Act 13, 1966, p. 26; Imd. Eff. Apr. 6.

AN ACT to implement the provisions of section 14 of the schedule and temporary provisions of the constitution of this state by providing for the issuance and sale of full faith and credit bonds of the state to refund the outstanding bonds heretofore issued by the Mackinac bridge authority and upon such refunding to abolish the Mackinac bridge authority and to transfer the operation, maintenance, repair and replacement

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of the Mackinac bridge to the state highway department with power to fix and collect tolls, fees and charges for the use of the bridge, its services and facilities.

The People of the State of Michigan enact:

254.361 Refunding bonds; issuance, purpose.

Sec. 1. The state may borrow money and issue its refunding bonds for the purpose of refunding the following outstanding bonds issued by the Mackinac bridge authority, and agency and instrumentality of this state created by Act No. 21 of the Public Acts of the Extra Session of 1950, being sections 254.301 to 254.304 of the Compiled Laws of 1948, pursuant to Act No. 214 of the Public Acts of 1952, as amended, being sections 254.311 to 254.331 of the Compiled Laws of 1948, and a certain indenture between the Mackinac bridge authority and the Detroit trust company, dated July 1, 1953:

(a) Bridge revenue bonds, series A (Mackinac straits bridge), dated July 1, 1953, in the principal sum of $79,800,000.00;

(b) Bridge revenue bonds, series B (Mackinac straits bridge), dated July 1, 1953, in the principal sum of $20,000,000.00.

HISTORY: New 1966, p. 26, Act 13, Imd. Eff. Apr. 6;—Am. 1967, p. 141, Act 112, Imd. Eff. Jun. 27.

254.362 Refunding bonds; amount; application of funds, pledge of state credit, appropriation.

Sec. 2. The refunding bonds shall be issued in an amount sufficient to pay the costs of refunding of said outstanding bonds, which costs of refunding shall be deemed to include (a) the principal amount of the bonds to be refunded, (b) the amount of premium required to be paid for the redemption of the bonds to be refunded, (c) a reserve fund to be used for operation and maintenance costs of the bridge or for payment of interest or principal on the refunding bonds, which reserve fund shall be in a total amount not exceeding $1,000,000.00, and (d) costs and other expenses of refunding in an amount not exceeding 1/8 of 1% of the principal amount of bonds to be refunded. Money of the Mackinac bridge authority on hand in any of the funds provided in the existing trust indenture at the time of refunding shall be used and applied as follows: first, an amount sufficient to pay the interest due on the outstanding bonds to be refunded on the redemption date fixed therefor shall be deposited with the paying agent for the outstanding bonds, and second the balance shall be applied to reduce the amount of refunding for which the refunding bonds authorized by this act are to be issued. The full faith and credit of the state shall be pledged to the prompt payment of the principal of and interest on the refunding bonds as they become due. There is appropriated from the general fund each year during the life of any refunding bonds issued under this act a sum equal to the amount of the principal and interest payments due and payable thereon in each such year.

HISTORY: New 1966, p. 27, Act 13, Imd. Eff. Apr. 6.

254.363 Refunding bonds; issuance and sale, terms and conditions.

Sec. 3. The state highway commission, hereinafter sometimes referred to as the commission, may provide by resolution for the issuance and sale of the refunding bonds and for the retirement thereof, and for any other matters in connection with the refunding bonds not inconsistent with the provisions of this act. The resolution shall be approved by the state administrative board. The refunding bonds may be term or serial bonds issued in 1 or more series, or both, with dates of maturity not exceeding 35 years as determined by the commission and shall be in such denominations as fixed by the commission. They may be registrable as to principal only or as to both principal and interest, under such terms and conditions as may be determined by the commis-

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sion. The commission may also provide for the issuance of registered bonds without coupons to replace coupon bonds. The bonds shall bear interest at a rate or rates not exceeding 5% per annum, payable semiannually except that the first interest payable may be for a period not exceeding 10 months, but the average net interest cost to the state on the money borrowed shall not exceed 3 ½%. They may be made subject to redemption prior to maturity in whole or in part at such prices, upon such terms and at such times as may be fixed by the commission. The refunding bonds may recite that they are issued pursuant to this act which recital shall be conclusive evidence of their validity and the regularity of their issuance.

HISTORY: New 1966, p. 27, Act 13, Imd. Eff. Apr. 6;—Am. 1967, p. 141, Act 112, Imd. Eff. Jun. 27.

254.364 Refunding bonds; negotiability and tax exemption.

Sec. 4. Refunding bonds issued under this act shall be deemed to be negotiable instruments under the laws of the state, and the principal of and interest on the bonds is not subject to taxation by the state or any taxing authority therein.

HISTORY: New 1966, p. 27, Act 13, Imd. Eff. Apr. 6.

254.365 Refunding bonds; execution, officers, manner.

Sec. 5. The refunding bonds shall be executed for and on behalf of the state by the state treasurer and the secretary of state or their respective deputies. The right of a deputy to so act shall not be limited by any other statute specifying the circumstances under which he may act for his principal. Interest coupons may be executed by affixing thereto the facsimile signature of the official designated to execute them. If an officer whose signature appears on the refunding bonds or attached coupons ceases to be such officer before delivery of the refunding bonds, his signature shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until delivery.

HISTORY: New 1966, p. 27, Act 13, Imd. Eff. Apr. 6.

254.366 Issuance and sale of refunding bonds; approval of board, commission or agency.

Sec. 6. In the issuance and sale of the refunding bonds, it shall not be necessary to secure the approval of any board, commission or agency of the state except as provided in this act.

HISTORY: New 1966, p. 28, Act 13, Imd. Eff. Apr. 6.

254.367 Public sale; terms and conditions; disposition of proceeds.

Sec. 7. The refunding bonds shall be sold at public sale upon such terms and conditions as shall be determined by the commission with the approval of the state administrative board. The proceeds from the sale of the bonds shall be made available for the redemption of the bonds to be refunded thereby, but in the meantime may be invested in United States government securities redeemable prior to the time the money is necessary for the redemption of the bonds to be refunded.

HISTORY: New 1966, p. 28, Act 13, Imd. Eff. Apr. 6.

254.368 Powers of commission.

Sec. 8. The commission may do all things necessary in connection with the issuance and sale of the refunding bonds and the retirement of the bonds to be refunded thereby, except to the extent that the retirement powers are now vested in the Mackinac bridge authority, and in that respect the authority shall do all things necessary to accomplish the retirement when the funds are available therefor. The commission may employ such fiscal agents and attorneys as may be necessary to accomplish the purposes of this act and the costs thereof shall be included as a part of the costs of refunding as provided in section 2.

HISTORY: New 1966, p. 28, Act 13, Imd. Eff. Apr. 6.

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254.369 Transfer to state highway department; when, scope, manner.

Sec. 9. When the proceeds from the sale of the refunding bonds have been received and all amounts required to retire the outstanding bonds, including (a) the principal amount of the bonds to be refunded, (b) the amount of premium required to be paid for the redemption of the bonds to be refunded and (c) the amount of interest due on the bonds to be refunded have been paid to the paying agent out of the proceeds from the sale of the refunding bonds and out of any Mackinac bridge authority money on hand in any of the funds provided in the existing trust indenture, then the operation of the Mackinac bridge shall be transferred to and assumed by the state highway department. All property, real, personal or mixed, tangible or intangible, held by the Mackinac bridge authority shall automatically become the property of the department. If for any reason it shall become necessary to evidence the transfer by some document other than this act, then the Mackinac bridge authority shall execute and deliver the same to the department.

HISTORY: New 1966, p. 28, Act 13, Imd. Eff. Apr. 6.

254.370 Fixing of tolls, fees, rents, and charges; commission powers, legislative intent.

Sec. 10. The commission from time to time shall establish and fix tolls, fees, rents and charges for the use of the bridge and its services and facilities, the proceeds of collection thereof to be used: first, for expenses of operation and maintenance of the bridge, second, for the replenishment of the reserve fund provided for in section 2 to its full required amount of $1,000,000.00, and third, for the payment of the principal of and interest on the refunding bonds when due, which amounts shall be deposited, quarterly or oftener, with the state treasurer and used for such payment. Except as hereinafter provided it is the intent of the legislature that the tolls, fees, rents and charges, as near as is reasonably possible within the limitations herein expressed, shall provide sufficient funds to pay the costs of operating and maintaining the bridge and to pay the principal of and interest on the refunding bonds when due. If any specific taxes or funds of the state, or any portion thereof, except the general fund, are at any time allocated, appropriated or earmarked by law for the payment of the principal of and interest on the refunding bonds, and the cost of operating and maintaining the bridge, the tolls, fees, rents and charges shall be revised to give credit for the moneys so allocated, appropriated or earmarked by law, and if the specific taxes or funds of the state so allocated, appropriated and earmarked are sufficient to provide all necessary funds for the payment thereof including the refunding of the bonds as they mature, no further tolls, fees, rents or charges shall be fixed or collected for such purpose, but the tolls, fees, rents or charges shall be fixed and collected only in such amount as will provide moneys within the limitations expressed in this act to operate and maintain the bridge. The provisions of this section shall be construed in no way to affect or limit the general obligation of the state to pay the principal of and interest on the refunding bonds as the same shall mature.

HISTORY: New 1966, p. 28, Act 13, Imd. Eff. Apr. 6.

254.371 Operation of bridge as part of state highway system; expenses, tolls and fees.

Sec. 11. At such time as the refunding bonds authorized by this act are retired in full, the Mackinac bridge shall be operated by the state highway department as a part of the state highway system and all expenses in connection with the operation and

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maintenance of the bridge shall be paid in the same manner as similar expenses in connection with the state highway system are paid. If authorized by law, the commission may charge and collect tolls, fees, rents and charges for the use of the bridge to provide all or any part of the costs of operation and maintenance of the bridge.

HISTORY: New 1966, p. 29, Act 13, Imd. Eff. Apr. 6.

254.372 Employees of authority; transfer to commission, credit for time.

Sec. 12. All employees of the Mackinac bridge authority shall be given the opportunity to transfer to the commission and be given credit for time employed by the authority and the employees now employed by the Mackinac bridge authority shall be employed in the operation of the bridge.

HISTORY: New 1966, p. 29, Act 13, Imd. Eff. Apr. 6.

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CHAPTER 255. HIGHWAYS—FERRIES

REGULATION OF FERRIES

Ch. 29, R.S. 1846

255.1 Board of supervisors; ferries; grant of license, term.

255.2 Board of supervisors; ferries; rates, hours of service, regulations.

255.5 Bond to state; filing.

255.6 Record of license by county clerk, copy to licensee.

255.7 County line waters; license.

255.8 Violation of bond; penalty, prosecution.

255.9 Ferrying without license; penalty.

255.10 County line waters; prosecution by either county.

255.11 Scope of chapter.

255.12 Ferry landings deemed public highways.

STRAITS OF MACKINAC

Act 106 of 1923

255.21-255.25 Repealed.

FERRY SERVICE; BOARDS OF SUPERVISORS

Act 150 of 1943

255.51 Board of supervisors authorized to acquire ferry service.

255.52 Board of supervisors; sale and disposal of ferry heretofore owned.

255.53 Board of road commissioners; powers; state highway commissioner, powers.

R.S. 1846, Ch. 29.

REGULATION OF FERRIES.

255.1 Board of supervisors; ferries; grant of license, term.

Sec. 1. The board of supervisors of each of the counties of this state may grant licenses for keeping ferries in their respective counties, to as many suitable persons as they may think proper, which licenses shall continue in force for a time to be specified therein by said board, not exceeding 10 years.

HISTORY: CL 1857, 1116;—Am. 1859, p. 465, Act 166, Imd. Eff. Feb. 14;—CL 1871, 1325;—How. 1463;—CL 1897, 4298;—CL 1915, 4783;—CL 1929, 4588;—CL 1948, 255.1.

FERRIES: In fourth class cities, see Compilers' § 98.1; in villages, see Compilers' § 67.40.

255.2 Board of supervisors; ferries; rates, hours of service, regulations.

Sec. 2. The said board when they shall grant any license to keep a ferry, shall order and direct the rates of ferriage which the person licensed may receive, and may from time to time thereafter, during the continuance of such license, alter such rates; and they may also direct what and how many hours each day such person shall attend his ferry.

HISTORY: CL 1857, 1117;—CL 1871, 1326;—How. 1464;—CL 1897, 4299;—CL 1915, 4784;—CL 1929, 4589;—CL 1948, 255.2.

Secs. 3-4.

HISTORY: CL 1857, 1118, 1119;—Rep. 1871, p. 318, Act 189, Eff. July 18.

These sections restricted the class of persons to whom licenses might be granted.

255.5 Bond to state; filing.

Sec. 5. Every person applying for such license shall, before the same be granted, give bond to the people of this state in such penal sum as the said board shall direct, not less than 200 dollars, with so many, and such sufficient sureties as the said board shall direct and approve, upon condition that he will faithfully keep and attend such ferry, with such and so many safe and convenient boats, and so many men to work the same, together with sufficient implements therefor, during the several hours in each day, and at such several rates, as the said board shall from time to time order and direct, which bond shall be filed with the county clerk.

HISTORY: CL 1857, 1120;—CL 1871, 1327;—How. 1465;—CL 1897, 4300;—CL 1915, 4785;—CL 1929, 4590;—CL 1948, 255.5.

255.6 Record of license by county clerk, copy to licensee.

Sec. 6. Every such license shall be entered by the county clerk in a suitable book in his office; and a copy of such license, attested by such clerk, shall be delivered to the person licensed.

HISTORY: CL 1857, 1121;—CL 1871, 1328;—How. 1466;—CL 1897, 4301;—CL 1915, 4786;—CL 1929, 4591;—CL 1948, 255.6.

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255.7 County line waters; license.

Sec. 7. Whenever the waters over which any ferry may be used, shall divide 2 counties, a license obtained in either of the counties, shall be sufficient to authorize the person obtaining the same, to transport persons, goods, wares, merchandise and effects, to and from either side of said waters.

HISTORY: CL 1857, 1122;—CL 1871, 1329;—How. 1467;—CL 1897, 4302;—CL 1915, 4787;—CL 1929, 4592;—CL 1948, 255.7.

255.8 Violation of bond; penalty, prosecution.

Sec. 8. Every person who shall violate such bond shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be subject to such fine as the court may adjudge, not exceeding 25 dollars for each offense, and unless such fine, and the costs of prosecution shall be paid within 10 days after such fine shall have been imposed, the prosecuting attorney for the county shall prosecute such bond for the use of the state.

HISTORY: CL 1857, 1123;—CL 1871, 1330;—How. 1468;—CL 1897, 4303;—CL 1915, 4788;—CL 1929, 4593;—CL 1948, 255.8.

255.9 Ferrying without license; penalty.

Sec. 9. If any person shall use any ferry for transporting across any river, stream or lake, persons, goods, chattels or effects, for profit or hire, unless authorized in the manner directed in this chapter, such person shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be subject to such fine as the court may adjudge not exceeding 20 dollars for each offense.

HISTORY: CL 1857, 1124;—CL 1871, 1331;—How. 1469;—CL 1897, 4304;—CL 1915, 4789;—CL 1929, 4594;—CL 1948, 255.9.

255.10 County line waters; prosecution by either county.

Sec. 10. When any offense mentioned in either of the 2 last preceding sections, shall be committed on waters dividing 2 counties, the persons so offending may be prosecuted in either of such counties.

HISTORY: CL 1857, 1125;—CL 1871, 1332;—How. 1470;—CL 1897, 4305;—CL 1915, 4790;—CL 1929, 4595;—CL 1948, 255.10.

255.11 Scope of chapter.

Sec. 11. Nothing contained in this chapter shall affect or impair any right or privilege belonging to any individual or corporation, by virtue of any law of this state.

HISTORY: CL 1857, 1126;—CL 1871, 1333;—How. 1471;—CL 1897, 4306;—CL 1915, 4791;—CL 1929, 4596;—CL 1948, 255.11.

FERRY COMPANIES: Act 96 of 1871, being CL 1915, 8753 to 8766, provided for the incorporation of ferry companies, and was repealed by Act 84 of 1921, CL 1929, 10134.

255.12 Ferry landings deemed public highways.

Sec. 12. Ferry landings shall be deemed public highways, and may be laid out, constructed, maintained, altered, or discontinued in the same manner, and shall in all respects be subject to the same regulations, so far as they may be applicable, as other public highways and bridges; and any public highways along the border of, or terminating upon, the waters of any stream, river, or other body of water across which a ferry is licensed, may be used as a landing for such ferry, subject to such rules and regulations as the authorities having control over highways may establish, and such use shall be deemed a proper use thereof as a highway.

HISTORY: Add. 1871, p. 318, Act 189, Eff. July 18;—CL 1871, 1334;—How. 1472;—CL 1897, 4307;—CL 1915, 4792;—CL 1929, 4597.—CL 1948, 255.12.

255.21-255.25 Repealed. 1958, p. 83, Act 77, Eff. Sep. 13.

Sections provided for ferry service across straits of Mackinac, purchase of equipment and property, supervision, fixing of tolls, and placing of revenues and payment of expenses.

Act 150, 1943, p. 190; Imd. Eff. Apr. 14.

AN ACT to authorize the acquisition or purchase of ferry services and necessary equipment therefor by boards of supervisors of the several counties; the transfer to, and the operation and maintenance thereof by, boards of county road commissioners

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and the acquisition, operation and maintenance thereof by the state highway commissioner in certain cases.

The People of the State of Michigan enact:

255.51 Board of supervisors authorized to acquire ferry service.

Sec. 1. The boards of supervisors of the several counties of this state are hereby authorized, by a 2/3 vote of the members elect thereof, to acquire ferry services, and the necessary equipment therefor, as part of the highway system of said counties.

The board of supervisors of any county acquiring such ferry service may from time to time make appropriations for the purchase, operation and/or maintenance of said ferry and ferry services.

HISTORY: CL 1948, 255.51.

255.52 Board of supervisors; sale and disposal of ferry heretofore owned.

Sec. 2. The board of supervisors of any county having acquired ferry services as authorized in this act shall give, grant, assign and dispose of any ferry, equipment and services heretofore owned or acquired hereunder to the board of county road commissioners of said county.

HISTORY: CL 1948, 255.52.

255.53 Board of road commissioners; powers; state highway commissioner, powers.

Sec. 3. The board of county road commissioners of any such county is hereby authorized to accept any such ferry, equipment and services and to operate and maintain ferry services in such manner and subject to such rules, regulations and tolls as said board of county road commissioners may see fit, from time to time, to fix and adopt. Said services may be furnished free to the public, or charges and tolls may be exacted. If charges and tolls are exacted, they shall be on the basis of cost, including capital investment, maintenance, operation, interest on investment, and depreciation.

In the event the highway adjacent to said ferry is acquired by the state highway commissioner of the state of Michigan, then and in that event said state highway commissioner is authorized to acquire, own, operate and maintain said ferry and ferry services in the place and stead of said board of county road commissioners and with like rights and authority.

HISTORY: CL 1948, 255.53.

Sec. 4. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 416, Act 267, Imd. Eff. May 25.

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CHAPTER 256. HIGHWAYS—MOTOR VEHICLES

MICHIGAN MOTOR VEHICLE LAW
Act 302 of 1915
256.1-256.38 Repealed.

MOTOR VEHICLE TITLE ACT
Act 46 of 1921
256.101-256.119 Repealed.

UNIFORM OPERATORS' AND CHAUFFEURS' LICENSE ACT
Act 91 of 1931
256.201-256.234 Repealed.

FINANCIAL RESPONSIBILITY ACT
Act 203 of 1933
256.251-256.269 Repealed.

UNIFORM MOTOR VEHICLE ACT
Act 318 of 1927
256.301-256.360 Repealed.

OPERATION AND USE OF VEHICLES
Act 321 of 1923
256.421-256.437 Repealed.

STEAM VEHICLES
Act 145 of 1887
256.501-256.505 Repealed.

VEHICLE STRUCK FROM REAR
Act 236 of 1919
256.511, 256.512 Repealed.

SERVICE OF PROCESS ON NON-RESIDENT
Act 80 of 1929
256.521-256.523 Repealed.

LOCKING OF DOORS
Act 191 of 1931
256.531 Motor vehicles carrying passengers for hire; locking of doors prohibited.
256.532 Violation of act; penalty.

GARAGE KEEPER'S LIABILITY
Act 391 of 1919
256.541 Garage keeper; prima facie evidence of negligence.
256.542 Garage keeper; prima facie evidence of conversion.
256.543 Examination of vehicle and notice of loss; requirement.
256.544 Statements of vehicle condition; forms; refusal to sign, effect.
256.545 Contracts nullifying act; invalidity.

MICHIGAN STATE SAFETY COMMISSION
Act 188 of 1941
256.561 Michigan state safety commission; creation, membership, compensation, powers and duties.
256.562 State safety commission; meetings, purpose.
256.563 State safety commission; employees, offices and equipment.

256.1-256.38 Repealed. 1949, p. 597, Act 300, Eff. Sep. 23.
Sections consisted of Michigan motor vehicle law.

256.101-256.119 Repealed. 1949, p. 597, Act 300, Eff. Sep. 23.
Sections consisted of motor vehicle title act.

256.201-256.234 Repealed. 1949, p. 597, Act 300, Eff. Sep. 23.
Sections consisted of Uniform Operators' and Chauffeurs' License Act.

256.251-256.269 Repealed. 1949, p. 597, Act 300, Eff. Sep. 23.
Sections consisted of Motor Vehicle Financial Responsibility Act.

256.301-256.360 Repealed. 1949, p. 597, Act 300, Eff. Sep. 23.
Sections consisted of Uniform Motor Vehicle Act.

256.421-256.437 Repealed. 1949, p. 597, Act 300, Eff. Sep. 23.
Sections regulated operation and use of vehicles on highways.

256.501-256.505 Repealed. 1962, p. 66, Act 81, Eff. Mar. 28, 1963.
Sections regulated use of steam engines or other vehicles on public highways and prohibited blowing steam whistles.

256.511, 256.512 Repealed. 1949, p. 597, Act 300, Eff. Sep. 23.
Sections created a prima facie presumption of negligence in certain cases where vehicle was struck from the rear.

256.521-256.523 Repealed. 1949, p. 597, Act 300, Eff. Sep. 23.
Sections provided for service of process on nonresident motor vehicle owners or operators.

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Act 191, 1931, p. 314; Eff. Sep. 18.

AN ACT to prohibit the locking of doors of motor vehicles engaged in the business of carrying passengers for hire on the highways of this state and to provide a penalty for the violation thereof.

The People of the State of Michigan enact:

256.531 Motor vehicles carrying passengers for hire; locking of doors prohibited.

Sec. 1. It shall be unlawful for any person, firm or corporation engaged in the business of operating any motor vehicle on the highways of this state for carrying passengers for hire, to lock the doors of any such motor vehicle or permit the same to be locked at any time while any passenger or passengers are aboard any such motor vehicle in such a manner as to prevent such doors being readily opened by such passengers.

HISTORY: CL 1948, 256.531.

256.532 Violation of act; penalty.

Sec. 2. Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding 100 dollars or by imprisonment in the county jail not exceeding 90 days or by both such fine and imprisonment in the discretion of the court.

HISTORY: CL 1948, 256.532.

Act 391, 1919, p. 690; Eff. Aug. 14.

AN ACT to protect the owners of motor vehicles, entrusting the same for any purpose, to the care, custody or control of the owner or keeper of a public garage or other establishment where such motor vehicles are so accepted for hire or gain.

The People of the State of Michigan enact:

256.541 Garage keeper; prima facie evidence of negligence.

Sec. 1. Whenever any damage shall be done to any motor vehicle while in the possession or under the care, custody or control of the owner, his agent or servant, or the keeper of any public garage or other establishment where such vehicle shall have been accepted for hire or gain, proof of such damage shall be prima facie evidence that such damage was the result of the negligent act of such owner or keeper of the place where such vehicle was stored.

HISTORY: CL 1929, 4796;—CL 1948, 256.541.

256.542 Garage keeper; prima facie evidence of conversion.

Sec. 2. If any integral part, appliance or equipment, any spare tire fastened to such motor vehicle or any part, appliance or equipment locked in or to such vehicle shall be removed or shall disappear therefrom while such vehicle is so held, proof of such removal or disappearance shall be prima facie evidence of conversion by the owner or keeper of the garage or other establishment where such vehicle was so held.

HISTORY: CL 1929, 4797;—CL 1948, 256.542.

256.543 Examination of vehicle and notice of loss; requirement.

Sec. 3. The provisions of this act shall not apply unless the owner of a motor vehicle so placed in any public garage or other establishment as herein provided, shall examine the same before leaving such garage or other establishment or the grounds or street immediately adjacent thereto, and, upon discovery of any loss or damage, forthwith

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notify the owner or keeper of such garage or other establishment of the loss or damage claimed.

HISTORY: CL 1929, 4798;—CL 1948, 256.543.

256.544 Statements of vehicle condition; forms; refusal to sign, effect.

Sec. 4. The owner or keeper of any such garage or other establishment may provide blank forms upon which a description of the condition of any motor vehicle when so left in his care, may be noted; and when so provided and properly filled out in duplicate, he may require the owner of such motor vehicle to sign the same before leaving such vehicle. And if such a signed description is made, the owner or keeper of the garage or other establishment shall deliver a copy thereof to the owner of the vehicle. Refusal by the owner of such vehicle to sign such form shall be a bar to recovery under this act.

HISTORY: CL 1929, 4799;—CL 1948, 256.544.

256.545 Contracts nullifying act; invalidity.

Sec. 5. This act is hereby declared to be in the interest of public policy and no contract nullifying the provisions hereof shall be valid.

HISTORY: CL 1929, 4800;—Am. 1933, p. 345, Act 218, Eff. Oct. 17;—Am. 1937, p. 333, Act 208, Imd. Eff. July 21;—CL 1948, 256.545.

Act 188, 1941, p. 284; Imd. Eff. Jun. 16.

AN ACT to create the Michigan state safety commission for the promotion of greater safety on the public highways and other places within the state of Michigan; to study traffic conditions; to investigate and eliminate menaces to public safety; to form the Michigan safety council and appropriate moneys therefor.

The People of the State of Michigan enact:

256.561 Michigan state safety commission; creation, membership, compensation, powers and duties.

Sec. 1. There is hereby created the Michigan state safety commission, hereinafter called the commission, which shall be composed of the following officials ex officio: The governor, who shall be honorary chairman, the secretary of state, the superintendent of public instruction, the state highway commissioner, and the commissioner of the state police. The members of the commission shall receive no additional compensation for service on said commission. Said commission shall have no authority, power or duties now vested in any other department or departments of state government.

HISTORY: CL 1948, 256.561.

CITED IN OTHER SECTIONS: Sections 256.561 to 256.563 are cited in § 16.255.

256.562 State safety commission; meetings, purpose.

Sec. 2. It shall be the duty of said commission to hold meetings at least once during each calendar month hereafter, at such places as it may determine, to consult and cooperate with all departments of state government in regard to traffic safety, to promote uniform and effective programs of safety on streets and highways; to interchange information among the several departments of the state government for more effective safety conditions; to cooperate with officials of the United States government and with local governments in regulating highway traffic, and to encourage safety education in the state of Michigan.

HISTORY: CL 1948, 256.562.

256.563 State safety commission; employees, offices and equipment.

Sec. 3. Said commission is authorized to employ an executive secretary, an assistant executive secretary, and such personnel as shall be reasonably necessary to carry out

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the purposes of this act. The state board of auditors shall provide said commission with suitable offices and equipment.

HISTORY: CL 1948, 256.563.

Sec. 4.

HISTORY: Rep. 1944, 1st Ex. Ses., p. 78, Act 39, Imd. Eff. Mar. 3.

This section provided a $20,000 annual appropriation.

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CHAPTER 257. MOTOR VEHICLES

Act 300 of 1949

CHAPTER I

WORDS AND PHRASES DEFINED

257.1 Michigan vehicle code; words and phrases defined.
257.1a Accessory; definition.
257.2 Authorized emergency vehicle; definition.
257.3 Axle; definition.
257.4 Bicycle; definition.
257.4a Birthday; definition.
257.4b Bus; definition.
257.5 Business district; definition.
257.5a Cancellation; definition.
257.6 Chauffeur; definition.
257.7 Commercial vehicle; definition.
257.8 Commissioner; definition.
257.8a Conviction; definition.
257.9 County jail; definition.
257.10 Cross-walk; definition.
257.11 Dealer; definition.
257.12 Department; definition.
257.13 Driver; definition.
257.13a Elected gross weight; definition.
257.13b Empty weight; definition.
257.14 Established place of business; definition.
257.15 Explosives; definition.
257.16 Farm tractor; definition.
257.17 Flammable liquid; definition.
257.18 Foreign vehicle; definition.
257.18a Freeway; definition.
257.19 Gross weight; definition.
257.20 Highway or street; definition.
257.21 Implement of husbandry; definition.
257.22 Intersection; definition.
257.23 Judgment; definition.
257.24 Laned roadway; definition.
257.25 License; definition.
257.26 Limited access highway; definition.
257.27 Local authorities; definition.
257.28 Manufacturer; definition.
257.29 Maximum axle load; definition.
257.30 Metal tire; definition.
257.30a Mobile home; definition.
257.31 Motorcycle; definition.
257.32 Motor driven cycle; definition.
257.33 Motor vehicle; definition.
257.34 Nonresident; definition.
257.35 Nonresident operating privilege; definition.
257.36 Operator; definition.
257.36a Owner-operator; definition.
257.37 Owner; definition.
257.38 Parking; definition.
257.39 Pedestrian; definition.
257.40 Person; definition.
257.41 Pole-trailer; definition.
257.42 Police officer; definition.
257.43 Police station; definition.
257.44 Private road or driveway; definition.
257.45 Proof of financial responsibility; definition.
257.46 Railroad; definition.
257.47 Railroad sign or signal; definition.
257.48 Railroad track; definition.
257.49 Railroad train; definition.
257.50 Registration; definition.
257.51 Residence district; definition.
257.51a Resident; definition.
257.52 Revocation; definition.
257.53 Right of way; definition.
257.54 Road tractor; definition.
257.55 Roadway; definition.
257.56 Safety zone; definition.
257.57 School bus; definition.
257.58 Secretary of state; definition.
257.58b Security interest, security agreement, secured party, debtor, financing statement and termination statement; definitions.
257.59 Semi-trailer; definition.
257.60 Sidewalk; definition.
257.61 Spacing between axles; definition.
257.62 Special mobile equipment; definition.
257.63 Street car; definition.
257.64 Street or highway; definition.
257.65 State; definition.
257.66 Suspension; definition.
257.67 Tandem axle; definition.
257.67a Tandem axle assembly; definition.
257.68 Through highway; definition.
257.69 Traffic; definition.
257.70 Traffic control devices; definition.
257.71 Traffic control order; definition.
257.72 Traffic control signal; definition.
257.73 Trailer; definition.
257.74 Trailer coach; definition.
257.75 Truck; definition.
257.76 Transporter; definition.
257.77 Truck tractor; definition.
257.78 Used or second-hand vehicle; definition.
257.79 Vehicle; definition.
257.80 Tenses; definition.
257.81 Number and gender; definitions.
257.82 Shall and may; definitions.

CHAPTER II

ADMINISTRATION, REGISTRATION, CERTIFICATE OF TITLE AND ANTI-THEFT

257.201 Division; definition.
257.202 Division of driver and vehicle services; creation, purpose, organization.
257.203 Division of driver and vehicle services; director, duties; deputies, officers, clerks, investigators, appointment.
257.203a Commissioner deemed director; functions, duties, and responsibilities not altered.
257.204 Enforcement of act; rules and regulations; seal.
257.204a Central file of licensees; creation and maintenance, contents, evidence.
257.205 Office and branches.
257.206 Forms.
257.207 Oaths; acknowledgment; certified copies of records, fees, evidence.
257.208 Records; inspection, destruction.
257.209 Application for registration; certificate of title; operator's or other license, investigation.

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257.210 Title, registration certificate, permit, license or plate; seizure; possession and custody of plate; security interest.
257.211 Vehicle operation laws; publication, distribution.
257.212 Notice; giving, mail, proof.
257.213 Officers and investigators; powers.
Inspection to locate stolen vehicles.
Examination of books for collection of taxes.
Enforcement of financial responsibility act.
257.214 Badge of authority.
257.215 Vehicle unregistered or without certificate of title; operation; misdemeanor, exception.
257.216 Vehicles subject to registration and certificate of title; exceptions.
257.217 Vehicles subject to registration and certificate of title; application, contents.
Dealers, duties; transfers; temporary registration.
Application for title; security interest.
Lien, recording on title; fee; notice.
257.217a Special automobile registration plates; amateur radio license call letters.
Registration fees, additional fees; credited funds.
Illegal use of special plates; lapsed radio license; surrender of call letter plates.
List of licensees to sheriffs and office of director of civil defense.
Applicant to abide by rules of director of civil defense.
Director of civil defense; rules for amateur radio licensees.
257.218 Special or foreign vehicles; registration.
257.219 Registration or certificate of title or transfer; grounds of refusal.
257.220 Application for original registration or certificate of title; examination of indexes and stolen car records.
257.221 Application for registration; records, preservation.
257.222 Certificate of registration or title; issuance, content, delivery.
257.223 Registration certificate to be signed, carried and displayed.
257.224 Registration plates; issuance, number.
Contents; public owned; school buses; use.
Readability; tabs.
Rental cars.
Other plates prohibited.
Elected gross weight indicated.
257.225 Registration plates; display.
257.226 Vehicle registration; expiration.
Certificate of title.
Special part-year registration; service charge.
Extension of time of registration renewal prohibited.
Special registration, vehicles for nonresidents, procedure, affidavit.
257.226a Temporary registration plates; issuance to dealers for use of purchasers.
Contents; surrender.
Numbering.
Violation, surrender.
Repossessors; use.
Repairmen or servicemen; use.
Auto auction; use; bond.
257.226b Mobile homes; special registration for removal.
257.226c Reflectorized reflector plates, tabs, and stickers.
257.227 Registration; application, renewal.
257.228 Change of address; notice.
257.229 Duplicate registration certificates or plates, certificates of title; issuance.
257.230 Special identifying number after alteration or defacement of serial number; record.
257.231 Registration of replacement engines.
257.232 Vehicle registration lists; issuance, distribution, sale; proceeds to state highway fund.

TRANSFERS OF TITLE OR INTEREST

257.233 Transfer of registered vehicle; removal and transfer of plates.
Application for new registration plates. Penalty.
Certificate of title, assignment, statement of security interests, satisfaction.
257.234 Transferee of registered vehicle; new certificate of title and registration certificate.
257.235 Dealer as transferee; liability for damages.
257.235a Transfer of title; junking fee.
257.236 Transfer of ownership of vehicle by operation of law; sole property of small estate.
257.236a Enforcement of security interest; transferee, duties.
257.237 New registration and certificate of title; surrendered certificate of title, filing.
257.238 Security interests in vehicle; certificate of title.
Assignment.
Termination statement.
257.239 Certificate of title; failure to endorse or deliver, penalty.
257.240 Negligent operation after transfer of endorsed certificate of title.
257.241 Dismantled or wrecked car; surrender of certificate of title.
257.242 Sale of motor vehicle for junk; return of certificate of title to secretary of state; certificate of junking.
257.242a Regrooved or recut motor vehicle or motorcycle tires; sale or possession with intent to sell prohibited; exception; misdemeanor.

PERMITS TO NONRESIDENT OWNERS

257.243 Nonresident owner of motor vehicle; exemption from registration.

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Same; transportation for hire, temporary permit.
Same; pleasure vehicles, duration of exemption.
Same; carrying on business.

SPECIAL PLATES TO MANUFACTURERS, TRANSPORTERS, DEALERS

257.244 Special plates; operation, bond, number, temporary use by vendee.
257.244a Motorcycle dealer license plates; size.
257.245 Special plates; issuance; distinguishing numbers.
257.246 Special plates; expiration.
257.247 Special plates; manufacturers and transporters, record of uses; inspection by peace officers.
257.247a Special plates; public civic events; manufacturers.

DEALERS AND WRECKERS MUST BE LICENSED

257.248 Vehicle dealer's license; requirements.
Application, form, contents.
Separate license for each county.
Termination of license.
Investigation of applicant; time, report.
Segregation of type of dealers on records.
Civil indemnity bond; tax deficiency, cancellation.
Dealers' plates, minimum.
Junk dealers, bond.
Agent for process.
257.249 Vehicle dealer's license; denial, suspension, revocation, grounds.
257.250 Vehicle dealer's licensee; procedure for denial, suspension, revocation.
257.251 Vehicle dealer or wrecker licensee; records.
Record of purchase, sale, exchange; description; trailers, semitrailers.
Seller's statement to buyer, contents; date; application for new title.
Bill of sale in writing; buyer's acknowledgment of receipt; delivery.
Inspection of records.
257.251a Repealed.
257.251b Rental of motorcycle or motor driven cycle; qualifications of renters.
257.251c Rental of motorcycle or motor driven cycle; maintenance by dealer; determination of renter's competency.
257.251d Rental of motorcycle or motor driven cycle; subleasing; unauthorized use.
257.251e Rental of motorcycle or motor driven cycle; liability insurance required.

SPECIAL ANTI-THEFT LAWS

257.252 Reports as to vehicles stolen and recovered.
Abandoned vehicles; custody, notice; sale.
Unregistered abandoned vehicle, disposition.
Abandoned vehicle valued at less than $100.00, disposition.
Vehicle left at garage by other than registered owner.
Abandoned vehicle valued at $25.00 or less, disposition.
257.253 Reports; filing, exchange of lists.
257.254 False statement in application for certificate of title or possession of stolen vehicles; penalty.

OFFENSES AGAINST REGISTRATION LAWS AND CANCELLATION OF REGISTRATION

257.255 Motor Vehicle registration; evidence; wrecking, junking, repairing; violation of section, misdemeanor.
257.256 Improper use of registration or certificate of title; penalty.
257.257 Alteration or forging of documents; penalty.
257.258 Registration or certificate of title; grounds for cancellation.
Elected gross weight violations; penalty.
Notice; hearing.
257.259 Evidence of registration; title; dealer or wreckers' licenses; return to state on cancellation; failure or refusal to surrender unlawful.

CHAPTER III
OPERATOR'S AND CHAUFFEUR'S LICENSE

257.301 Operator's and chauffeur's licenses; necessity; surrender of foreign license; number permitted.
257.302 Operator's and chauffeur's licenses; persons exempt.
257.303 Operator's and chauffeur's licenses; issuance, prohibitions and restrictions.
257.303a Operator's and chauffeur's licenses; mental incompetents, suspension, restoration.
257.304 Operator's and chauffeur's licenses; change of name report, adjudication of feeble-mindedness, epileptic, liquor or drug addict.
257.305 School bus driver; age; license required.
257.305a School bus driver; safety education course, approval; certificate of enrollment or completion; failure to complete; exemptions.
257.306 Temporary instruction permit; term, renewal.
Restricted instruction permit, driver education program.
Additional instruction to permittee under 16.
257.307 Operator's and chauffeur's licenses; application, contents.
Photograph; additional fees; photographic equipment.
Oath, fee, examination.
Applications of persons licensed in other jurisdictions; request for copy of drivers' records; use.

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Drivers' records from other licensing jurisdictions; forwarding cost.
257.308 Operator's licenses; minors, approval by parent or guardian.
257.309 Operator's and chauffeur's licenses; examination of applicants.
Physical impairment, bad driving record; waiver of examination.
Sheriff, deputy sheriff, chief of police as examiner, report.
Rules; knowledge of English; scope of examination.
Return of application, recommendation.
Approval required.
257.310 Operator's and chauffeur's licenses; issuance, contents; forged license, illegal use; temporary permits; blood types.
257.310a Operator's and chauffeur's licenses; minors' instruction permit, color; adult permit.
257.310b Operator's and chauffeur's licenses; original, probationary; suspension, grounds; determination of occurrence of offense.
257.310c Operator's and chauffeur's licenses; persons not previously licensed; temporary instruction permit.
257.311 Operator's and chauffeur's licenses; possession, display.
257.312 Operator's and chauffeur's licenses; restricted licensees, regulations.
257.312a Motorcycle indorsement on operator's or chauffeur's license; special restricted operator's license.
257.312b Motorcycle indorsement on operator's or chauffeur's license; examination, subjects; mandatory passing.
257.312c Motorcycle indorsement on operator's or chauffeur's license; fee, disposition, use.
257.312d Motorcycle indorsement on operator's or chauffeur's license; inclusive reference.
257.313 Operator's and chauffeur's licenses; duplicate, fee, proof.
257.314 Operator's or chauffeur's license; expiration on holder's birthday.
257.315 Operator's and chauffeur's licenses; change of address, notice.
257.316 Operator's and chauffeur's licenses; records.
257.316a School bus drivers and substitutes; qualifications.

CANCELLATION, SUSPENSION, OR REVOCATION OF LICENSES

257.317 Nonresident operator; operation of motor vehicle when operating privileges suspended or revoked; penalty; notice of conviction or forfeiture of bail.
257.318 Resident operator; conviction in another state, revocation of license.
257.319 Mandatory suspension of license for conviction of certain crimes or forfeiture of bail.
257.320 Operator's and chauffeur's licenses; suspension or revocation, grounds.
Service of notice of reexamination.
Duration of suspension.
Reexamination.
257.320a Point system; poor driving record.
Bond forfeitures outside state.
Weight violations.
9-point driver, interview.
257.320b County driver safety school; establishment, advisory board, members, supervision.
Courses, purpose, traffic violators, voluntary attendance.
Stay of sentence of convicted person referred to the school.
Fees.
Approval of existing schools; referrals.
257.320c Operators' and chauffeurs' licenses; reissuance after suspension or revocation, examination and qualifications.
257.320d Defective equipment not moving violation.
257.321 Surrender of license; return to licensee.
257.321a Citation; failure to answer, penalty; notice of suspension; duration; fee.
257.321b Suspended or revoked license; obtained from licensee.
257.322 License appeal board; creation, members, compensation, quorum, subpoena of witnesses, oaths; appeals, filing.
257.323 Denial, suspension or revocation of license; petition for review by circuit court, procedure, order.
257.323a Suspension or revocation of license; appeal, stay.
Application of section.
257.323b Minor's license; cancellation upon request of person signing application.
257.323c Restricted license; issuance, conditions.

VIOLATION OF LICENSE PROVISIONS

257.324 Operator's and chauffeur's licenses; unlawful use; void license; suspension of license.
257.325 Unauthorized minor as vehicle operator; owner's permission required.
257.326 Operation of vehicle in violation of act; owner's permission prohibited.
257.327 Unlicensed chauffeur; employment prohibited.

CHAPTER IV

CIVIL LIABILITY ACT

CIVIL LIABILITY OF OWNERS AND OPERATORS OF MOTOR VEHICLES

257.401 Civil actions; liability of owner, consent, presumption; guest passengers.
257.402 Rear end collision; prima facie evidence of negligence.
257.403 Nonresident vehicle operators; service of process, manner, record; service upon defendant, certification; taxable costs; application of section.
257.403a Nonresident; definition.
257.404 Service of process; place.

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CHAPTER V

FINANCIAL RESPONSIBILITY ACT ADMINISTRATION

257.501 Financial responsibility act; administration, rules and regulations.
257.502 Operating record; certified abstract inadmissible as evidence.
257.502a Proof of compliance with laws of another state.

WRITTEN REPORTS OF ACCIDENTS

257.503 Accident; written report required, time, contents; failure to report.
257.503a Property damage; security required.
257.503b Insured vehicles; report not required.
257.503c Security; definition.

SECURITY FOLLOWING ACCIDENT

257.504 Security required after accident; suspension of license, notice; exceptions.
257.504a Application to circuit court for restoration of license and registration; proof of necessity; jurisdiction of court.
257.505 Government-owned vehicles excepted as to reports and security.
257.505a Secretary of state; injuries to minors, evaluation; evidence of release from liability.
257.506 License and registration; nonresident's operating privilege; duration of suspension.
257.507 Unlicensed operator; security requirements prior to licensing.
257.508 Security after accident; form, amount, deposit.
257.509 Security after accident; deposit, custody, payment; release of deposit.
257.510 Report of accident; restricted inspection, use as evidence.

PROOF OF FINANCIAL RESPONSIBILITY FOR THE FUTURE

257.511 Nonpayment of judgment; certification to secretary of state; nonresidents.
257.512 Nonpayment of judgment; suspension of registration and nonresident's operating privilege.
257.512a Nonpayment of judgment; finding as to insurer, effect.
257.513 Nonpayment of judgment; suspension of license, duration; discharge in bankruptcy; satisfaction of judgment.
257.514 Satisfaction of judgment.
257.515 Installment payment of judgment; default.
257.515a Restoration of license or registration after nonpayment of installment; limitation.
257.516 Suspension of license and registration; proof of financial responsibility.
257.517 Proof of financial responsibility; alternative methods.
257.518 Proof of financial responsibility; certificate of insurance.
257.519 Proof of financial responsibility; nonresident, compliance of insurance carrier.
257.520 Motor vehicle liability policy; definition; contents; liabilities; collusive judgment; binders.
257.521 Motor vehicle liability policy; notice of termination.
257.522 Automobile insurance policies unaffected by chapter.
257.523 Bond as proof of financial responsibility; satisfaction of judgment.
257.524 Money or securities as proof.
257.525 Owners' proof for others.
257.526 Substitution of proof.
257.527 Other proof required.
257.528 Cancellation or return of proof.

VIOLATION OF PROVISIONS OF ACT

257.529 Transfer of registration.
257.530 Surrender of license and registration upon suspension or for lack of sufficient proof.

GENERAL PROVISIONS

257.531 Self-insurance; certificate, cancellation.
257.532 Availability of other security.

CHAPTER VI

OBEDIENCE TO AND EFFECT OF TRAFFIC LAWS

257.601 Applicability of chapter to operations on highways; exceptions.
257.602 Obedience to police officers.
257.602a Failure to stop in obedience to direction of police officer; misdemeanor.
257.603 Applicability of chapter to government vehicles; authorized emergency vehicles and workers upon surface of highways.
257.604 Applicability of chapter to riders of animals and drivers of animal-drawn vehicles.
257.605 Applicability of chapter; uniformity throughout state.
257.606 Local authorities; police powers for control of traffic; impounding vehicles.
257.607 Realty owners' regulation of traffic on private property.

TRAFFIC SIGNS, SIGNALS, AND MARKINGS

257.608 Uniform system of traffic-control devices; manual.
257.609 Traffic-control devices; placement and maintenance; restrictions; county road commission, permission, costs.
257.610 Traffic-control devices; state manual and specifications.
Same; failure to install; withholding of tax refunds.
257.611 Traffic-control devices; obedience required.
257.612 Traffic-control signal legend; signals over travelled portion of roadway.
257.613 Traffic-control signals; applicability to pedestrians.
257.614 Flashing red or yellow signals; obedience by vehicular traffic.
257.615 Signs or lights resembling traffic-control devices and commercial advertising on traffic signs; prohibition.

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Emergency vehicles; distinguishing lights; prohibited lights.
Prohibited signs; public nuisance, removal.
Placement of street decorations and banners; obstruction of traffic lights and signals.

257.616 Traffic-control devices or railroad signs or signals; interference prohibited.

ACCIDENTS

257.617 Accident; personal injury or death, stopping required.
Penalty.
Suspension of license.

257.618 Accidents; damage to vehicles, stopping, penalty.

257.619 Accidents; giving information and aid.

257.620 Accidents; attended or unattended vehicle; stopping; report.

257.621 Accidents; fixtures on or adjacent to highway, report, notification of owner, exhibition of driver's license.
Reports to state police; form, contents, analysis, use.

257.622 Accidents resulting in personal injury, death or damages in excess of $200; report, form, contents, analysis, use.

257.623 Accidents; reports by garagekeepers or repairmen.

257.624 Accidents; use of reports.

DRIVING WHILE INTOXICATED, AND RECKLESS DRIVING

257.625 Drug addicts or intoxicated persons; driving on highways or parking lots prohibited.
Permitting drug addict or intoxicated person to drive.
Penalty.
Same; second conviction.
Same; third or subsequent conviction, felony.
Acceptance of plea of guilty, advising accused.
Surrender of operator's or chauffeur's license.

257.625a Driving under influence of intoxicating liquor; tests, availability for use in evidence.
Administration of tests; persons authorized, immunity from criminal or civil liability.
Person charged with driving a vehicle while under the influence of intoxicating liquor; choice of person to administer chemical tests; evidence.
Advice as to effect of refusal to take tests.
Additional evidence.
Advice of optional tests; effect of refusal.

257.625b Driving with impaired ability due to liquor or drugs; penalty.

257.625c Chemical tests; automatic consent.
Law officers; requests for tests; probable cause.

257.625d Chemical tests; refusal to submit; report, contents, form.

257.625e Chemical tests; sworn statements; notice of receipt, hearing.

257.625f Chemical tests; hearing not requested, suspension, revocation or denial of license.
Hearing; time; place; notice; issues.
Suspension, revocation or denial of license; judicial review.
Nonresidents; notice to state of residence.

257.625g Blood tests; uniform standards for administration.

257.626 Reckless driving on highway, frozen public lake or parking place; penalty.

257.626a Drag races; prohibition on public highways; definition; prima facie evidence.

257.626b Driving on highways, frozen public lakes or parking places in negligent manner.

SPEED RESTRICTIONS

257.627 Speed restrictions; assured clear distance ahead.
Business or residence districts; public parks, posted speed limits.
Vehicles with trailers.
Trucks and combinations weighing over 5,000 pounds.
School buses.

257.628 Speed limits; maximum, minimum, day and night.
Speed control signs.
Public record in office of county clerk; temporary construction or repair signs, authorization; evidence.
Failure to observe speed or traffic control signs.

257.628a Minimum speed on freeways.

257.629 Prima facie speed limits; establishment, signs.

257.629a County traffic safety organization; creation, appropriation.

257.630 Motor-driven cycles; lights, speed.

257.631 Speed and load limitations on signposted bridges, causeways and viaducts.

257.632 Vehicles in pursuit of criminals, fire patrols and ambulances; exemption from speed limitations.

257.633 Violation of speed regulations; manner of charging, burden of proof in civil actions.

DRIVING ON RIGHT SIDE OF ROADWAY—OVERTAKING AND PASSING, ETC

257.634 Driving on right side of road; exceptions, multi-lane roads.

257.635 Passing oncoming vehicles.

257.636 Overtaking and passing on left of moving vehicles.

257.637 Overtaking and passing on right of moving vehicles.

257.638 Overtaking and passing on left; restrictions.

257.639 Driving left of center; prohibition; exception.

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257.640 No passing zones; marking, violation of section; misdemeanor.
257.641 One-way roadways and rotary traffic islands.
257.642 Laned roadways; traffic rules.
257.643 Following too closely prohibited.
257.643a Space between trucks traveling in line.
257.644 Divided highways; crossing; limited access crossovers, use.
257.645 Limited access roadways; use.
257.646 Repealed.

TURNING AND STARTING AND SIGNALS ON STOPPING AND TURNING

257.647 Intersections; positions for turning.
257.648 Signals for starting, stopping and turning; commercial vehicle equipped with signal lamp or device.

RIGHT-OF-WAY

257.649 Right of way at intersections.
Simultaneous entrance; driver of vehicle to left to yield.
Modification of right-of-way rules at through highways.
Yield right-of-way signs; driver's duty; stops required.
Vehicles traveling at unlawful speed to forfeit right-of-way.
Stop sign, driver's duty; exceptions.
Merging highway; drivers' duties.
257.650 Right of way at intersections; left turn.
257.651 State trunk line highways; preference at intersections; stop, yield or merge signs.
257.652 Entry on highway; stopping, yielding right of way.
257.653 Authorized emergency vehicle; right of way yielded by other vehicles.
257.654 Funeral procession; right of way.
257.655 Pedestrians on highways.

OPERATION OF BICYCLES, MOTORCYCLES AND TOY VEHICLES

257.656 Bicycles and motorcycles; regulations applicable, penalty.
257.657 Bicyclists; regulations applicable.
257.658 Bicycle, motorcycle and motor driven cycle; passengers, number and manner of carrying; crash helmets; promulgation of rules.
257.659 Clinging to other vehicles.
257.660 Bicycles, motorcycle, and motor driven cycles; operation on roadway; special paths; passing; exceptions.
257.661 Carrying articles; hands on handlebars.
257.661a Motorcycles and motor driven cycles; handle bars, height.
257.662 Bicycles; lights, bells, brakes.

STREET CARS AND SAFETY ZONES

257.663 Street cars; passage to left.
257.664 Stopping for street cars; exception.
257.665 Street car tracks; blockage by vehicles, signals.
257.666 Safety zones occupied by persons.

SPECIAL STOPS REQUIRED

257.667 Railroad grade crossings; stopping required; vehicle driving through closed traffic gate.
257.668 Railroad grade crossings; stop signs, erection; obedience by drivers; failure to replace or maintain; action of negligence against governmental officers.
257.669 Railroad grade crossings; buses, school buses and carriers of explosives and flammables to stop; exceptions.
257.670 Railroad grade crossings; slow-moving or heavy equipment, notice to railroad agent.
257.671 Through highways; designation; stop signs, location.

STOPPING, STANDING AND PARKING

257.672 Stopping, parking and standing on pavement; limited access highways; applicability to school buses.
257.673 Removal of illegally stopped vehicles; costs.
257.674 Prohibited parking.
257.674a Clear vision areas; prohibited parking, commercial enterprises blocking views.
257.675 Parking regulations.
One-way roadway.
Angle parking.
Signs, placing; traffic order, filing, hearing.
Physically handicapped; certificate, display; evidence of qualification.

MISCELLANEOUS RULES

257.676 Unattended motor vehicle; brakes, grades.
257.676a Highways outside of cities and villages; display of goods, produce, merchandise within right of way, penalty.
257.676b Traffic obstructions prohibited; exception.
257.677 Obstruction of driver's view or control.
257.678 Coasting prohibited.
257.679 Following fire apparatus prohibited.
257.679a Limited access highway; pedestrians and certain vehicles prohibited.
257.680 Crossing fire hose prohibited.
257.681 Repealed.
257.682 School bus; painting, signs, approval.
Stopping for; resumption of motion; passengers; controlled intersections; local ordinance.
Visibility of bus in stopped position.
Divided highway.
Flashing red lights; requirements; use.
Front end mirror.
Illegal passing; evidence, presumption.
257.682a Device causing smoke or fire from motor vehicle; unlawful use, exception, penalty.

EQUIPMENT

257.683 Equipment; condition, inspection; operation of unsafe vehicles, penalty.
257.684 Head lamps; lighting, distance, height.
257.685 Head lamps; number, height; auxiliary or spot lamps.

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257.686 Rear lamps.
257.687 Special lamps for passenger buses, trucks and trailers.
257.688 Additional lights or reflectors on buses, trucks, tractors, trailers, implement of husbandry or special mobile equipment.
257.689 Clearance and marker lamps and reflectors; color.
257.690 Clearance and marker lamps and reflectors; mounting.
257.691 Clearance and marker lamps and reflectors; visibility.
257.692 Combination vehicles; obstructed lights, lighting requirements.
257.693 Lamp or flag on projecting load.
257.694 Parked vehicles; lighting.
257.695 Minimum lighting for all vehicles.
257.696 Spot lamps; auxiliary driving lamps.
257.697 Signal lamps and devices.
257.697a Sale or operation of certain vehicles unlawful; exception.
257.697b Rear stop lamps; requirements for sale and operation.
257.698 Permissible additional lights; flashing, oscillating or rotating lights.
257.698a Vehicular traffic hazard; front and rear warning lamps.
257.699 Multiple-beam road lighting equipment; color, intensity, indicator.
257.700 Multiple-beam road lighting equipment; oncoming traffic; intensity.
257.701 Single-beam road-lighting equipment; intensity.
257.702 Motor driven cycle; head lights.
257.703 Slow-moving vehicles; reduced lighting power.
257.704 Special restriction as to direction of certain lights.
257.705 Brakes.
257.705a Brake fluid specifications.
257.706 Horns, bells, whistles, sirens and theft alarm signal devices.
257.707 Mufflers; excessive fumes and smoke.
Effective date; existing licenses; waiver of examination.
257.708 View to rear; mirrors; motorcycle; commercial vehicle.
257.708a Windshields; exceptions; cyclists, goggles or face shield.
257.709 Windshields; obstruction of view, wipers; defrosters on commercial vehicles; washers.
257.710 Tires; restrictions; ice grips, seasonal use; notice.
257.710a Safety belts and restraining devices; standards, rules and regulations.
257.710b Passenger safety belts; specifications, exceptions.
257.711 Safety glass; requirements, definitions.
257.711a School bus gasoline tank; location, spillage rate.
257.712 Flares and other warning equipment for trucks; truck tractors, school buses, and buses.
257.713 Flares and other warning equipment; display on disabled vehicle.
257.714 Explosives; special regulations for transportation.
257.714a Commercial vehicles and combinations; antisplash devices.

INSPECTION OF VEHICLES

257.715 Inspection of vehicles and equipment; state police check lanes; local unit check lanes.

SIZE, WEIGHT AND LOAD

257.716 Size, weight, and load restrictions.
257.717 Maximum width of vehicles; exceptions; operation of certain buses.
257.718 Passenger-type vehicles; projecting load.
257.719 Height of vehicles; liability for damages to bridges.
Length; combinations; roads, restrictions.
Load projecting beyond front of vehicle.
Rear bumpers; distance from roadway.
Assembled vehicles, bodies, boats; roads, restrictions.
Maximum axles for combinations.
Transporting by towbar or saddlemounts; restrictions.
Combinations, gross weight, formula.
257.719a Mobile homes; size; permit for oversize; definition.
257.720 Spilling load on highway prohibited; logs and tubular products.
257.721 Trailers towed by passenger vehicle; attachment.
257.722 Wheel and axle loads; restrictions.
257.723 Information painted on certain trucks and other vehicles as to owner or lessee.
257.724 Stopping vehicles for weighing.
Overweight vehicle, unloading; bond; impounding.
Fines for excess weight; discretionary power.
Bypass of scales or weighing station.
Marked vehicles of officers.
Failure to stop on request of authorized person.
257.725 Special permits for nonconforming vehicles; concrete pipe; telephone, telegraph, and electric poles.
257.725a Transportation of farm machinery and implements by dealers; annual permits.
257.726 Restrictions by local authorities on certain commercial vehicles on posted highways.
257.726a Boundary line highways; authority of peace officer.
257.727 Arrest without warrant; examination before magistrate or probate court; release from custody.
257.727a Traffic violations; citation; numbering, form; number and use of copies; modification.
257.727b Issuance of citation books to traffic law enforcement officers; receipt, form.
257.727c Citation; definition; numbering; form; copies; modifications; use for nonmoving violations.

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257.728 Arrest without warrant for misdemeanor violations; duties of arresting officer; appearance before magistrate or probate court in lieu of citation.
Time to appear.
Place of appearance.
Appearance in person, by representation or mail.
Nonresidents; guaranteed appearance certificate or cash; procedure.
Fees; magistrate's fee.
Violation by officer or magistrates.
Issuance of citation in accident cases; contents; adjournments.
Same; content, form; witness fees.

257.728a Citation; delivery of copies to police chief; deposit of original with court; spoiled, mutilated or void citations.

257.728b Establishment of procedures to insure accountability; maintenance of citation records.

257.728c Audit of citation records.

257.728d Falsification of citation or record of issuance; penalty.

257.728e Citations; pleas; sworn complaints; warrants for arrest.

257.729 Failure to appear; new license not issued during default; fine and cost.

257.730 Warrant for arrest.

257.731 Evidence of conviction for violations pertaining to use of motor vehicles; inadmissible in civil actions.

257.732 Motor vehicle act violations; records.
Abstract of record to secretary of state; money paid, reports.
Form of abstract or report; contents.
Abstract or report furnished by court of record.
Failure or refusal to file report, penalty.
Abstracts, where kept; public inspection.
Reversal of conviction or probate court finding on appeal; certified copy.
Court reporting of convictions, forfeitures and settlements; modifications; form of notice.

CHAPTER VII
REGISTRATION FEES

257.801 Registration fees.
Generally; minimum.
Trailer coaches; habitations not exempt from property tax.
Road tractor, truck or truck tractor for farms.
Hearses and ambulances.
State or municipally owned; municipal franchise operation.
School buses; nonprofit youth organization.
Charitable corporation, Red Cross, girl or boy scout.
Trucks.
Farm trailers or semitrailers.
Farm wagon.
Trucks, road tractors, truck tractors; leases from owner-operators.
Poletrailers, semitrailers or trailers.
Motorcycles, motor driven cycles.
Moving vans, carnivals.
Pick-up trucks.
Computation; weight certificate, structural changes.

257.801a Registration fees; portable feed mills or mixers.

257.801b Registration fees; duplicate payments, refund procedure.

257.802 Special plates; part year, fees.
Commercial vehicles; exceptions.
Nonresidents; fee.
Temporary registrations, fee.
Mobile homes, special registration, fee.
Repossessors, repairmen, servicemen, auctioneers.
Special mobile equipment.
Logging equipment.

257.802a Temporary permits; fees.

257.803 Special plates for manufacturers, transporters or dealers; fees.

257.803a Historic motor vehicle; definition, use, license, fee, registration, transfer, revocation.

257.804 Duplicate and replacement license plates.

257.805 Repealed.

CERTIFICATE OF TITLE, DEALER'S LICENSE AND LIENS

257.806 Application for certificates of title; duplicates, special numbers, fees.

257.807 Dealer's license.

257.808 Liens on motor vehicles; fees.

257.809 Transfer of registration; fee; transfer of plates to new vehicle, additional weight tax.

257.810 Disposition of fees.

LICENSES

257.811 Operator's and chauffeur's license; fees.
Examining officer fee; driver education and training fund.
Driver education and training; apportionment from fund.
Driver education course, content.
Rules.
Persons under 18 years of age; restricted licenses.
No enrollment fee.

257.812 Duplicate licenses; disposition of fees.

MISCELLANEOUS

257.813 Certified copies of records.

257.814 Use tax; collection.
Same; disposition.
Same; collection upon registration of nonresident vehicle in this state.

257.815 Sales tax; collection, disposition.

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CHAPTER VIII

PENALTIES

257.901 Violation of act; misdemeanor, penalty.
257.902 Violation of act; felony, penalty.
257.903 False affidavit; perjury, penalty.
257.904 Operator's or chauffeur's license or registration; suspension, revocation or denial; penalty for operation of vehicle; subsequent offenses; confiscation of plates; status and record of persons.
257.904a Operation of motor vehicle by unlicensed person; penalty; second offense.
257.904b Impounding vehicles; circumstances; order, contents; liability, redemption, failure.
257.905 Violation of financial responsibility chapter; penalty.

CHAPTER IX

MISCELLANEOUS

257.921 Repeal.
257.922 Saving clause.
257.923 Short title.

PARKING LOTS IN SHOPPING CENTERS
Act 235 of 1969

257.941 Shopping centers and traffic; definitions.
257.942 Parking lots; power of local units to regulate traffic.
257.943 Violation of act; penalty.

UNIFORM TRAFFIC CODE FOR MUNICIPALITIES
Act 62 of 1956

257.951 Uniform traffic code for cities, townships and villages; promulgation by state police commissioner.
257.952 Adopting ordinance; publication.
257.953 Amendment of code; adoption.
257.954 Copies of code for public inspection and distribution.

SCHOOL PROPERTY
Act 175 of 1958

257.961 School property; municipal regulation of operation, parking and speed of vehicles.

CITY BUS TAX
Act 2 of 1960

257.971 Public transportation vehicles and city and suburban bus operators; definitions.
257.972 City and suburban bus operators; specific tax in lieu of weight tax.
257.973 Repealed.

VEHICLE EQUIPMENT SAFETY COMPACT
Act 105 of 1963

257.1001 Vehicle equipment safety compact.
257.1002 Rule, regulation or code; approval by legislature.
257.1003 Commissioner of vehicle equipment safety; appointment, alternate.
257.1004 State employees retirement system; coverage of commission's employees.
257.1005 Cooperation between commission and governmental units.
257.1006 Documents; filing with secretary of state.
257.1007 Budget; submission to department of administration; appropriations.
257.1008 Auditor general; inspection of commissioner's accounts.
257.1009 Executive head; definition.
257.1010 Copies of act; distribution.

MOTOR VEHICLE ACCIDENT CLAIMS ACT
Act 198 of 1965

257.1101 Motor vehicle accident claims act; short title.
257.1102 Motor vehicle accident claims act; definitions.
257.1103 Motor vehicle accident claims fund; establishment; annual statement and audit; investment; reversion.
Commissioner of insurance; powers.
Fee, uninsured vehicle; transfer of registration.
Fee, insured vehicle; transfer of registration.
False evidence of insurance; penalties.
Lapse or cancellation of insurance, fee; failure, penalty.
Illegal use of information.
257.1104 Evidence of insurance or payment of fee; exhibition; violation; foreign state operators.
257.1105 Service of process on secretary of state; failure to serve, effect; intervention.
257.1106 Death or injury by uninsured motorist; application for payment from fund; disputing liability.
Uninsured motorist, notice of claim; denial of liability.
Secretary of state; payment from fund.
Subrogation.
Suspension of uninsured motorist; reinstatement.
Default in payments.
257.1107 Judgment for damages caused by uninsured motorist; application for payment, property damage payment.
Same; notice to applicant of objection to payment.
Same; action to be against all defendants.
257.1108 Default judgment; notice to secretary of state; reopening; settlements.
257.1109 Assignment of judgment.
257.1110 Suspension of licenses; reinstatement, conditions.
257.1111 Default in installment payment; suspension of licenses.
257.1112 Death or injury by unidentified vehicle or driver; action against fund; condition precedent.
257.1113 Death or injury by unidentified vehicle or driver; adding secretary as defendant; condition.
257.1114 Repealed.
257.1115 Death or injury by stolen vehicle; action against secretary of state.
257.1116 Death or injury by stolen vehicle; general denial by secretary of state.
257.1117 Death or injury by stolen vehicle; judgment against secretary of state, prerequisites.

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257.1118 Recovery against fund; limitation of action; notice.
257.1119 Judgment against secretary of state; payment; property damage payment.
257.1120 Judgment against secretary of state; application for order identifying owner or driver of motor vehicle; order, effect.
257.1121 Judgment against secretary of state; secretary not personally liable to satisfy judgment.
257.1122 Payment from fund; prohibited when damages paid or payable from insurance.
257.1123 Payment from fund; limitation on damages payable from fund; interest, costs.
257.1124 Residence; date of determination.
257.1125 Nonresident; payment from fund prohibited, exception.
257.1126 Administration of act by secretary of state; employment of assistants; use of staff of attorney general; wages and professional fees, payment.
257.1127 Administration of act; costs, payment; appropriation.
257.1128 Claims or actions against fund; limitation.
257.1129 Coverage by workmen's compensation law; recovery from fund; exception.
257.1130 Practice and procedure in courts where application made; appeals.
257.1131 Effective date of act.
257.1132 Total loss of vehicle; surrender of title, junking.

AMBULANCES

Act 258 of 1968

257.1201 Ambulance and inhalator services; definitions.
257.1202 Rules; promulgation by director of health.
257.1203 License required; exception.
257.1204 Qualified attendant required; exceptions.
257.1205 Ambulance licenses; application, contents; fee; insurance.
257.1206 Licenses; annual renewal.
257.1207 Ambulance licenses; minimum requirements.
257.1208 Ambulances; traffic regulations, privileges.
257.1209 Ambulances; attendant, attendant-driver; license, application, fee.
257.1210 Licenses; term, renewal.
257.1211 License applicants; investigation; qualifications; drivers exempt.
257.1212 Repealed.
257.1213 Local units; contract for services.
257.1214 Local ordinances.
257.1215 Licenses; suspension, revocation, procedure.
257.1216 Violation of act; misdemeanor; exemption.
257.1217 Effective date of act.

SNOWMOBILES

Act 74 of 1968

257.1501 Snowmobiles; definitions.
257.1502 Vehicle tax and fee exemptions.
257.1503 Registration required; exemption.
257.1503a Special events; registration.
257.1504 Triennial registration; application; fee; certificate.
257.1505 Registration number; attachment; renewal; expiration.
257.1506 Notice of destruction, abandonment, sale, or change of address; transfer; fee; duplicate, fee.
257.1507 Manufacturers and dealers; testing and demonstration, certificates; fee.
257.1508 Awarding of certificate of number; public record.
257.1509 Dealers; duties; insurance.
257.1510 Foreign registration; use of vehicle.
257.1511 Revenues; disposition; appropriations.
257.1512 Operation of snowmobile; prohibition, exception.
257.1513 Lights and brakes.
257.1514 Local ordinances.
257.1515 Operation of snowmobile; acts prohibited.
257.1516 Accidents.
257.1517 Violation of act; misdemeanor.
257.1517a Violations; appearance tickets, issuance.
257.1518 Effective date of act.

Act 300, 1949, p. 515; Eff. Sep. 23.

AN ACT to provide for the registration, titling, sale and transfer, and regulation of vehicles operated upon the public highways of this state; to provide for the licensing of vehicle dealers and wreckers; to provide for the examination, licensing and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees and permit fees; to provide for the regulation and use of streets and highways; to provide penalties for violation of any of the provisions of this act; to provide for civil liability of owners and operators of vehicles and service of

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process on nonresidents; and to repeal all other acts or parts of acts inconsistent herewith or contrary hereto. Am. 1957, p. 390, Act 281, Eff. Sep. 27.

The People of the State of Michigan enact:

CHAPTER I.

WORDS AND PHRASES DEFINED

257.1 Michigan vehicle code; words and phrases defined.

Sec. 1. The following words and phrases as defined in this chapter and as herein enumerated when used in this act shall, for the purpose of this act, have the meanings respectively ascribed to them in this chapter.

HISTORY: New 1949, p. 515, Act 300, Eff. Sep. 23.

CITED IN OTHER SECTIONS: Sections 257.1 to 257.923 are cited in §§ 16.338, 24.205, 41.181, 125.1002, 125.1041, 257.1502, 259.107, 493.13, 600.8511, 691.1405, 712A.2b, 768.22, and 774.4.

257.1a Accessory; definition.

Sec. 1a. "Accessory" means any accessory, equipment, additional part or replacement part for a vehicle for which a certificate of title is required to be issued under this act.

HISTORY: Add. 1964, p. 356, Act 248, Eff. Jan. 1, 1965.

257.2 Authorized emergency vehicle; definition.

Sec. 2. "Authorized emergency vehicle" means vehicles of the fire department, police vehicles, ambulances, emergency vehicles of governmental departments, or such vehicles of public service corporations and privately owned motor vehicles of volunteer and paid firemen as are authorized by the commissioner.

HISTORY: New 1949, p. 515, Act 300, Eff. Sep. 23;—Am. 1956, p. 16, Act 11, Imd. Eff. Mar. 9.

257.3 Axle; definition.

Sec. 3. "Axle" means the common axis of rotation of 1 or more wheels whether power driven or freely rotating, and whether in 1 or more segments and regardless of the number of wheels carried thereon.

HISTORY: New 1949, p. 515, Act 300, Eff. Sep. 23.

257.4 Bicycle; definition.

Sec. 4. "Bicycle" means every device propelled by human power upon which any person may ride, having 2 tandem wheels either of which is over 20 inches in diameter.

HISTORY: New 1949, p. 515, Act 300, Eff. Sep. 23.

257.4a Birthday; definition.

Sec. 4a. "Birthday" shall mean any anniversary of the original date of birth, and all persons born on February 29 shall be deemed, for the purposes of this act, to have been born on March 1.

HISTORY: Add. 1953, p. 322, Act 215, Eff. Oct. 2.

257.4b Bus; definition.

Sec. 4b "Bus" means a motor vehicle designed for carrying more than 10 passengers and used for the transportation of persons; and a motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation. It does not include a school bus or a bus equipped and used for living or camping purposes.

HISTORY: Add. 1964, p. 88, Act 89, Eff. Aug. 28.

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257.5 Business district; definition.

Sec. 5. "Business district" means the territory contiguous to a highway when 50 per cent or more of the frontage thereon for a distance of 300 feet or more is occupied by buildings in use for business.

HISTORY: New 1949, p. 515, Act 300, Eff. Sep. 23.

257.5a Cancellation; definition.

Sec. 5a. "Cancellation" means that a license or registration is annulled and terminated because of some error or defect or because the licensee or registrant is no longer entitled to such license or registration, but the cancellation of a license or registration is without prejudice and application for a new license or registration may be made at any time after such cancellation.

HISTORY: Add. 1951, p. 462, Act 270, Eff. Sep. 28.

257.6 Chauffeur; definition.

Sec. 6. "Chauffeur" means every person who is employed for the principal purpose of operating a motor vehicle and every person who drives a motor vehicle while in use as a public or common carrier of persons or property. A person shall be deemed to be employed for the principal purpose of operating a motor vehicle when such employment customarily involves the necessary use of a motor vehicle for hire or transporting passengers for hire, or transporting for gain or hire any merchandise for display, sale or delivery: Provided, That a farmer or an employee of such farmer operating a vehicle exclusively in connection with the farming operations of such farmer shall not be deemed a chauffeur.

HISTORY: New 1949, p. 515, Act 300, Eff. Sep. 23.

257.7 Commercial vehicle; definition.

Sec. 7. "Commercial vehicle" includes all motor vehicles used for the transportation of passengers for hire, or constructed or used for transportation of goods, wares or merchandise, and/or all motor vehicles designed and used for drawing other vehicles and not so constructed as to carry any load thereon either independently or any part of the weight of a vehicle or load so drawn.

HISTORY: New 1949, p. 515, Act 300, Eff. Sep. 23.

257.8 Commissioner; definition.

Sec. 8. "Commissioner" means the commissioner of Michigan state police of this state, acting directly or through his duly authorized officers, agents and employees.

HISTORY: New 1949, p. 516, Act 300, Eff. Sep. 23.

257.8a Conviction; definition.

Sec. 8a. "Conviction" means a final conviction, the payment of a fine, a plea of guilty or a finding of guilt on a traffic law violation charge, regardless of whether the penalty is rebated or suspended.

HISTORY: Add. 1967, p. 331, Act 226, Eff. Nov. 2.

257.9 County jail; definition.

Sec. 9. "County jail" as referred to in this act shall be construed to mean the county jail of any county where the violation of any of the provisions of this act occur, and the Detroit house of correction.

HISTORY: New 1949, p. 516, Act 300, Eff. Sep. 23.

257.10 Cross-walk; definition.

Sec. 10. "Cross-walk" means: (a) That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs, or in the absence of curbs from the edges of the traversable highway.

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(b) Any portion of a highway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

HISTORY: New 1949, p. 516, Act 300, Eff. Sep. 23.

257.11 Dealer; definition.

Sec. 11. "Dealer" means every person engaged in the business of purchasing, selling, exchanging or dealing in vehicles of a type required to be registered hereunder or parts thereof, and every person who negotiates the purchase, sale, deal or exchange of such vehicles and who has an established place of business for such purposes in this state.

HISTORY: New 1949, p. 516, Act 300, Eff. Sep. 23.

257.12 Department; definition.

Sec. 12. "Department" means the division of driver and vehicle services created in the office of the secretary of state by the provisions of this act, acting directly or through duly authorized agents and employees.

HISTORY: New 1949, p. 516, Act 300, Eff. Sep. 23;—Am. 1953, p. 323, Act 215, Eff. Oct. 2.

257.13 Driver; definition.

Sec. 13. "Driver" means every person who drives or is in actual physical control of a vehicle.

HISTORY: New 1949, p. 516, Act 300, Eff. Sep. 23.

257.13a Elected gross weight; definition.

Sec. 13a. Elected gross weight means the empty weight of a vehicle or combination of vehicles, fully equipped for service, plus the weight of the maximum load which the owner has elected to carry on such vehicle or combination of vehicles.

HISTORY: Add. 1967, 1st Ex. Ses., p. 732, Act 3, Imd. Eff. Nov. 15.

257.13b Empty weight; definition.

Sec. 13b. Empty weight means the shipping weight of a vehicle as furnished by the manufacturer or in lieu thereof, the scale weight taken from a weight receipt furnished by the weighmaster operating scales approved and sealed by the state department of agriculture. For commercial vehicles empty weight shall also mean fully equipped for the use for which the vehicle is intended.

HISTORY: Add. 1967, 1st Ex. Ses., p. 732, Act 3, Imd. Eff. Nov. 15.

257.14 Established place of business; definition.

Sec. 14. "Established place of business" means the place actually occupied either continuously or at regular periods by a dealer or manufacturer where his books and records are kept and a large share of his business transacted.

HISTORY: New 1949, p. 516, Act 300, Eff. Sep. 23.

257.15 Explosives; definition.

Sec. 15. "Explosives" means any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustive units or other ingredients in such proportions, quantities, or packing that an ignition by fire, friction, by concussion, by percussion, or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructible effects on contiguous objects or of destroying life or limb.

HISTORY: New 1949, p. 516, Act 300, Eff. Sep. 23.

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257.16 Farm tractor; definition.

Sec. 16. "Farm tractor" means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

HISTORY: New 1949, p. 516, Act 300, Eff. Sep. 23.

257.17 Flammable liquid; definition.

Sec. 17. "Flammable liquid" means any liquid which has a flash point of 70° F., or less, as determined by a tagliabue or equivalent closed-cup test device.

HISTORY: New 1949, p. 516, Act 300, Eff. Sep. 23.

257.18 Foreign vehicle; definition.

Sec. 18. "Foreign vehicle" means every vehicle of a type required to be registered hereunder brought into this state from another state, territory, or country other than in the ordinary course of business by or through a manufacturer or dealer and not registered in this state.

HISTORY: New 1949, p. 516, Act 300, Eff. Sep. 23.

257.18a Freeway; definition.

Sec. 18a. "Freeway" means a divided arterial highway for through traffic with full control of access and with all crossroads separated in grade from pavements for through traffic.

HISTORY: Add. 1961, p. 236, Act 164, Eff. Sep. 8.

257.19 Gross weight; definition.

Sec. 19. "Gross weight" means the weight of a vehicle without load plus the weight of any load thereon.

HISTORY: New 1949, p. 517, Act 300, Eff. Sep. 23.

257.20 Highway or street; definition.

Sec. 20. "Highway or street" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

HISTORY: New 1949, p. 517, Act 300, Eff. Sep. 23.

257.21 Implement of husbandry; definition.

Sec. 21. "Implement of husbandry" means every vehicle which is designed for agricultural purposes and used exclusively in agricultural operations. The transportation of seeds, fertilizers or sprays between a place of storage or supply and farms in a trailer which materials will be used to plant, fertilize or spray is an agricultural operation.

HISTORY: New 1949, p. 517, Act 300, Eff. Sep. 23;—Am. 1984, p. 19, Act 13, Imd. Eff. Mar. 25;—Am. 1987, p. 112, Act 93, Imd. Eff. Jun. 21.

257.22 Intersection; definition.

Sec. 22. "Intersection" means: (a) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of 2 highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

(b) Where a highway includes 2 roadways 30 feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes 2 roadways 30 feet or more apart, then every crossing of 2 roadways of such highways shall be regarded as a separate intersection.

HISTORY: New 1949, p. 517, Act 300, Eff. Sep. 23.

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257.23 Judgment; definition.

Sec. 23. "Judgment" means any judgment which shall become final by expiration without appeal of the time within which an appeal might have been perfected, or by final affirmation on appeal, rendered by a court of competent jurisdiction of any state or of the United States, upon a cause of action arising out of the ownership, maintenance, or use of any motor vehicle, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, or upon a cause of action on an agreement of settlement for such damages.

HISTORY: New 1949, p. 517, Act 300, Eff. Sep. 23.

257.24 Laned roadway; definition.

Sec. 24. "Laned roadway" means a roadway which is divided into 2 or more clearly marked lanes for vehicular traffic.

HISTORY: New 1949, p. 517, Act 300, Eff. Sep. 23.

257.25 License; definition.

Sec. 25. "License" means any driving privileges, license, temporary instruction permit, or temporary license issued under the laws of this state pertaining to the licensing of persons to operate motor vehicles.

HISTORY: New 1949, p. 517, Act 300, Eff. Sep. 23;—Am. 1966, p. 332, Act 247, Eff. Mar. 10, 1967.

257.26 Limited access highway; definition.

Sec. 26. "Limited access highway" means every highway, street, or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only, and in such manner as may be determined by the public authority having jurisdiction over such highway, street or roadway.

HISTORY: New 1949, p. 517, Act 300, Eff. Sep. 23.

257.27 Local authorities; definition.

Sec. 27. "Local authorities" means every municipal and other local board or body having authority to enact laws relating to traffic under the constitution and laws of this state.

HISTORY: New 1949, p. 517, Act 300, Eff. Sep. 23.

257.28 Manufacturer; definition.

Sec. 28. "Manufacturer" means a person, firm, corporation or association engaged in the manufacture of new motor vehicles, trailers or trailer coaches or semi-trailers, as a regular business.

HISTORY: New 1949, p. 517, Act 300, Eff. Sep. 23.

257.29 Maximum axle load; definition.

Sec. 29. "Maximum axle load" means the gross weight over the axle which includes vehicles and load.

HISTORY: New 1949, p. 518, Act 300, Eff. Sep. 23.

257.30 Metal tire; definition.

Sec. 30. "Metal tire" means every tire the surface of which in contact with the highway is wholly or partly of metal or other hard, non-resilient material.

HISTORY: New 1949, p. 518, Act 300, Eff. Sep. 23.

257.30a Mobile home; definition.

Sec. 30a. "Mobile home" means a vehicle which can be drawn on a highway and is used exclusively for residential or camping purposes.

HISTORY: Add. 1957, p. 392, Act 282, Imd. Eff. Jun. 13.

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257.31 Motorcycle; definition.

Sec. 31. "Motorcycle" means every motor vehicle having a saddle or seat for the use of the rider and designed to travel on not more than 3 wheels in contact with the ground but excluding a tractor.

HISTORY: New 1949, p. 518, Act 300, Eff. Sep. 23.

257.32 Motor driven cycle; definition.

Sec. 32. "Motor driven cycle" means every motorcycle, with a motor that produces less than 5 gross brake horsepower, every motor scooter and every bicycle with motor attached, except a motorized wheelchair or other similar vehicle not exceeding 1,000 pounds gross weight operated by a physically afflicted or disabled person and except pedal bicycles with helper motors that produce less than 1 brake horsepower when used by a physically handicapped or recuperating person.

HISTORY: New 1949, p. 518, Act 300, Eff. Sep. 23;—Am. 1969, p. 276, Act 134, Imd. Eff. Jul. 31.

257.33 Motor vehicle; definition.

Sec. 33. "Motor vehicle" means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from over-head trolley wires, but not operated upon rails.

HISTORY: New 1949, p. 518, Act 300, Eff. Sep. 23.

CITED IN OTHER SECTIONS: The above section is cited in § 207.101.

257.34 Nonresident; definition.

Sec. 34. "Nonresident" means every person who is not a resident of this state.

HISTORY: New 1949, p. 518, Act 300, Eff. Sep. 23.

257.35 Nonresident operating privilege; definition.

Sec. 35. "Nonresident operating privilege" means the privilege conferred upon a nonresident by the laws of this state pertaining to the operation by him of a motor vehicle, or the use of a motor vehicle owned by him, in this state.

HISTORY: New 1949, p. 518, Act 300, Eff. Sep. 23.

257.36 Operator; definition.

Sec. 36. "Operator" means every person, other than a chauffeur, who is in actual physical control of a motor vehicle upon a highway.

HISTORY: New 1949, p. 518, Act 300, Eff. Sep. 23.

257.36a Owner-operator; definition.

Sec. 36a. "Owner-operator" means an individual who holds the legal title of a commercial vehicle and who leases the commercial vehicle under a lease or arrangement whereby the individual is employed by the lessee to operate the leased vehicle.

HISTORY: Add. 1969, p. 593, Act 309, Imd. Eff. Aug. 14.

257.37 Owner; definition.

Sec. 37. "Owner" means: (a) Any person, firm, association or corporation renting a motor vehicle or having the exclusive use thereof, under a lease or otherwise, for a period of greater than 30 days.

(b) A person who holds the legal title of a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner.

HISTORY: New 1949, p. 518, Act 300, Eff. Sep. 23.

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257.38 Parking; definition.

Sec. 38. "Parking" means standing a vehicle, whether occupied or not, upon a highway, when not loading or unloading except when making necessary repairs.

HISTORY: New 1949, p. 518, Act 300, Eff. Sep. 23.

257.39 Pedestrian; definition.

Sec. 39. "Pedestrian" means any person afoot.

HISTORY: New 1949, p. 518, Act 300, Eff. Sep. 23.

257.40 Person; definition.

Sec. 40. "Person" means every natural person, firm, copartnership, association, or corporation and their legal successors.

HISTORY: New 1949, p. 518, Act 300, Eff. Sep. 23.

257.41 Pole-trailer; definition.

Sec. 41. "Pole-trailer" means every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregular shaped loads such as poles, pipes or structural members capable, generally, of sustaining themselves as beams between the supporting connections.

HISTORY: New 1949, p. 518, Act 300, Eff. Sep. 23.

257.42 Police officer; definition.

Sec. 42. "Police officer" means every sheriff or his deputies, village marshal, officer of the police department of any incorporated city or village, and officer of the Michigan state police.

HISTORY: New 1949, p. 519, Act 300, Eff. Sep. 23.

257.43 Police station; definition.

Sec. 43. "Police station" means every county jail, every police station in any incorporated city or village, and the headquarters and every regular sub-post of the Michigan state police.

HISTORY: New 1949, p. 519, Act 300, Eff. Sep. 23.

257.44 Private road or driveway; definition.

Sec. 44. "Private road or driveway" means every road or driveway not open to the use of the public for purposes of vehicular traffic.

HISTORY: New 1949, p. 519, Act 300, Eff. Sep. 23.

257.45 Proof of financial responsibility; definition.

Sec. 45. "Proof of financial responsibility" means proof of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of said proof, arising out of the ownership, maintenance, or use of a motor vehicle, in the amount of $10,000.00 because of bodily injury to or death of 1 person in any 1 accident, and, subject to said limit for 1 person, in the amount of $20,000.00 because of bodily injury to or death of 2 or more persons in any 1 accident, and in the amount of $5,000.00 because of injury to or destruction of property of others in any 1 accident.

HISTORY: New 1949, p. 519, Act 300, Eff. Sep. 23;—Am. 1958, p. 166, Act 155, Eff. Sep. 13.

257.46 Railroad; definition.

Sec. 46. "Railroad" means a carrier of persons or property upon cars, other than street cars, operated upon stationary rails.

HISTORY: New 1949, p. 519, Act 300, Eff. Sep. 23.

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257.47 Railroad sign or signal; definition.

Sec. 47. "Railroad sign or signal" means any sign, signal, or device erected by authority of a statute or public body or official and intended to give notice of the presence of railroad tracks or structures or the approach of a railroad train.

HISTORY: New 1949, p. 519, Act 300, Eff. Sep. 23;—Am. 1958, p. 107, Act 98, Eff. Sep. 13.

257.48 Railroad track; definition.

Sec. 48. "Railroad track" means every pair or group of pairs, as the case may be, of any railroad or traction company, except municipal street car companies.

HISTORY: New 1949, p. 519, Act 300, Eff. Sep. 23.

257.49 Railroad train; definition.

Sec. 49. "Railroad train" means a steam engine, electric or other motor with or without cars coupled thereto, operated upon rails, except street cars.

HISTORY: New 1949, p. 519, Act 300, Eff. Sep. 23.

257.50 Registration; definition.

Sec. 50. "Registration" means registration certificate or certificates and registration plates issued under the laws of this state pertaining to the registration of motor vehicles.

HISTORY: New 1949, p. 519, Act 300, Eff. Sep. 23.

257.51 Residence district; definition.

Sec. 51. "Residence district" means the territory contiguous to a highway not comprising a business district when the frontage on such highway for a distance of 300 feet or more is mainly occupied by dwellings or by dwellings and buildings in use for business.

HISTORY: New 1949, p. 519, Act 300, Eff. Sep. 23.

257.51a Resident; definition.

Sec. 51a. "Resident" means every person who resides in a settled or permanent home or domicile with the intention of remaining in this state. A person who obtains employment in this state is presumed to have the intention of remaining in this state. This definition shall apply to the provisions of this act only.

HISTORY: Add. 1968, p. 159, Act 106, Imd. Eff. Jun. 7.

257.52 Revocation; definition.

Sec. 52. "Revocation" means that the driver's license and privilege to drive a motor vehicle on the public highways are terminated and shall not be renewed or restored, except that an application for a new license may be presented and acted upon by the department after the expiration of at least 1 year after the date of revocation.

HISTORY: New 1949, p. 519, Act 300, Eff. Sep. 23.

257.53 Right of way; definition.

Sec. 53. "Right-of-way" means the privilege of the immediate use of the highway.

HISTORY: New 1949, p. 519, Act 300, Eff. Sep. 23.

257.54 Road tractor; definition.

Sec. 54. "Road tractor" means every motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon either independently or any part of the weight of the vehicle or load so drawn.

HISTORY: New 1949, p. 520, Act 300, Eff. Sep. 23.

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257.55 Roadway; definition.

Sec. 55. "Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel. In the event a highway includes 2 or more separate roadways, the term "roadway", as used herein, shall refer to any such roadway separately, but not to all such roadways collectively.

HISTORY: New 1949, p. 520, Act 300, Eff. Sep. 23.

CITED IN OTHER SECTIONS: The above section is cited in § 257.1512.

257.56 Safety zone; definition.

Sec. 56. "Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected and so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

HISTORY: New 1949, p. 520, Act 300, Eff. Sep. 23.

257.57 School bus; definition.

Sec. 57. "School bus" means every motor vehicle, except station wagons, with a manufacturers' rated seating capacity of 8 or more children owned by a public, private or governmental agency and operated for the transportation of children to or from school, or privately owned and operated for compensation for the transportation of children to or from school: Provided, That the term school bus shall not include buses operated by a municipally owned transportation system or by a common passenger carrier certificated by the public service commission.

HISTORY: New 1949, p. 520, Act 300, Eff. Sep. 23;—Am. 1964, p. 28, Act 22, Eff. Aug. 28.

257.58 Secretary of state; definition.

Sec. 58. "Secretary of state" means the secretary of state of this state, acting directly or through his duly authorized deputy, investigators, agents and employees.

HISTORY: New 1949, p. 520, Act 300, Eff. Sep. 23.

257.58b Security interest, security agreement, secured party, debtor, financing statement and termination statement; definitions.

Sec. 58b. "Security interest", "security agreement", "secured party", "debtor", "financing statement" and "termination statement" as used in this act have the same meanings as are defined therefor in Act No. 174 of the Public Acts of 1962, as amended, being sections 440.1101 to 440.9994 of the Compiled Laws of 1948.

HISTORY: Add. 1964, p. 356, Act 248, Eff. Jan. 1, 1965.

257.59 Semi-trailer; definition.

Sec. 59. "Semi-trailer" means every vehicle with or without motive power, other than a pole-trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.

HISTORY: New 1949, p. 520, Act 300, Eff. Sep. 23.

257.60 Sidewalk; definition.

Sec. 60. "Sidewalk" means that portion of a street between the curb lines, or the lateral lines of roadway, and the adjacent property lines intended for the use of pedestrians.

HISTORY: New 1949, p. 520, Act 300, Eff. Sep. 23.

257.61 Spacing between axles; definition.

Sec. 61. "Spacings between axles" means the distance from axle center to axle center.

HISTORY: New 1949, p. 520, Act 300, Eff. Sep. 23.

257.62 Special mobile equipment; definition.

Sec. 62. "Special mobile equipment" means every vehicle not designed or used primarily for the transportation of persons or property and incidentally operated or

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moved over the highways, including farm tractors, road construction or maintenance machinery, mobile office trailers, mobile tool shed trailers, mobile trailer units used for housing stationary construction equipment, ditch-digging apparatus, well-boring and well-servicing apparatus. The foregoing enumeration shall be deemed partial and shall not operate to exclude other such vehicles which are within the general terms of this definition.

HISTORY: New 1949, p. 520, Act 300, Eff. Sep. 23;—Am. 1962, p. 54, Act 66, Imd. Eff. Apr. 23.

257.63 Street car; definition.

Sec. 63. "Street car" means a car other than a railroad train for transporting persons or property and operated upon rails principally within a municipality.

HISTORY: New 1949, p. 520, Act 300, Eff. Sep. 23.

257.64 Street or highway; definition.

Sec. 64. "Street or highway" means the entire width between boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

HISTORY: New 1949, p. 520, Act 300, Eff. Sep. 23.

257.65 State; definition.

Sec. 65. "State" means any state, territory, or possession of the United States, the District of Columbia, or any province of the Dominion of Canada.

HISTORY: New 1949, p. 520, Act 300, Eff. Sep. 23.

257.66 Suspension; definition.

Sec. 66. "Suspension" means that the driver's license and privilege to drive a motor vehicle on the public highways are temporarily withdrawn but only during the period of such suspension.

HISTORY: New 1949, p. 521, Act 300, Eff. Sep. 23.

257.67 Tandem axle; definition.

Sec. 67. "Tandem axle" means 2 axles spaced more than 3 feet 6 inches and less than 9 feet apart.

HISTORY: New 1949, p. 521, Act 300, Eff. Sep. 23.

257.67a Tandem axle assembly; definition.

Sec. 67a. "Tandem axle assembly" means 2 axles spaced more than 3 feet 6 inches and less than 9 feet apart, 1 axle in front of the other and so attached to the vehicle wherein an attempt is made by connecting mechanism to distribute the weight equally between the 2 axles.

HISTORY: Add. 1967, p. 539, Act 277, Eff. Nov. 2.

257.68 Through highway; definition.

Sec. 68. "Through highway" means every state trunk line highway, or, any other highway at the entrance to which vehicular traffic from intersecting highways is required by law to stop before entering or crossing the same.

HISTORY: New 1949, p. 521, Act 300, Eff. Sep. 23.

257.69 Traffic; definition.

Sec. 69. "Traffic" means pedestrians, ridden or herded animals, vehicles, street cars and other conveyances either singly or together while using any highway for purposes of travel.

HISTORY: New 1949, p. 521, Act 300, Eff. Sep. 23.

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257.70 Traffic control devices; definition.

Sec. 70. "Traffic control devices" means all signs, signals, markings, and devices not inconsistent with this act placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic.

HISTORY: New 1949, p. 521, Act 300, Eff. Sep. 23.

257.71 Traffic control order; definition.

Sec. 71. "Traffic control order" means an order officially establishing the location of traffic control devices and traffic control signals on the highways of this state by the authority having jurisdiction over such highway and filed with the county clerk of the county traversed by such highway. A certified copy thereof shall be prima facie evidence in all courts of the issuance of such order.

HISTORY: New 1949, p. 521, Act 300, Eff. Sep. 23.

257.72 Traffic control signal; definition.

Sec. 72. "Traffic control signal" means any device whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to proceed.

HISTORY: New 1949, p. 521, Act 300, Eff. Sep. 23.

257.73 Trailer; definition.

Sec. 73. "Trailer" means every vehicle with or without motive power, other than a pole-trailer, designed for carrying property or persons and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.

HISTORY: New 1949, p. 521, Act 300, Eff. Sep. 23.

257.74 Trailer coach; definition.

Sec. 74. "Trailer coach" means every vehicle designed or used for dwelling or camping purposes or exclusively for camp living and drawn behind a motor vehicle.

HISTORY: New 1949, p. 521, Act 300, Eff. Sep. 23;—Am. 1951, p. 428, Act 262, Eff. Sep. 28.

257.75 Truck; definition.

Sec. 75. "Truck" means every motor vehicle designed, used, or maintained primarily for the transportation of property.

HISTORY: New 1949, p. 521, Act 300, Eff. Sep. 23.

257.76 Transporter; definition.

Sec. 76. "Transporter" means every person engaged in the business of delivering vehicles of a type required to be registered hereunder from a manufacturing, assembling or distributing plant to dealers or sales agents of a manufacturer, and every person certificated by the Michigan public service commission to engage in the business of moving trailer coaches or mobile homes. This section shall not affect duly authorized permit holders.

HISTORY: New 1949, p. 521, Act 300, Eff. Sep. 23;—Am. 1961, p. 5, Act 4, Imd. Eff. Mar. 27.

257.77 Truck tractor; definition.

Sec. 77. "Truck tractor" means every motor vehicle designed and used primarily for drawing other vehicles, and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

HISTORY: New 1949, p. 521, Act 300, Eff. Sep. 23.

257.78 Used or second-hand vehicle; definition.

Sec. 78. "Used or second-hand vehicle" means any motor vehicle to which a certificate of title and license plates have been issued and which motor vehicle has been registered for use on the highways by a consumer or by a dealer.

HISTORY: New 1949, p. 521, Act 300, Eff. Sep. 23;—Am. 1951, p. 349, Act 238, Eff. Sep. 28.

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257.79 Vehicle; definition.

Sec. 79. "Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

HISTORY: New 1949, p. 522, Act 300, Eff. Sep. 23.

257.80 Tenses; definition.

Sec. 80. The present tense includes the past and future tenses; and the future, the present.

HISTORY: New 1949, p. 522, Act 300, Eff. Sep. 23.

257.81 Number and gender; definitions.

Sec. 81. The singular shall include the plural and the plural shall include the singular; the masculine shall include the feminine and neuter, as requisite.

HISTORY: New 1949, p. 522, Act 300, Eff. Sep. 23.

257.82 Shall and may; definitions.

Sec. 82. "Shall" and "may" means shall is mandatory and may is permissive.

HISTORY: New 1949, p. 522, Act 300, Eff. Sep. 23.

CHAPTER II.

ADMINISTRATION, REGISTRATION, CERTIFICATE OF TITLE AND ANTI-THEFT

257.201 Division; definition.

Sec. 201. "Division" shall mean the division of driver and vehicle services as created in the office of the secretary of state by section 202, below, of this act. Whenever in this act reference is made to "department", such reference shall be deemed intended to be made to the division created by said section.

HISTORY: New 1949, p. 522, Act 300, Eff. Sep. 23;—Am. 1953, p. 323, Act 215, Eff. Oct. 2.

257.202 Division of driver and vehicle services; creation, purpose, organization.

Sec. 202. There is hereby created in the office of the secretary of state a division of driver and vehicle services to be the exclusive state agency for the administration of the driver license provisions of this act, except as otherwise expressly provided in any other section of this act. The secretary of state shall direct the organization of the division in such manner as he may deem necessary and proper to segregate and conduct the work of the division.

HISTORY: New 1949, p. 522, Act 300, Eff. Sep. 23;—Am. 1953, p. 323, Act 215, Eff. Oct. 2.

257.203 Division of driver and vehicle services; director, duties; deputies, officers, clerks, investigators, appointment.

Sec. 203. Subject to the civil service laws of this state, the secretary of state shall appoint a director of the division of driver and vehicle services who shall, under the general supervision of the secretary of state, perform the duties of the secretary of state as provided in section 204 of this act. Subject to the civil service laws of this state, the secretary of state shall appoint such deputies, subordinate officers, clerks, investigators and other employees as may be necessary to carry out the provisions of this act.

HISTORY: New 1949, p. 522, Act 300, Eff. Sep. 23;—Am. 1953, p. 323, Act 215, Eff. Oct. 2.

257.203a Commissioner deemed director; functions, duties, and responsibilities not altered.

Sec. 203a. Whenever in chapter 3 of this act, being sections 301 to 327, inclusive, of this act, any reference is made to "commissioner", such reference shall be deemed intended to be made to the director of the division of driver and vehicle services appointed under the provisions of section 203, above, of this act. Except as otherwise ex-

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pressly provided in sections 201 to 203a, inclusive, of this act, nothing in said sections shall be construed to alter, modify or amend the functions, duties and responsibilities imposed under the provisions of this act on any elected or appointed state or local officials.

HISTORY: Add. 1953, p. 323, Act 215, Eff. Oct. 2.

257.204 Enforcement of act; rules and regulations; seal.

Sec. 204. (a) The secretary of state, acting through his authorized agent or the director appointed under the provisions of section 203, is vested with the power and is charged with the duty of observing, administering and enforcing the provisions of this chapter and chapter 3 of this act and is charged with the duty of observing and administering other remaining provisions of this act, except as some other state agency otherwise named in this act or any other law of this state may be charged with the duty of observing, administering and enforcing certain provisions of this act. This provision shall not be construed to permit the secretary of state to establish a highway patrol.

(b) The secretary of state may adopt and enforce such rules and regulations as may be necessary to carry out the provisions of this act.

(c) The secretary of state may adopt an official seal for the use of the division.

HISTORY: New 1949, p. 522, Act 300, Eff. Sep. 23;—Am. 1953, p. 323, Act 215, Eff. Oct. 2;—Am. 1966, p. 333, Act 247, Eff. Mar. 10, 1967.

257.204a Central file of licensees; creation and maintenance, contents, evidence.

Sec. 204a. The director of the division of driver and vehicle services shall create and maintain a central file of the names of all persons licensed as operators or chauffeurs under the provisions of chapter 3, which central file shall be so created and maintained as to provide an individual historical driving record for each person so licensed with respect to accidents in which he is involved, moving violations of which he is convicted, revocations and suspensions of his operating privilege under the provisions of this act. A certified copy of any order, record or paper maintained in this file is admissible in evidence in like manner as the original and is prima facie proof of the facts stated therein.

HISTORY: Add. 1953, p. 323, Act 215, Eff. Oct. 2;—Am. 1968, p. 478, Act 278, Imd. Eff. Jul. 1.

257.205 Office and branches.

Sec. 205. (a) The secretary of state shall maintain an office in the state capitol complex, and in such other places in the state as he may deem necessary to carry out the powers and duties vested in the department. At least 1 such office shall be established in every county of the state and in every city of the state not within a radius of 5 miles from each such office location having a population of not less than 10,000 inhabitants. This shall not apply in counties having a population of more than 300,000, or to contiguous cities having a combined population of not less than 10,000. No person who is presently licensed under section 248, shall be eligible for appointment to conduct, manage or be an employee of a branch or fee office of the secretary of state.

(b) A bond may be required of any person in such office and in such amount as the secretary of state may prescribe to cover the safe handling of any and all moneys received hereunder. The secretary of state shall not be held personally liable for any loss of moneys because of armed robbery, larceny, embezzlement, riot, act of God or other acts of any person resulting in a loss of money which is within the authority and responsibility of the secretary of state as the administrator of this act.

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(c) Any person appointed to conduct a branch office shall receive such compensation as the secretary of state may fix, and necessary expenses of the office, which compensation and expenses shall be paid out of the motor vehicle highway fund and shall be deducted from said fund before the same is certified to the state treasurer.

HISTORY: New 1949, p. 522, Act 300, Eff. Sep. 23;—Am. 1961, p. 351, Act 210, Eff. Sep. 8;—Am. 1969, p. 93, Act 47, Imd. Eff. Jul. 17;—Am. 1970, p. 532, Act 177, Imd. Eff. Aug. 3.

257.206 Forms.

Sec. 206. The secretary of state may prescribe and provide suitable forms of applications, certificates of title, registration certificates, operators' and chauffeurs' licenses, and all other forms requisite or deemed necessary to carry out the provisions of this act, the enforcement and administration of which are vested in the department.

HISTORY: New 1949, p. 523, Act 300, Eff. Sep. 23.

257.207 Oaths; acknowledgment; certified copies of records, fees, evidence.

Sec. 207. (a) Officers and employees of the department designated by the secretary of state for the purpose of administering the motor vehicle laws, shall administer oaths and acknowledge signatures without fee.

(b) The secretary of state and such officers of the department as he may designate are authorized to prepare under the seal of the department and deliver upon request a certified copy of any record of the department maintained by virtue of this act, charging a fee therefor as hereinafter provided, and every such certified copy shall be admissible in any proceeding in any court in like manner as the original thereof and shall be prima facie proof of the facts stated therein.

HISTORY: New 1949, p. 523, Act 300, Eff. Sep. 23;—Am. 1968, p. 478, Act 278, Imd. Eff. Jul. 1.

257.208 Records; inspection, destruction.

Sec. 208. (a) All records of the department, other than those declared by law to be confidential for the use of the department, shall be open to public inspection under such rules and regulations as the secretary of state may prescribe.

(b) The secretary of state may destroy any records of the department which have been maintained on file for 7 years, including the information contained in the central file maintained under section 204a, except those records of convictions of any offense for which points are provided under section 320a (1), (a), (b), (c) and (d), and except as otherwise specified herein, which he may deem obsolete and of no further service in carrying out the powers and duties of the department.

HISTORY: New 1949, p. 523, Act 300, Eff. Sep. 23;—Am. 1966, p. 333, Act 247, Eff. Mar. 10, 1967.

257.209 Application for registration; certificate of title; operator's or other license, investigation.

Sec. 209. The department shall examine and determine the genuineness, regularity, and legality of every application for registration of a vehicle, for a certificate of title therefor, and for an operator's or chauffeur's license and of any other application lawfully made to the department, and may in all cases make investigation as may be deemed necessary or require additional information, and shall reject any such application if not satisfied of the genuineness, regularity, or legality thereof or the truth of any statement contained therein, or for any other reason, when authorized by law.

HISTORY: New 1949, p. 523, Act 300, Eff. Sep. 23.

257.210 Title, registration certificate, permit, license or plate; seizure; possession and custody of plate; security interest.

Sec. 210. The department is hereby authorized to take possession of any certificate of title, registration certificate, permit, license or registration plate issued by it upon expiration, revocation, cancellation or suspension thereof, or which is fictitious, or which has been unlawfully or erroneously issued, and the department or any agent

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thereof is authorized to take possession and custody of any registration plate found attached to any motor vehicle for which it was not issued, or when any other unlawful use is being made thereof. Expiration, revocation, cancellation or suspension of a certificate of title does not, in itself, affect the validity of a security interest noted on it.

HISTORY: New 1949, p. 523, Act 300, Eff. Sep. 23;—Am. 1951, p. 462, Act 270, Eff. Sep. 28;—Am. 1964, p. 356, Act 248, Eff. Jan. 1, 1965.

257.211 Vehicle operation laws; publication, distribution.

Sec. 211. The department may publish a synopsis or summary of the laws of this state regulating the operation of vehicles and may deliver a copy thereof without charge with each original vehicle registration and with each original operator's or chauffeur's license and to such others as the secretary of state may deem necessary to effectively carry out the provisions of this act.

HISTORY: New 1949, p. 523, Act 300, Eff. Sep. 23.

257.212 Notice; giving, mail, proof.

Sec. 212. Whenever the department is authorized or required to give any notice under this act or other law regulating the operation of vehicles, unless a different method of giving such notice is otherwise expressly prescribed, such notice shall be given either by personal delivery thereof to the person to be so notified or by deposit in the United States mail of such notice in an envelope with first class postage prepaid, addressed to such person at his address as shown by the records of the department. The giving of notice by mail is complete upon the expiration of 5 days after such deposit of said notice. Proof of the giving of notice in either such manner may be made by the certificate of any officer or employee of the department or affidavit of any person over 18 years of age, naming the person to whom such notice was given and specifying the time, place, and manner of the giving thereof.

HISTORY: New 1949, p. 524, Act 300, Eff. Sep. 23.

257.213 Officers and investigators; powers.

Sec. 213. The secretary of state and such officers and investigators of the department as he shall designate shall have the power:

Inspection to locate stolen vehicles.

1. To inspect any vehicle of a type required to be registered hereunder in any public garage or repair shop or in any place where such vehicles are held for sale or wrecking, for the purpose of locating stolen vehicles and investigating the title and registration thereof, and in enforcing the provisions of this subdivision shall have the power of peace officers.

Examination of books for collection of taxes.

2. To examine the books and records of all persons licensed under this act pertaining to the selling, buying, or wrecking of vehicles of a type required to be registered hereunder, and the payment and collection of tax thereon as hereinafter provided.

Enforcement of financial responsibility act.

3. Of peace officers for the purpose of enforcing the provisions of chapter 5 of this act.

HISTORY: New 1949, p. 524, Act 300, Eff. Sep. 23;—Am. 1953, p. 324, Act 215, Eff. Oct. 2;—Am. 1955, p. 229, Act 159, Imd. Eff. Jun. 7.

257.214 Badge of authority.

Sec. 214. (a) The secretary of state shall issue to each person named under section 213 of this act a proper badge of authority designating the position held by the person to whom issued. Every such badge shall display a distinctive serial number.

(b) Neither the secretary of state nor any other person shall issue any such badge to any person who is not a duly employed and acting officer or investigator of said department.

HISTORY: New 1949, p. 524, Act 300, Eff. Sep. 23.

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257.215 Vehicle unregistered or without certificate of title; operation; misdemeanor, exception.

Sec. 215. It is a misdemeanor for any person to drive or move or for an owner knowingly to permit to be driven or moved upon any highway any vehicle of a type required to be registered hereunder which is not registered or for which a certificate of title has not been applied for or for which the appropriate fee has not been paid when and as required hereunder, except as provided in subsection (b) of section 217.

HISTORY: New 1949, p. 524, Act 300, Eff. Sep. 23;—Am. 1964, p. 57, Act 51, Eff. Aug. 28.

257.216 Vehicles subject to registration and certificate of title; exceptions.

Sec. 216. Every motor vehicle, trailer coach, trailer, semitrailer and poletrailer, when driven or moved upon a highway shall be subject to the registration and certificate of title provisions of this act except:

(1) Any such vehicle driven or moved upon a highway in conformance with the provisions of this act relating to manufacturers, transporters, dealers or nonresidents.

(2) Any such vehicle which is driven or moved upon a highway only for the purpose of crossing such highway from one property to another.

(3) Any implement of husbandry whether of a type otherwise subject to registration hereunder or not which is incidentally operated or moved upon a highway.

(4) Any special mobile equipment as herein defined for which the secretary of state may issue a special registration to any individual, partnership, corporation or association not licensed as a dealer to identify such equipment when being moved over the streets and highways upon payment of the required fee, but such special registration shall not be issued to farm tractors and implements of husbandry as defined in sections 16 and 21.

(5) Any vehicle which is propelled exclusively by electric power obtained from overhead trolley wires though not operated upon rails.

(6) Any type subject to registration owned by the government of the United States.

(7) No certificate of title need be obtained for a trailer, semitrailer or poletrailer, weighing less than 2,500 pounds respectively.

(8) Any vehicle driven or moved upon the highway only for the purpose of securing a weight receipt from a weighmaster as is required in section 801 and then only by the most direct route.

(9) No certificate of title need be obtained for a vehicle owned by a manufacturer or dealer and held for sale, even though incidentally moved on the highway or used for purposes of testing or demonstration.

HISTORY: New 1949, p. 524, Act 300, Eff. Sep. 23;—Am. 1951, p. 86, Act 69, Eff. Sep. 28;—Am. 1953, p. 107, Act 110, Eff. Oct. 2;—Am. 1957, p. 128, Act 110, Imd. Eff. May 24;—Am. 1959, p. 216, Act 155, Eff. Mar. 19, 1960;—Am. 1964, p. 356, Act 248, Eff. Jan. 1, 1965;—Am. 1968, p. 200, Act 139, Imd. Eff. Jun. 11.

257.217 Vehicles subject to registration and certificate of title; application, contents.

Sec. 217. (a) Every owner of a vehicle subject to registration hereunder shall make application to the department for the registration thereof and issuance of a certificate of title for such vehicle accompanied by the required fee upon the appropriate form or forms furnished by the department and every application for a certificate of title shall bear the signature of the owner written with pen and ink and said signature shall be acknowledged by the owner before a person authorized to administer oaths and said application shall contain:

(1) The name, bona fide residence and mail address of the owner or business address of a firm, association or corporation.

(2) A description of the vehicle including the make or name, style of body, year or model, whether it is to be or has been used as a taxi or police vehicle, or by a political

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subdivision, engine and serial number or vehicle number in lieu of engine and serial numbers, its weight fully equipped, if a passenger vehicle, and, if a trailer coach, in addition thereto the manufacturer's serial number or in the absence of such serial number a number assigned by the secretary of state. Such number assigned by the secretary of state shall be permanently placed on said trailer in the manner and place designated by the department.

(3) A statement of the applicant's title and the names and addresses of the holders of any security interests in the vehicle and in any accessory thereon, in the order of their priority.

(4) Such further information as may reasonably be required by the department to enable it to determine whether the vehicle is lawfully entitled to registration and the owner entitled to a certificate of title. If the department is not satisfied as to the ownership of the vehicle, before registering the vehicle and issuing a certificate of title therefor, the department may require the applicant to file a properly executed surety bond in a form prescribed by the department, executed by the applicant and a company authorized to conduct a surety business in this state. The bond shall be in an amount equal to twice the value of the vehicle as determined by the department and shall be conditioned to indemnify or reimburse the secretary of state and any prior owner and any subsequent purchaser of the vehicle, and their successors in interest, against any expense, loss or damage, including reasonable attorney's fees, by reason of the issuance of a certificate of title to the vehicle or on account of any defect in the right, title or interest of the applicant in and to the vehicle. Every interested person has a right of action to recover on the bond for any breach of its conditions, but the aggregate liability of the surety to all persons shall not exceed the amount of the bond. The bond shall be returned at the end of 3 years, or prior thereto if the vehicle is no longer registered in this state and the currently valid certificate of title is surrendered to the department, unless the department has received notification of the pendency of an action to recover on the bond.

(5) Except as provided in subdivision (6) each application for a commercial vehicle shall also have attached thereto scale weight receipt of said motor vehicle fully equipped as of the time the application is made. Scale weight receipt may not be necessary when there is presented with said application a registration receipt of the previous year which shows on its face the empty weight of the motor vehicle as registered with the secretary of state and is accompanied by a statement of applicant that there has been no structural change in the motor vehicle which has increased the empty weight and that the previous registered weight is the true weight.

(6) Each application for registration of a vehicle on the basis of elected gross weight shall include a declaration by the applicant specifying the elected gross weight for which application is being made.

Dealers, duties; transfers; temporary registration.

(b) Every dealer selling or exchanging vehicles subject to registration shall within 15 days after delivering any such vehicle to the purchaser make application to the secretary of state for new title, if required, and transfer or secure registration plates and secure a certificate of registration for the vehicle, in the name of the purchaser. The dealer's license may be suspended or revoked as provided in section 249, for failure to apply for a title, when required, or for failure to transfer or secure registration plates and certificate of registration within the 15 days provided. If the dealer fails to apply for title, when required, and to transfer or secure registration plates and secure a certificate of registration, and pay the required fees within 15 days of delivery of the vehicle, a title and registration for the vehicle may be acquired thereafter only upon the payment of a transfer fee of $5.00 in addition to the fees provided for in section 806.

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The purchasers of the vehicles shall sign the applications, including, when applicable, the declaration specifying the maximum elected gross weight as required by subdivision (6) of subsection (a), and other necessary papers to enable the dealers to secure the titles, registration plates and transfers thereof from the secretary of state.

Whenever a vehicle is delivered to a purchaser who has valid Michigan registration plates which are to be transferred to the vehicle, and application for title, if required, and registration for the vehicle is not made prior to delivery of the vehicle to the purchaser, the registration plates shall be affixed to the vehicle immediately, and the dealer shall provide the purchaser with an instrument in writing, on a form prescribed by the secretary of state, which shall serve as a temporary registration for the vehicle for a period of 15 days from the date the vehicle is delivered.

Application for title; security interest.

(c) Every application for a certificate of title which indicates the existence of a security interest in the vehicle or in any accessory thereon shall if requested by the security interest holder be accompanied by a copy thereof which need not be signed. Such request may be made of the seller on an annual basis. The department shall indicate on the copy the date and place of filing of the application and return the copy to the person submitting it who shall forward it to the holder of the security interest named in the application.

Lien, recording on title; fee; notice.

(d) If the seller does not prepare the credit information, contract, note and mortgage, and the holder, finance company, credit union or banking institution requires the installment seller to record the lien on the title, the holder, finance company, credit union or banking institution shall pay such seller a service fee of not more than $10.00, such service fee shall be paid from the finance charges and shall not be charged to the buyer in addition thereto. The holder, finance company, credit union or banking institution shall issue its check or bank draft for the principal amount financed, payable jointly to the buyer and seller, and there shall be imprinted on the back side of the check or bank draft the following:

NOTIFICATION TO DEALER OF THE CREATION OF

A SECURITY INTEREST IN A VEHICLE

Name of dealership .....
Address .....
You are hereby notified that:
Name(s) of purchaser .....
Address .....
Has created or is creating a security interest in the following described vehicle, in favor of the above named lender.
Make of vehicle ..... Body style .....
Year ..... Vehicle identification number .....

.....
Signature of purchaser

.....
Signature of authorized representative of dealer

Failure of the holder, finance company, credit union or banking institution to comply with these requirements, shall free the installment seller from any obligation to record

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the lien or from any and all liability that might arise as a result of the installment sale contract. A service fee shall not be charged to the buyer.

HISTORY: New 1949, p. 525, Act 300, Eff. Sep. 23;—Am. 1951, p. 462, Act 270, Eff. Sep. 28;—Am. 1954, p. 138, Act 112, Eff. Aug. 13;—Am. 1962, p. 174, Act 166, Eff. Mar. 28, 1963;—Am. 1964, p. 57, Act 51, Eff. Aug. 28;—Am. 1964, p. 357, Act 248, Eff. Jan. 1, 1965;—Am. 1967, Ex. Ses., p. 732, Act 3, Imd. Eff. Nov. 15;—Am. 1968, p. 108, Act 66, Eff. Aug. 1;—Am. 1969, p. 486, Act 256, Eff. Mar. 20, 1970.

257.217a Special automobile registration plates; amateur radio license call letters.

Sec. 217a. (a) A person holding an unexpired technician, general, conditional, advanced or extra class amateur radio license issued by the federal communications commission, may make application directly to the department for special registration plates inscribed with the official amateur radio call letters of the applicant as assigned by the federal communications commission.

Registration fees, additional fees; credited funds.

(b) The applicant shall prove to the satisfaction of the department that he is the holder of an unexpired amateur radio license. In addition to the regular registration fee, he shall be charged a fee of $2.00 for each set of call letter plates when issued. The $2.00 fee shall be credited to the general fund and used to defray the expense of issuing such plates. Call letter plates shall not be issued for a motor vehicle bearing a registration issued at a reduced weight tax provided for in this act.

Illegal use of special plates; lapsed radio license; surrender of call letter plates.

(c) Whenever special plates issued under this section, are used on a vehicle other than the one for which such plates were issued, the owner is guilty of a misdemeanor and the secretary of state shall confiscate the plates. Any holder of such plates whose amateur radio license is not in full force and effect at any time shall immediately surrender the call letter plates to the secretary of state and obtain a regular registration certificate and license plates.

List of licensees to sheriffs and office of director of civil defense.

(d) The secretary of state shall furnish to the sheriff of each county in the state and the office of the director of civil defense for the state a list of the names, addresses and license tag letters of each person to whom such registration plates are issued and these officers shall maintain a complete current list for the use of authorized public officials.

Applicant to abide by rules of director of civil defense.

(e) The secretary of state shall include in the application an agreement by which the applicant agrees to abide by rules and regulations issued by the director of civil defense.

Director of civil defense; rules for amateur radio licensees.

(f) The director of civil defense shall make rules and regulations for the use of the facilities of such amateur radio licensees within the authority granted him by law.

HISTORY: Add. 1953, p. 146, Act 142, Eff. Oct. 2;—Am. 1955, p. 273, Act 182, Eff. Oct. 14;—Am. 1960, p. 96, Act 97, Eff. Aug. 17,—Am. 1966, p. 190, Act 171, Eff. Mar. 10, 1967.

257.218 Special or foreign vehicles; registration.

Sec. 218. (a) In the event the vehicle to be registered is a specially constructed, reconstructed, or foreign vehicle, such fact shall be stated in the application and with reference to every foreign vehicle which has been registered heretofore outside of this state the owner shall surrender to the department all registration plates, registration certificates, and certificates of title or other evidence of such foreign registration, as may be in his possession or under his control except as provided in paragraph (b) hereof.

(b) Where in the course of interstate operation of a vehicle registered in another state it is desirable to retain registration of said vehicle in such other state, such appli-

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cant need not surrender but shall submit for inspection said evidence of such foreign registration and the department upon a proper showing shall register said vehicle in this state, but shall issue a non-transferable certificate of title for such vehicle.

HISTORY: New 1949, p. 525, Act 300, Eff. Sep. 23.

257.219 Registration or certificate of title or transfer; grounds of refusal.

Sec. 219. The department shall refuse registration or issuance of a certificate of title or any transfer of registration upon any of the following grounds:

1. That the application contains any false or fraudulent statement or that the applicant has failed to furnish required information or reasonable additional information requested by the department or that the applicant is not entitled to the issuance of a certificate of title or registration of the vehicle under this act;

2. That the department has reasonable ground to believe that the vehicle is a stolen or embezzled vehicle or that the granting of registration or the issuance of a certificate of title would constitute a fraud against the rightful owner or other person having a valid lien upon such vehicle;

3. That the registration of the vehicle stands suspended or revoked for any reason as provided in the motor vehicle laws of this state;

4. That the required fee has not been paid.

HISTORY: New 1949, p. 526, Act 300, Eff. Sep. 23.

257.220 Application for original registration or certificate of title; examination of indexes and stolen car records.

Sec. 220. The department upon receiving application for original registration of a vehicle or any certificate of title shall first check the engine and serial number or vehicle number shown in the application against the indexes of registered motor vehicles and against the index of stolen and recovered motor vehicles required to be maintained by this act.

HISTORY: New 1949, p. 526, Act 300, Eff. Sep. 23.

257.221 Application for registration; records, preservation.

Sec. 221. The secretary of state shall file all applications for registration of motor vehicles in his office and keep a complete and accurate record of the facts appearing therein together with a numerical list of the license numbers assigned to each vehicle. Such records shall be open to inspection under such rules and regulations as the secretary of state may prescribe and shall be preserved for a period of 3 years after the date of registration.

HISTORY: New 1949, p. 526, Act 300, Eff. Sep. 23.

257.222 Certificate of registration or title; issuance, content, delivery.

Sec. 222. (a) The department upon registering a vehicle upon receipt of the required fees shall issue a registration certificate and a certificate of title except as otherwise provided.

(b) The registration certificate shall be delivered to the owner and shall contain upon the face thereof the date issued, the name and address of the owner, the registration number assigned to the vehicle and such description of the vehicle as determined by the department, including whether it is to be or has been used as a taxi or police vehicle, or by a political subdivision.

(c) The certificate of title shall contain upon the face thereof the identical information required upon the face of the registration certificate and in addition thereto a statement of the owner's title and of all security interests in the vehicle therein described or in any accessory thereon as set forth in the application and the date on which the application was filed, and such other information as the department may require.

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(d) The certificate of title shall contain upon the reverse side forms for assignment of title or interest and warranty thereof by the owner with space for notation of security interests in the vehicle and in any accessory thereon at the time of a transfer to be signed in pen and ink before a notary public or some other person authorized to administer oaths and such other forms as the department may deem necessary to facilitate the effective administration of this act. The certificate shall bear the seal of the department.

(e) The certificate of title shall be mailed or delivered to the owner or such other person as the owner may direct in a separate instrument, in such form as the secretary of state shall prescribe.

HISTORY: New 1949, p. 526, Act 300, Eff. Sep. 23;—Am. 1954, p. 139, Act 112, Eff. Aug. 13;—Am. 1958, p. 108, Act 99, Eff. Sep. 13.—Am. 1964, p. 358, Act 248, Eff. Jan. 1, 1965;—Am. 1968, p. 110, Act 66, Eff. Aug. 1.

CITED IN OTHER SECTIONS: The above section is cited in §§ 440.9302 and 440.9401.

257.223 Registration certificate to be signed, carried and displayed.

Sec. 223. Every owner upon receipt of a registration certificate shall write his signature thereon with pen and ink in the space provided. Every such registration certificate shall at all times be carried in the vehicle to which it refers or shall be carried by the person driving or in control of such vehicle who shall display the same upon demand of a police officer.

HISTORY: New 1949, p. 527, Act 300, Eff. Sep. 23.

257.224 Registration plates; issuance, number.

Sec. 224. (a) Except as herein otherwise provided regarding tabs or stickers, the department upon registering a vehicle shall issue to the owner 2 registration plates, except that only 1 plate shall be issued to motorcycles, motor driven cycles, farm wagons and trailers.

Contents; public owned; school buses; use.

(b) Every registration plate shall have displayed upon it the registration number assigned to the vehicle for which it is issued, also the name of this state, which may be abbreviated, and the year number for which it is issued or the date of expiration thereof which may be shown by a tab or sticker furnished by the department, except that plates shall bear no year number when issued for motor vehicles owned and operated by the state of Michigan, state institution or municipality thereof and for buses including station wagons, carryalls or similarly constructed vehicles owned and operated by any nonprofit parents' transportation corporation used for school purposes, parochial school or society or church Sunday school or any other grammar school, or by any incorporated nonprofit youth organization, if such vehicles are designated by proper signs showing the school operating the same. Notwithstanding any other provision of this act, plates not bearing a year number shall not expire at any particular time but shall be renewed when they are worn out or have become illegible, and these plates shall be assigned upon proper application and payment of fee and may be used on any eligible vehicle titled to the applicant if a written record is kept of the vehicles upon which the registration plates are used. The record shall state the time each set of plates is used on a particular vehicle, and it shall be open to inspection by a peace officer or a representative of the department.

Readability; tabs.

(c) The registration plates and the required letters and numerals thereon, except the year number for which issued, shall be of sufficient size to be plainly readable from a distance of 100 feet during daylight. In any year during which registration plates are not furnished, the department shall furnish for each annual registration a year plate, tab or sticker designating the year of registration.

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Rental cars.

(d) The department shall issue for every passenger motor vehicle rented without a driver the same type of registration plates as the type of plates issued for private passenger vehicles.

Other plates prohibited.

(e) No person shall operate a motor vehicle, trailer or semitrailer on the public highways of this state under license plates other than those issued for it by the secretary of state, except as is provided in this chapter for nonresidents, and by assignment provided in subdivision (b).

Elected gross weight indicated.

(f) The registration plates displayed on a vehicle registered on the basis of elected gross weight shall indicate the elected gross weight for which the vehicle is registered.

HISTORY: New 1949, p. 527, Act 300, Eff. Sep. 23;—Am. 1959, p. 377, Act 247, Eff. Mar. 19, 1960;—Am. 1961, p. 28, Act 25, Imd. Eff. May 11;—Am. 1965, p. 286, Act 184, Imd. Eff. Jul. 15;—Am. 1967, 1st Ex. Ses., p. 734, Act 3, Imd. Eff. Nov. 15;—Am. 1970, p. 356, Act 106, Imd. Eff. Jul. 23.

257.225 Registration plates; display.

Sec. 225. (a) Registration plates issued for a motor vehicle shall be attached thereto, 1 in the front and the other in the rear and where 1 plate is issued for a motor vehicle it shall be attached to the rear thereof. The registration plate issued for the other vehicles required to be registered hereunder shall be attached to the rear thereof.

(b) Every registration plate shall at all times be securely fastened in a horizontal position to the vehicle for which it is issued so as to prevent the plate from swinging and at a height of not less than 12 inches from the ground, measuring from the bottom of such plate, in a place and position to be clearly visible and shall be maintained free from foreign materials and in a condition to be clearly legible.

(c) License plates or the expiration date thereon shall be of a different color designated by the secretary of state for each year. There shall be at all times a marked contrast between the color of the number plates and the numerals or letters thereon. The secretary of state may provide such distinctive number plates for commercial vehicles, manufacturers and dealers as he may deem advisable.

(d) It shall be unlawful to attach to any motor vehicle license plate any name plate, insignia or advertising device.

HISTORY: New 1949, p. 527, Act 300, Eff. Sep. 23.

257.226 Vehicle registration; expiration.

Sec. 226. (a) Every vehicle registration under this act and every registration certificate and registration plate issued hereunder except as provided in section 246 and except for commercial vehicles and trailers, shall expire on March 31 of each year. On or after November 15 preceding the year designated on the plates, the secretary of state shall issue the plates upon proper application and payment of the license fee. For commercial vehicles and trailers, on or after October 1 preceding the year designated on the plates, the secretary of state shall issue the plates upon proper application and payment of the license fee. Every annual commercial and trailer registration certificate and registration plate issued hereunder shall expire on the last day of February of each year.

Certificate of title.

(b) Certificates of title need not be renewed annually but shall remain valid until cancelled by the department for cause or upon a transfer of any interest shown therein.

Special part-year registration; service charge.

(c) Beginning May 1 and November 1 of each year the secretary of state shall, upon request, issue special license plates, tabs or stickers to expire November 14 and May

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14 following when the full registration fee exceeds $50.00, on the payment of 1/2 the full registration fee and in addition thereto a service charge of $2.00, the service charge to be credited to the general fund of the state and used to defray the expense of such license plates, tabs or stickers.

Extension of time of registration renewal prohibited.

(d) Neither the secretary of state nor any other official of the state nor any municipal officer therein shall have the authority to extend the time of renewal of such registration.

Special registration, vehicles for nonresidents, procedure, affidavit.

(e) A special registration may be issued for any new vehicle purchased outside of this state and delivered in Michigan to a nonresident purchaser by the manufacturer of such vehicle for removal to the outstate residence of the purchaser; a special registration may be issued for any vehicle purchased inside this state and delivered in Michigan to a nonresident purchaser by a dealer of such vehicle for removal to outstate residence of purchaser and a special registration may be issued for any vehicle purchased inside this state and delivered to the purchaser by a dealer of such vehicle for removal to an identified jurisdiction other than the state of Michigan, provided attest is made that such vehicle is primarily dedicated to its use, storage, consumption and registration in such jurisdiction and is not to be returned to this state by the purchaser for use, storage or consumption herein. Such special registration shall be valid for not to exceed 30 days from the date of issue and a fee shall be collected for each such registration as provided in section 802. Such special registration may be in such form as determined by the secretary of state. When a dealer makes a retail sale of a vehicle to a purchaser who is qualified and eligible to obtain a special registration, the purchaser shall appear in person or by a person exercising his power of attorney at an office of the secretary of state and furnish an affidavit attesting that he is the bona fide purchaser or that he is surrendering his power of attorney duly executed by the purchaser of the vehicle, together with such other forms as may be required for the issuance of such special registration. If the deponent making such affidavit be a nonresident, the affidavit required in this section shall contain the following: The outstate address of the nonresident purchaser, that the purchaser is a nonresident of Michigan, that the vehicle is purchased for outstate registration, that such vehicle is not purchased for transfer to a Michigan resident, and such other information as may be desired by the secretary of state. If the deponent be a resident of the state of Michigan, the affidavit required in this section shall contain the following: The address of the purchaser, that such vehicle is purchased for outstate registration, that such vehicle is primarily dedicated to its use, storage, consumption and registration outside the state of Michigan; the name of the jurisdiction in which the vehicle is to be registered, and such other information as may be desired by the secretary of state.

HISTORY: New 1949, p. 527, Act 300, Eff. Sep. 23;—Am. 1952, p. 182, Act 153, Imd. Eff. Apr. 24;—Am. 1953, p. 230, Act 179, Imd. Eff. Jun. 8;—Am. 1955, p. 120, Act 77, Imd. Eff. May 26;—Am. 1957, p. 39, Act 33, Eff. Sep. 27;—Am. 1958, p. 58, Act 55, Eff. July 1;—Am. 1960, p. 77, Act 85, Imd. Eff. Apr. 25;—Am. 1962, p. 64, Act 80, Imd. Eff. Apr. 24;—Am. 1966, p. 202, Act 180, Imd. Eff. Jul. 1;—Am. 1966, p. 663, Act 348, Imd. Eff. Dec. 21;—Am. 1967, Ex. Ses., p. 734, Act 3, Imd. Eff. Nov. 15.

257.226a Temporary registration plates; issuance to dealers for use of purchasers.

Sec. 226a. (a) Temporary registration plates or markers may be issued to licensed dealers in motor vehicles, upon application accompanied by the proper fee, for use by purchasers of motor vehicles for not to exceed 10 days pending receipt of regular registration plates from the dealer. The temporary registration plates or markers shall be made of such material and design as the director shall determine.

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Contents; surrender.

(b) The temporary registration plates or markers shall show in ink the date of issue, a description of the vehicle for which issued, and such other information as the director may require. The dealer issuing such temporary registration plates or markers in lieu of regular plates shall immediately notify the director of each temporary registration plate or marker issued, on forms prescribed by the director. Upon the attachment of the regular plates to a vehicle for which temporary registration plates or markers have been issued, within 10 days of date of issue of temporary registration plate or marker, the dealer shall pick up the temporary registration plates or markers and immediately forward same to the director.

Numbering.

(c) All temporary registration plates or markers shall be serially numbered and upon issue the number thereof shall be noted on the margin of the application for regular plates.

Violation, surrender.

(d) A dealer, upon demand, shall immediately surrender any such temporary registration plates or markers in his possession if the director finds, after investigation, that he has violated any of the provisions of this section, and he shall thereupon forfeit his right to temporary registration plates or markers.

Repossessors; use.

(e) Registration plates may be issued upon application and payment of proper fee to an individual, partnership, corporation, or association not licensed as a dealer who in the ordinary course of its business has occasion to legally repossess a vehicle in which a security interest is held. Such registration plates shall be used to move and dispose of a vehicle.

Repairmen or servicemen; use.

(f) Registration plates may be issued upon application and payment of proper fee to an individual, partnership, corporation, association not licensed as a dealer who in the ordinary course of its business has occasion to legally pick up or deliver a vehicle not required to be titled under this act, repair or service a vehicle, such registration plates to be used to move such a vehicle.

Auto auction; use; bond.

(g) Registration plates may be issued upon application and payment of proper fee to an individual, partnership, corporation or association not licensed as a dealer who, in the ordinary course of business operates an auto auction, and who in the ordinary course of business has occasion to legally pick up a vehicle which will be offered for sale at the auction, or deliver a vehicle which has been offered for sale at the auction. Such registration plates shall be used to move said vehicles for only these purposes. Auto auctions which make application for such registration plates shall furnish a surety bond as may be required by the secretary of state.

HISTORY: Add. 1957, p. 39, Act 33, Eff. Sep. 27;—Am. 1958, p. 59, Act 55, Eff. Jul. 1;—Am. 1962, p. 175, Act 166, Eff. Mar. 28, 1963;—Am. 1968, p. 479, Act 278, Imd. Eff. Jul. 1.

257.226b Mobile homes; special registration for removal.

Sec. 226b. A special registration may be issued to an owner of a mobile home, for removal of such mobile home from one location in this state to another location within this state. The registration shall be valid for only 48 hours from date of issue, and shall be in such form as is determined by the director, and a fee shall be collected for each such special registration as provided in section 802 of chapter 7 of this act.

HISTORY: Add. 1957, p. 40, Act 33, Eff. Sep. 27.

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257.226c Reflectorized reflector plates, tabs, and stickers.

Sec. 226c. Beginning with the registration plates manufactured in the year 1970 and succeeding years they shall be treated with an effective and dependable reflective material according to specifications promulgated by the department of administration in conjunction with the department of state highways, the department of state and the department of corrections. In any year during which registration plates are not furnished, the department shall furnish for each annual registration a reflective tab or sticker designating the year of registration.

HISTORY: Add. 1969, p. 90, Act 44, Imd. Eff. Jul. 17.

257.227 Registration; application, renewal.

Sec. 227. (a) Application for renewal of a vehicle registration shall be made by the owner upon proper application and by payment of the registration fee for such vehicle, as provided by law.

(b) Every such application shall be accompanied by the certificate of title pertaining thereto, showing ownership in the person applying for registration at the time of the application. However, the secretary of state may waive the presentation of the certificate of title.

HISTORY: New 1949, p. 528, Act 300, Eff. Sep. 23;—Am. 1964, p. 359, Act 248, Eff. Jan. 1, 1965;—Am. 1968, p. 110, Act 66, Eff. Aug. 1.

257.228 Change of address; notice.

Sec. 228. Whenever any person after making application for or obtaining the registration of a vehicle or a certificate of title shall move from the address named in the application as shown upon a registration certificate or certificate of title such person shall within 10 days thereafter notify the department in writing of his old and new addresses.

HISTORY: New 1949, p. 528, Act 300, Eff. Sep. 23.

257.229 Duplicate registration certificates or plates, certificates of title; issuance.

Sec. 229. If any registration certificate, registration plate, certificate of title or duplicate certificate of title is lost, mutilated, or becomes illegible the person entitled to possession thereof or legal representative or successor in interest of the person as shown by the records of the department shall immediately make application for and may obtain a duplicate or a new registration under a new registration number, as determined to be most advisable by the department, upon the applicant furnishing information satisfactory to the department and upon payment of the required fee. Every duplicate certificate of title shall contain the legend: "This is a duplicate certificate and may be subject to the rights of a person under the original certificate", and shall be delivered to the person entitled to possession thereof under subsection (e) of section 222. Upon issuance of any duplicate registration certificate or plate the previous registration certificate or plate last issued shall be void.

HISTORY: New 1949, p. 528, Act 300, Eff. Sep. 23;—Am. 1964, p. 359, Act 248, Eff. Jan. 1, 1965.

257.230 Special identifying number after alteration or defacement of serial number; record.

Sec. 230. (a) The owner of a vehicle, the engine, serial or vehicle number of which has been altered, removed or defaced, may make application accompanied by the required fee in such form as may be prescribed by the secretary of state for a special identifying number. He shall furnish such information as will satisfy the secretary of state that he is the owner, whereupon the secretary of state shall assign a special number for the vehicle, preceded by a symbol indicating this state. A record of special numbers so assigned shall be maintained by the secretary of state.

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The owner shall cause said number to be stamped upon the engine or otherwise as directed by the secretary of state, and upon receipt by the secretary of state of a certificate by a peace officer that he has inspected and found said number affixed upon the motor vehicle as directed in a workmanlike manner, together with application for a certificate of title such special number shall be regarded as the identifying number of said vehicle.

(b) This section is not intended to prohibit the restoration by the owner of the identifying number of the vehicle for which the certificate of title has been issued by this state, nor to prevent any manufacturer or importer, or agents, thereof, other than a dealer, from placing or stamping in the ordinary course of business, numbers on vehicles or parts thereof removed or changed and replacing the numbered parts.

HISTORY: New 1949, p. 528, Act 300, Eff. Sep. 23.

257.231 Registration of replacement engines.

Sec. 231. The secretary of state is authorized to adopt and enforce such registration rules and regulations as may be deemed necessary and compatible with the public interest with respect to the change or substitution of 1 engine in place of another in any motor vehicle.

HISTORY: New 1949, p. 528, Act 300, Eff. Sep. 23.

257.232 Vehicle registration lists; issuance, distribution, sale; proceeds to state highway fund.

Sec. 232. The secretary of state shall furnish to chiefs of police in cities of an estimated population of 10,000 or more and to sheriffs of counties, a list of the motor vehicle registrations and such information relating thereto as may be necessary. The secretary of state is hereby authorized to sell any surplus lists he may publish, and fix a reasonable price therefor, the proceeds of such sales to be added to the state highway fund provided for herein.

The secretary of state is hereby authorized to sell, or contract for the sale of, any motor vehicle registration lists in addition to those distributed at no cost under this section and to sell or furnish any other information from the records of the department pertaining to the sale, ownership, and operation of motor vehicles. The secretary of state shall fix a reasonable price or charge for the sale of such lists or other information and the proceeds therefrom shall be added to the state highway fund provided for herein.

HISTORY: New 1949, p. 528, Act 300, Eff. Sep. 23;—Am. 1956, p. 727, Act 230, Eff. Aug. 11.

TRANSFERS OF TITLE OR INTEREST

257.233 Transfer of registered vehicle; removal and transfer of plates.

Sec. 233. (a) Whenever the owner of a registered vehicle transfers or assigns his title or interest thereto, the registration plates issued for such vehicle shall be removed and forwarded to the division or retained and preserved by the owner for transfer to another vehicle upon application and payment of the required fees. It shall be unlawful to transfer such plates to any vehicle without applying for a proper certificate of registration describing the vehicle to which the plates are being transferred except as provided in subsection (b) of section 217. If the owner of a currently registered vehicle subsequently acquires another vehicle without transferring or assigning his title or interest in the vehicle for which the plates were issued, the owner may have such plates transferred to the subsequently acquired vehicle upon application and payment of the required fees.

Application for new registration plates.

(b) Whenever the assigned holder of registration plates elects to make application for a new registration certificate, the application shall be accompanied either by the

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old registration certificate or by a certificate of title showing him to be the assigned holder of the registration plates for which the old registration certificate had been issued.

Penalty.

(c) It is a misdemeanor for any person to fail or neglect to fulfill the provisions of subsection (b) of this section.

Certificate of title, assignment, statement of security interests, satisfaction.

(d) The owner shall indorse on the back of the certificate of title an assignment thereof with warranty of title in the form printed thereon with a statement of all security interests in said vehicle or in any accessory thereon, sworn to before a notary public or some other person authorized by law to take acknowledgments, and deliver or cause the same to be mailed or delivered to the department or to the purchaser or transferee at the time of the delivery to him of such vehicle, which shall show the payment or satisfaction of any security interest as shown on the original title.

HISTORY: New 1949, p. 529, Act 300, Eff. Sep. 23;—Am. 1957, p. 93, Act 90, Eff. Sep. 27;—Am. 1958, p. 112, Act 104, Imd. Eff. Apr. 14, —Am. 1959, p. 380, Act 250, Imd. Eff. Aug. 21;—Am. 1964, p. 58, Act 51, Eff. Aug. 28;—Am. 1964, p. 359, Act 248, Eff. Jan. 1, 1965.

257.234 Transferee of registered vehicle; new certificate of title and registration certificate.

Sec. 234. (a) The purchaser or transferee, unless such person is a licensed dealer, shall present or cause to be presented the certificate of title and registration certificate if plates are being transferred to another vehicle, assigned as aforesaid, to the secretary of state accompanied by the fees as provided by law, whereupon a new certificate of title and registration certificate shall be issued to the assignee. The certificate of title shall be mailed or delivered to the owner or such other person as the owner may direct in a separate instrument in such form as the secretary of state shall prescribe.

(b) Unless such transfer is made and the fee paid within 15 days, the vehicle shall be deemed to be without registration, and the secretary of state is authorized to repossess the license plates, and transfer of such vehicle ownership can be effected and a valid registration acquired thereafter only upon payment of a transfer fee of $5.00 in addition to the fee provided for in section 806.

(c) On or before January 1, 1969, the holder of a security interest in possession of the certificate of title, shall either mail or deliver the certificate to the owner.

(d) If a security interest is reserved or created at the time of the transfer, the parties shall comply with the provisions of section 238.

HISTORY: New 1949, p. 529, Act 300, Eff. Sep. 23;—Am. 1957, p. 93, Act 90, Eff. Sep. 27;—Am. 1959, p. 381, Act 250, Imd. Eff. Aug. 21, —Am. 1962, p. 176, Act 166, Eff. Mar. 28, 1963;—Am. 1964, p. 360, Act 248, Eff. Jan. 1, 1965;—Am. 1968, p. 111, Act 66, Eff. Aug. 1.

257.235 Dealer as transferee; liability for damages.

Sec. 235. (a) When the transferee of a vehicle is a dealer who holds the same for resale and lawfully operates the same under his dealer's license plates the transferee shall not be required to obtain a new registration of such vehicle or forward the certificate of title to the department, but such transferee shall retain and have in his immediate possession at all times such assigned certificate of title and upon transferring his title or interest to another person shall execute and acknowledge an assignment and warranty of title upon the certificate of title and deliver the same to the person to whom such transfer is made if a licensed dealer; otherwise application for registration and a new title shall be made by the transferor as provided in subsection (b) of section 217.

(b) Said dealer or transferee, however, shall be liable for all damages arising from such operation.

HISTORY: New 1949, p. 529, Act 300, Eff. Sep. 23;—Am. 1951, p. 463, Act 270, Eff. Sep. 28;—Am. 1957, p. 93, Act 90, Eff. Sep. 27;—Am. 1964, p. 360, Act 248, Eff. Jan. 1, 1965.

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257.235a Transfer of title; junking fee.

Sec. 235a. Notwithstanding any other provision of this act or of Act No. 94 of the Public Acts of 1937, as amended, being sections 205.91 to 205.111 of the Compiled Laws of 1948, a licensed dealer or junk dealer who purchases a vehicle for the purpose of destroying or junking the vehicle may accept a certificate of title which has been assigned to the transferor by a properly indorsed and notarized assignment on the back of the certificate of title. In such case, the dealer shall write the word "junk" on the face of the certificate of title above the signature of the dealer or his authorized agent and forward the certificate to the secretary of state, together with a fee of $4.00 in lieu of all fees and taxes otherwise applicable. This section shall not apply to any transfer unless the fee and certificate of title are received by the secretary of state within 10 days of the date of its purchase by the dealer. A certificate of title shall not again be issued for the vehicle.

HISTORY: Add. 1960, p. 72, Act 79, Eff. Aug. 17.

257.236 Transfer of ownership of vehicle by operation of law; sole property of small estate.

Sec. 236. When ownership of any vehicle shall pass by operation of law, the person so acquiring such vehicle, upon furnishing satisfactory proof to the secretary of state of such ownership, may procure a title to the vehicle regardless of whether a certificate of title has ever been issued. Upon death of an owner of a registered vehicle, the license plates assigned thereto, unless the vehicle is destroyed, shall be deemed a valid registration until the end of the registration year or until the ownership of the vehicle is transferred by the executor or administrator of the estate of the owner. In event of the death of an owner of 1 or more vehicles whose total value does not exceed $1,500.00, who does not leave other property necessitating procuring of letters of administration or letters testamentary as required in section 50 of chapter 2 of Act No. 288 of the Public Acts of 1939, being section 702.50 of the Compiled Laws of 1948, the surviving husband or wife, or next of kin in the order named in section 51 of said chapter, may apply for a title, after first having furnished the secretary of state proper proof of the death of the registered owner, attaching thereto an affidavit setting forth the fact that the applicant is the surviving husband or wife, or next of kin, and upon proper petition the secretary of state shall furnish applicant with a certificate of title.

HISTORY: New 1949, p. 529, Act 300, Eff. Sep. 23;—Am. 1957, p. 94, Act 90, Eff. Sep. 27;—Am. 1961, p. 59, Act 60, Eff. Sep. 8;—Am. 1962, p. 58, Act 72, Eff. Mar. 28, 1963.

257.236a Enforcement of security interest; transferee, duties.

Sec. 236a. (a) If the interest of the owner in a vehicle is terminated by the enforcement of a security agreement, the transferee of the owner's interest shall promptly mail or deliver to the secretary of state the last certificate of title if he has possession thereof, his application for a new certificate in the form prescribed by the secretary of state, and an affidavit made by or on behalf of the holder of the security interest so enforced that the vehicle was repossessed, that the interest of the owner was lawfully terminated by enforcement of the security agreement, and whether he has delivered the last certificate of title to the transferee of the owner's interest, naming him, or if not, the reason therefor and the then location of such certificate of title so far as known to him. If the holder of the security interest succeeds to the interest of the owner and holds the vehicle for resale, he need not secure a new certificate of title but, upon transfer to another person, shall promptly mail or deliver to the transferee or to the secretary of state the certificate, if in his possession, the affidavit and other documents required to be sent to the secretary of state by the transferee.

(b) If the interest of the owner in a vehicle is terminated by sale pursuant to a levy of execution, attachment or by other process of a court, the transferee of the owner's

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interest shall promptly mail or deliver to the secretary of state the last certificate of title, if he has possession thereof, his application for a new certificate of title in the form prescribed by the secretary of state, and an affidavit, upon a form prescribed by the secretary of state, made by the officer of the court who conducted the sale, setting forth the date of the sale, and the name of the purchaser and whether he has delivered the certificate of title to such purchaser and if not, the reason therefor and the then location of the certificate of title so far as known to him.

(c) A person holding a certificate of title where the interest of the owner named therein has been terminated in the manner provided by subsections (a) or (b) of this section shall mail or deliver the certificate to the department upon its request. The delivery of the certificate pursuant to the request of the department does not affect the rights of the person surrendering the certificate, and the action of the secretary of state in issuing a new certificate of title as provided herein is not conclusive upon any rights of an owner or holder of a security interest named in the old certificate.

(d) The secretary of state, upon receipt of an application for a new certificate of title by a transferee in the manner provided by subsections (a) or (b) of this section, with proof of the transfer, the required fee and any other documents required by law, shall issue a new certificate of title in the name of the transferee as owner, setting forth all security interests noted on the last certificate of title as having priority over the security agreement so enforced and shall mail or deliver the same to the owner. If the outstanding certificate of title is not delivered to him, the secretary of state shall make demand therefor from the holder thereof.

HISTORY: Add. 1964, p. 361, Act 248, Eff. Jan. 1, 1965;—Am. 1968, p. 111, Act 66, Eff. Aug. 1.

257.237 New registration and certificate of title; surrendered certificate of title, filing.

Sec. 237. (a) The department, upon receipt of a properly endorsed certificate of title and application for transfer of registration accompanied by the required fee, shall transfer the registration thereof under its registration number to the new owner and shall issue a new registration certificate and certificate of title as upon an original registration.

(b) The department shall retain and appropriately file every surrendered certificate of title, such file to be so maintained as to permit the tracing of title of the vehicles designated therein for a period of 6 years.

HISTORY: New 1949, p. 530, Act 300, Eff. Sep. 23.

257.238 Security interests in vehicle; certificate of title.

Sec. 238. (a) When an owner named in a certificate of title creates a security interest in the vehicle described in such certificate or in any accessory thereon:

(1) The owner shall immediately execute an application in the form prescribed by the department to name the holder of the security interest on the certificate of title, showing the name and address of such holder and deliver the certificate of title, application and the required fee together with a copy of such application which need not be signed, to the holder of the security interest.

(2) The holder of the security interest shall cause the certificate of title, application and fee and the copy of such application to be mailed or delivered to the department.

(3) The department shall indicate on the copy of such application the date and place of filing of the application and return said copy to the person presenting the same.

(4) Upon receipt of the certificate of title, application and the required fee the department shall issue a new certificate in the form provided by section 222 setting forth the name and address of each holder of a security interest in the vehicle or in any accessory thereon for which a termination statement has not been filed and the date on

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which the application first stating such security interest was filed, and mail the certificate to the owner.

Assignment.

(b) (1) A holder of any kind of a security interest may assign, absolutely or otherwise, his security interest in the vehicle or any accessory thereon to a person other than the owner without affecting the interest of the owner or the validity of the security interest, but any person without notice of the assignment is protected in dealing with the holder of the security interest as the holder thereof.

(2) The assignee may have the certificate of title indorsed with the assignee named as the holder of the security interest by providing the department with a copy of the assignment instrument but the failure of the assignee to do so shall not affect the validity of the security interest of the assignment thereof.

Termination statement.

(c) (1) Whenever there is no outstanding obligation and no commitment to make advances, incur obligations or otherwise give value, secured or to be secured by a security interest in a vehicle, or an accessory thereon, for which the certificate of title is in possession of a secured party, such secured party shall, within 10 days after satisfaction of the obligation and, in any event within 30 days, execute a termination statement in the form prescribed by the department and mail or deliver the termination statement to the owner or such other person as the owner may direct. The owner other than a dealer holding the vehicle for resale, shall promptly cause the certificate, all termination agreements, and an application for certificate of title accompanied by the proper fee, to be mailed or delivered to the department, which shall issue a new certificate.

(2) Whenever there is no outstanding obligation and no commitment to make advances, incur obligations or otherwise give value, secured or to be secured by a security interest in a vehicle, or an accessory thereon, for which the certificate of title is in the possession of another person, the secured party shall within 10 days after demand and in any event within 30 days, execute a termination statement in the form prescribed by the department and mail or deliver the termination statement to the owner or such other person as the owner may direct.

HISTORY: New 1949, p. 530, Act 300, Eff. Sep. 23;—Am. 1964, p. 361, Act 248, Eff. Jan. 1, 1965;—Am. 1968, p. 112, Act 66, Eff. Aug. 1.

257.239 Certificate of title; failure to endorse or deliver, penalty.

Sec. 239. It is a misdemeanor for any person to fail or neglect to properly endorse and deliver a certificate of title to a transferee or owner lawfully entitled thereto.

HISTORY: New 1949, p. 530, Act 300, Eff. Sep. 23.

257.240 Negligent operation after transfer of endorsed certificate of title.

Sec. 240. The owner of a motor vehicle who has made a bona fide sale by transfer of his title or interest and who has delivered possession of such vehicle and the certificate of title thereto properly endorsed to the purchaser or transferee shall not be liable for any damages thereafter resulting from negligent operation of such vehicle by another.

HISTORY: New 1949, p. 530, Act 300, Eff. Sep. 23.

257.241 Dismantled or wrecked car; surrender of certificate of title.

Sec. 241. Any owner, including any dealer, dismantling or wrecking any registered vehicle shall immediately forward to the department for cancellation the certificate of title for such vehicle.

HISTORY: New 1949, p. 530, Act 300, Eff. Sep. 23;—Am. 1958, p. 109, Act 100, Eff. Sep. 13.

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257.242 Sale of motor vehicle for junk; return of certificate of title to secretary of state; certificate of junking.

Sec. 242. Any owner, including any dealer, may scrap, junk or destroy a motor vehicle by writing on the face of the certificate of title in bold print the word "junk" along with the signature of the owner, dealer or authorized agent, and by then returning the certificate of title to the secretary of state. A certificate of title shall not again be issued for such a vehicle, but the secretary of state upon proper application may issue a certificate of junking.

HISTORY: New 1949, p. 530, Act 300, Eff. Sep. 23;—Am. 1958, p. 109, Act 100, Eff. Sep. 13;—Am. 1960, p. 206, Act 142, Eff. Aug. 17.

257.242a Regrooved or recut motor vehicle or motorcycle tires; sale or possession with intent to sell prohibited; exception; misdemeanor.

Sec. 242a. No person shall regroove or recut motor vehicle or motorcycle tires or knowingly sell, offer or expose for sale or have in his possession with intent to sell any motor vehicle or motorcycle tire or any motor vehicle or motorcycle equipped with one or more tires which have been recut or regrooved, except that there shall be no prohibition against the regrooving or recutting of commercial vehicle tires or the sale of regrooved or recut commercial vehicle tires or commercial vehicles equipped with such commercial vehicle tires which are designed and constructed in such a manner that regrooving or recutting is an acceptable and safe practice. A violation of this section shall constitute a misdemeanor.

HISTORY: Add. 1966, p. 157, Act 133, Eff. Jan. 1, 1967.

PERMITS TO NONRESIDENT OWNERS

257.243 Nonresident owner of motor vehicle; exemption from registration.

Sec. 243. (a) A nonresident owner, except as otherwise provided in this section, owning any foreign vehicle of a type otherwise subject to registration hereunder may operate or permit the operation of such vehicle within this state without registering such vehicle in, or paying any fees to, this state subject to the condition that such vehicle at all times when operated in this state is duly registered in, and displays upon it a valid registration certificate and registration plate or plates issued for such vehicle in the place of residence of such owner.

Same; transportation for hire, temporary permit.

(b) A nonresident owner of a foreign vehicle operated within this state for the transportation of persons or property for compensation, shall register such vehicle and pay the same fees therefor as is required with reference to like vehicles owned by residents of this state, except that the department may issue to the nonresident owners a temporary permit authorizing the operation of the foreign vehicle within this state for a period of 10 days, without registering the vehicle, on the payment of a fee as provided in section 802a of this act. The temporary permit may be in such form as prescribed by, and shall be displayed on such foreign vehicle in a manner determined by the secretary of state.

Same; pleasure vehicles, duration of exemption.

(c) A nonresident owner of a pleasure vehicle otherwise subject to registration under this act shall not operate the same for a period exceeding 90 days without securing registration in this state.

Same; carrying on business.

(d) Every nonresident, including any foreign corporation carrying on business within this state and owning and operating in such business any vehicle subject to registration as provided in this chapter, shall be required to register each such vehicle and

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pay the same fee therefor as is required with reference to like vehicles owned by residents of this state, except as otherwise provided by law.

HISTORY: New 1949, p. 531, Act 300, Eff. Sep. 23;—Am. 1960, p. 99, Act 98, Imd. Eff. Apr. 26.

SPECIAL PLATES TO MANUFACTURERS, TRANSPORTERS, DEALERS

257.244 Special plates; operation, bond, number, temporary use by vendee.

Sec. 244. (a) A manufacturer owning any vehicle of a type otherwise required to be registered hereunder may operate or move the same upon the highways solely for the purposes of transporting or testing. A dealer owning any vehicle of a type otherwise required to be registered hereunder may operate or move the same upon the highways without registering each such vehicle upon condition that any such vehicle display thereon in the manner prescribed in section 225 of this act 1 special plate issued to such owners. For the purposes of this subsection, the term "dealer" shall include any employee, servant or agent of the dealer.

(b) A transporter may operate or move any vehicle of like type upon the highways solely for the purpose of delivery upon likewise displaying thereon like plates issued to him as provided in this chapter.

(c) The plates above mentioned shall not be used on service cars or wreckers which are being operated as an adjunct of a licensee's business, and any manufacturer, transporter or dealer, making or permitting any unauthorized use of the plates under the provisions of this chapter, shall be deemed to have forfeited the license herein contemplated and the secretary of state, upon such notice and hearing as herein provided, may suspend or cancel the right to use the same and cause said plates to be surrendered to and repossessed by the state.

(d) Transporters shall furnish a sufficient surety bond or policy of insurance as protection for public liability and property damage as may be required by the secretary of state.

(e) The secretary of state shall determine the number of plates such manufacturer, dealer or transporter reasonably needs in his business.

(f) Upon the sale of a vehicle otherwise required to be registered hereunder, the vendee shall be permitted to operate the vehicle upon the public highways for a period not to exceed 72 hours after taking possession thereof, but during such period the vehicle shall have attached thereto the dealer plate as provided in this section. The application for registration shall be made in the name of the vendee before the vehicle shall be used. The dealer and the vendee shall be jointly responsible for the return of the dealer plate to the dealer within the period of 72 hours, and the failure of the vendee to return or the vendor to use due diligence to procure the dealer plate shall constitute a misdemeanor, and in addition thereto the license of the dealer may be revoked. The vendee, while using such dealer's plate, shall have in his possession such proof as to clearly indicate the date of sale of the motor vehicle.

(g) Vehicles owned by the dealer and bearing the dealer's plate may be driven upon the streets and highways for demonstration purposes by any prospective buyer thereof for a period of 72 hours.

HISTORY: New 1949, p. 531, Act 300, Eff. Sep. 23;—Am. 1952, p. 73, Act 67, Eff. Sep. 18;—Am. 1957, p. 94, Act 90, Eff. Sep. 27;—Am. 1960, p. 112, Act 107, Eff. Aug. 17.

257.244a Motorcycle dealer license plates; size.

Sec. 244a. Plates furnished to dealers in motorcycles shall be the same size as otherwise furnished for use on motorcycles.

HISTORY: Add. 1961, p. 35, Act 34, Eff. Sep. 8.

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257.245 Special plates; issuance; distinguishing numbers.

Sec. 245. (a) Any manufacturer, transporter, or dealer may make application to the department upon the appropriate form for a general distinguishing number and for 1 or more pairs of special plates or single special plates as appropriate to various types of vehicles subject to registration hereunder. The applicant shall also submit proof of his status as a bona fide manufacturer, transporter, or dealer as may reasonably be required by the department.

(b) The department, upon granting any such application, shall issue a plate bearing a general distinguishing number assigned to the applicant.

(c) The department shall also issue special plates as applied for which shall have displayed thereon the general distinguishing number assigned to the applicant. Each plate or pair of plates so issued shall also contain a number or symbol identifying the same from every other plate or pair of plates bearing the same general distinguishing number.

HISTORY: New 1949, p. 531, Act 300, Eff. Sep. 23.

257.246 Special plates; expiration.

Sec. 246. Every special plate issued hereunder shall expire on the last day of February of each calendar year.

HISTORY: New 1949, p. 532, Act 300, Eff. Sep. 23;—Am. 1960, p. 113, Act 107, Eff. Aug. 17;—Am. 1965, p. 471, Act 277, Imd. Eff. Jul. 21.

257.247 Special plates; manufacturers and transporters, record of uses; inspection by peace officers.

Sec. 247. Every manufacturer or transporter shall keep a written record of the vehicles upon which such special plates are used and the time during which each set of plates is used on a particular vehicle, which record shall be open to inspection by any peace officer.

HISTORY: New 1949, p. 532, Act 300, Eff. Sep. 23;—Am. 1958, p. 59, Act 55, Eff. Jul. 1.

257.247a Special plates; public civic events; manufacturers.

Sec. 247a. A manufacturer owning any vehicle of a type otherwise required to be registered hereunder may operate or move the same upon the highways in connection with public civic events, without registering each such vehicle, upon condition that any such vehicle display thereon in the manner prescribed in section 225 1 special plate approved by the secretary of state. The secretary shall make such regulations as he deems necessary to govern the use of such plates.

HISTORY: Add. 1962, p. 176, Act 166, Eff. Mar. 28, 1963.

DEALERS AND WRECKERS MUST BE LICENSED

257.248 Vehicle dealer's license; requirements.

Sec. 248. (a) No person shall carry on or conduct in this state the business of buying, selling, brokering or dealing in vehicles, of a type required to be registered hereunder, or parts thereof, unless and until he shall have received a license from the secretary of state, authorizing the carrying on or conducting of such business.

Application, form, contents.

(b) Application for such license shall be in the form prescribed by the secretary of state and shall be signed by the applicant and sworn to and, in addition to such other information as may be required by the secretary of state, shall include the following: Name of applicant and location of principal place of business; name or style under which business is to be conducted and, if a corporation, the state of incorporation; name and address of each owner or partner and, if a corporation, the name of the officers and directors; the county in which the business is to be conducted and the address of each place of business therein; if new vehicles are to be sold, the make or

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makes to be handled; and each new motor vehicle dealer shall accompany application for license with an affidavit swearing to the fact that he holds a bona fide contract to act as factory representative, factory distributor or distributor representative to sell at retail ..... make of vehicle, a statement of the previous history, record and association of the applicant and of each owner, partner, officer and director, which statement shall be sufficient to establish to the satisfaction of the secretary of state the reputation and character in business of the applicant; a statement showing whether or not the applicant has previously applied for license and the result of such application and whether or not the applicant has ever been the holder of a license which was revoked or suspended; and, if the applicant is a corporation or copartnership, a statement showing whether or not any of the partners, employees, officers or directors has been refused a license or has been the holder of a license which was revoked or suspended.

Separate license for each county.

(c) Each applicant shall make a separate application for a license for each county in which business is to be conducted and any licensee, before removing any one or more of his places of business, or opening any additional place of business, shall apply to the department for and obtain a supplemental license, for which no fee shall be charged. Such license so issued shall entitle the licensee to carry on and conduct in the county covered by the license the business of buying, selling and dealing in vehicles and parts thereof.

Termination of license.

(d) The secretary of state may divide the calendar year into quarters and the secretary of state may divide the total dealer licensees into approximately convenient quarter segments. Each license granted under paragraph (a) of this section shall expire on the last day of the month in the quarter for the business year in which they were issued, and may be renewed upon application and payment of the fee required by law.

Investigation of applicant; time, report.

(e) No such license shall be granted until investigation is made of applicant's qualifications with respect to the provisions of this act, except that the provisions of this section shall not apply to license renewals. The secretary of state shall make an investigation within 15 days from receipt of said application and make a report thereto.

Segregation of type of dealers on records.

(f) The secretary of state shall adopt some method to segregate new vehicle dealers, exclusive used vehicle dealers, junk dealers, etc., on his records.

Civil indemnity bond; tax deficiency; cancellation.

(g) Every applicant for a license shall accompany his application with a properly executed bond or renewal certificate, if a renewal certificate is used, the bond shall be considered as renewed for each succeeding year in the same amount and with the same effect as if an original bond were being given. The bond shall be in the sum of $10,000.00 with good and sufficient surety or sureties to be approved by the secretary of state, and shall be conditioned to indemnify or reimburse any purchaser, seller, financing agency or governmental agency for any monetary loss caused through fraud, cheating or misrepresentation in the conduct of the vehicle business, whether the fraud, cheating or misrepresentations were made by the dealer or his or its employees, agents or salesmen. The surety shall be required to make such indemnification or reimbursement for the monetary loss only after judgment based on fraud, cheating or misrepresentation has been entered in a court of record against the licensee. The bond shall also be conditioned to indemnify or reimburse the state for any sales tax deficiency as provided in Act No. 167 of the Public Acts of 1933, as amended, being sections 205.51 to 205.78 of the Compiled Laws of 1948, or use tax deficiency as provided

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in Act No. 94 of the Public Acts of 1937, as amended, being sections 205.91 to 205.111 of the Compiled Laws of 1948, for the year in which the bond was in force. The surety shall be required to make such indemnification or reimbursement only after final judgment has been entered in a court of record against the licensee. Any licensee or applicant who has furnished satisfactory proof that he has executed and has in force a bond similar to the foregoing bond requirement shall be exempt from the foregoing bond provisions. The aggregate liability of the surety shall, in no event, exceed the sum of the bond. The surety on such bond may cancel the bond upon giving 30 days' notice in writing to the secretary of state and thereafter shall be relieved of liability for any breach of condition occurring after the effective date of the cancellation.

Dealers' plates, minimum.

(h) Every applicant for a license except junk dealers shall accompany his application with an application for at least 2 dealer plates as provided by section 245, accompanied by the proper fee as provided by section 803.

Junk dealers, bond.

(i) Junk dealers need not comply with the civil indemnity bond as required by this section, nor paragraph (f) of section 249.

Agent for process.

(j) Every dealer required to be licensed hereunder shall, as a condition precedent to the granting of such license, file with the secretary, an irrevocable written stipulation, duly authenticated by the applicant, stipulating and agreeing that any legal process affecting such dealer, served on the secretary of state or his deputies, shall have the same effect as if personally served on the dealer. This appointment shall remain in force, as long as any liability of the dealer shall remain outstanding within the state of Michigan.

HISTORY: New 1949, p. 532, Act 300, Eff. Sep. 23;—Am. 1951, p. 463, Act 270, Eff. Sep. 28;—Am. 1957, p. 390, Act 281, Eff. Sep. 27.—Am. 1962, p. 176, Act 166, Eff. Mar. 28, 1963;—Am. 1964, p. 212, Act 166, Imd. Eff. Jan. 1, 1965;—Am. 1966, p. 243, Act 216, Eff. Mar. 10, 1967;—Am. 1970, p. 383, Act 123, Imd. Eff. Jul. 23.

257.249 Vehicle dealer's license; denial, suspension, revocation, grounds.

Sec. 249. The secretary of state shall deny the application of any person for a license as a dealer and refuse to issue him a license as such, or, may suspend or revoke a license already issued, if the secretary finds such applicant:

(a) Has made false statement of a material fact in his application; or

(b) Has not complied with the provisions of this chapter; or

(c) Has sold or offered for sale any new vehicle of a type required to be registered hereunder without having authority of a contract with a manufacturer or distributor thereof; or

(d) Has been guilty of a fraudulent act in connection with selling or otherwise dealing in vehicles of a type required to be registered hereunder; or

(e) Has entered into or is about to enter into a contract or agreement with a manufacturer or distributor of vehicles of a type required to be registered hereunder, which is contrary to any provisions of this act; or

(f) Has no established place of business which is used or will be used for the purpose of selling, displaying and offering for sale or dealing in vehicles of a type required to be registered, and has not proper servicing facilities; or

(g) Where the applicant is a corporation or partnership, any stockholder, officer, director, or partner of the applicant has been guilty of any act or omission which would be cause for refusing, revoking or suspending a license issued to such officer, director, or partner as an individual.

HISTORY: New 1949, p. 533, Act 300, Eff. Sep. 23;—Am. 1951, p. 464, Act 270, Eff. Sep. 28.

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257.250 Vehicle dealer's licensee; procedure for denial, suspension, revocation.

Sec. 250. (a) Before denying, revoking, suspending, or refusing to renew a dealer's license the secretary of state shall:

1. Cause an investigation of the licensee after a complaint in writing of any person has been filed in his office.

2. Set a date for hearing and give said licensee notice thereof at least 10 days in advance in the manner herein provided.

3. Cause a record to be taken of the hearing proceedings.

4. Enter a final order together with his findings.

(b) Such final order of the secretary of state shall be final unless, within 30 days after notice of such order is mailed by the secretary of state to the person whose application or license is denied, revoked, suspended or refused, such person shall claim an appeal from such order to the circuit court for the county in which such person resides or maintains a place of business or to the circuit court for the county of Ingham. On such appeal, the court shall review both law and facts as disclosed by the record, and may in its discretion receive newly discovered evidence, but shall not conduct a hearing de novo. The court may confirm, modify or set aside such order and make such further orders in respect thereto as justice may require.

HISTORY: New 1949, p. 533, Act 300, Eff. Sep. 23;—Am. 1951, p. 464, Act 270, Eff. Sep. 28.

257.251 Vehicle dealer or wrecker licensee; records.

Sec. 251. (a) Every licensee shall maintain a record in form as prescribed by the department of:

(1) Every vehicle of a type subject to registration hereunder which is bought, sold or exchanged by the licensee or received or accepted by the licensee for sale or exchange.

(2) Every such vehicle which is bought or otherwise acquired and wrecked by the licensee.

(3) Every licensee junking vehicles, on which license plates have been issued for the current year, shall turn such plates in to the office of the secretary of state, or a branch office thereof, within 10 days after dismantling such vehicle.

Record of purchase, sale, exchange; description; trailers, semitrailers.

(b) Every such record shall contain the date of the purchase, sale or exchange or receipt for the purpose of sale, of any vehicle, subject to registration hereunder, or parts thereof, a description of such vehicles or parts, together with the name and address of the seller, of the purchaser, and of the alleged owner or other person from whom such vehicles or parts were purchased or received, or to whom they were sold or delivered. Such description in the case of a motor vehicle shall also include the engine number, if any, the manufacturer's number, if any, vehicle number, if any, chassis number, if any, and such other numbers or identification marks as may be thereon, and shall also include a statement that a number has been obliterated, defaced or changed, if such is the fact. In the case of a trailer or semitrailer, the record shall include the manufacturer's number, and such other numbers or identification marks as may be thereon.

Seller's statement to buyer, contents; date; application for new title.

(c) Upon or within 20 days after the delivery of the vehicle, the seller shall deliver to the buyer in person or mail to his last known address a duplicate of a written statement, on a form prescribed by the secretary of state in conjunction with the department of revenue, describing clearly the name and address of the seller, the name and address of the buyer, the vehicle sold to the buyer, the cash sale price thereof, the cash paid down by the buyer, the amount credited the buyer for any trade-in and a descrip-

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tion thereof, the amount of the finance charge, the amount charged for vehicle insurance, stating the types of insurance covered by the insurance policy or policies, the amount of any other charge specifying its purpose, the net balance due from the buyer, the terms of the payment of the net balance and a summary of any insurance coverage to be effected. The written statement must be dated, but it may not be dated later than the actual date of delivery of the vehicle to the buyer. The original and all copies of the prescribed form shall contain identical information. The statement shall be furnished by the seller, shall be signed by the seller or his agent and by the buyer and shall be filed with the application for new title or registration. Failure of the seller to deliver this written statement to the buyer shall not invalidate the sale between the seller and the buyer.

Bill of sale in writing; buyer's acknowledgment of receipt; delivery.

(d) Every retail vehicle sale shall be void unless:

(1) It is evidenced by a memorandum in writing, which shall contain the agreement of the parties and shall be signed by the buyer and the seller or his agent, section 2201 of Act No. 174 of the Public Acts of 1962, being section 440.2201 of the Compiled Laws of 1948, to the contrary notwithstanding. The agreement shall contain a place for acknowledgment, by the buyer, of the receipt of a copy of the agreement; or

(2) Actual delivery of the vehicle is made to the buyer.

Inspection of records.

(e) Every such record shall be open to inspection by any peace officer or authorized officer or investigator of the department during reasonable business hours.

HISTORY: New 1949, p. 533, Act 300, Eff. Sep. 23;—Am. 1958, p. 105, Act 96, Eff. Sep. 13;—Am. 1959, p. 381, Act 250, Imd. Eff. Aug. 21;—Am. 1962, p. 178, Act 166, Eff. Mar. 28, 1963;—Am. 1964, p. 59, Act 51, Eff. Aug. 28;—Am. 1965, p. 372, Act 210, Imd. Eff. Jul. 16.

CITED IN OTHER SECTIONS: The above section is cited in § 205.51.

257.251a Repealed. 1962, p. 180, Act 166, Eff. Mar. 28, 1963.

Section provided for dealer's report as to sales to out of state dealers and purchasers.

257.251b Rental of motorcycle or motor driven cycle; qualifications of renters.

Sec. 251b. A dealer shall not rent, lease or furnish a motorcycle or motor driven cycle to any person for use on public streets and highways who is not licensed to operate a motorcycle or motor driven cycle by the state, if a resident, and by the state of which he is a resident, if a nonresident.

HISTORY: Add. 1966, p. 233, Act 207, Eff. Mar. 10, 1967;—Am. 1969, p. 276, Act 134, Eff. Jun. 1, 1970.

257.251c Rental of motorcycle or motor driven cycle; maintenance by dealer; determination of renter's competency.

Sec. 251c. The dealer shall maintain in safe operating condition all motorcycles and motor driven cycles rented, leased or furnished by him. The dealer, his agents or employees shall explain the operation of the motorcycle or motor driven cycle being rented, leased or furnished and if such dealer, his agent or employee believes the person to whom the motorcycle or motor driven cycle is to be rented, leased or furnished is not competent to operate such motorcycle or motor driven cycle with competency to himself and to the safety of persons or vehicles on public streets and highways, he shall refuse to rent, lease or furnish the same.

HISTORY: Add. 1966, p. 233, Act 207, Eff. Mar. 10, 1967.

257.251d Rental of motorcycle or motor driven cycle; subleasing; unauthorized use.

Sec. 251d. It is unlawful for a person to whom a motorcycle or motor driven cycle is rented, leased or furnished, to rent, sublease or otherwise authorize the use of the motorcycle or motor driven cycle on public streets and highways to any person who is not

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licensed to operate a motorcycle or motor driven cycle in this state, if a resident, and by the state of which he is a resident, if a nonresident.

HISTORY: Add. 1966, p. 233, Act 207, Eff. Mar. 10, 1967;—Am. 1969, p. 276, Act 134, Eff. Jun. 1, 1970.

257.251e Rental of motorcycle or motor driven cycle; liability insurance required.

Sec. 251e. Any dealer renting, leasing or furnishing any motorcycle or motor driven cycle shall carry a "motor vehicle liability policy" of the same type and coverage as that outlined in section 520 of this act for each motorcycle or motor driven cycle so rented, leased or furnished or, in the alternative, demand and be shown proof that the person renting, leasing or being furnished a motorcycle or motor driven cycle carries a motor vehicle liability policy of at least the type and coverage as specified in section 520 of this act.

HISTORY: Add. 1966, p. 233, Act 207, Eff. Mar. 10, 1967.

SPECIAL ANTI-THEFT LAWS

257.252 Reports as to vehicles stolen and recovered.

Sec. 252. (a) Every sheriff, chief of police or peace officer upon receiving reliable information that any vehicle registered hereunder has been stolen shall immediately report such theft to the department upon forms provided by it, unless prior thereto information has been received of the recovery of such vehicle. Any said officer upon receiving information that any vehicle, which he has previously reported as stolen, has been recovered, shall immediately report the fact of such recovery to the local sheriff's office or police department and to the department.

Abandoned vehicles; custody, notice; sale.

(b) The sheriff or any other peace officer shall take into custody all vehicles found abandoned on a street or highway or any other place, whether public or private. For purposes of this section, a vehicle is deemed abandoned when it has remained on a public street or highway or other place open to travel by the public, for a period of 48 hours or more, without notification by the registered owner to the sheriff or other peace officer of the reasons for leaving the vehicle in the public place. For purposes of this section, a vehicle is deemed abandoned on private property when it has remained on the private property for a period of 48 hours or more, without the consent of the owner or lessee of the property, or for a period of 48 hours or more after the consent has been revoked. Within 10 days after taking the vehicle into custody, the sheriff or other peace officer shall notify the department of state on a form prescribed by the department. Upon receipt of the notice, the department shall check its records to determine if the vehicle is currently registered in this state. If the vehicle is currently registered, the department shall notify the registered owner, by certified mail, and all known lien holders, if any, as shown by the records of the department, by first class mail, that the vehicle has been deemed an abandoned vehicle. The notice shall also state the location of the vehicle; the name of the officer in whose custody it is held; and that the vehicle will be sold at public or private sale if it is not claimed. At any time within 45 days after the date of the notice to the registered owner and lien holders, the registered owner or any lien holder may claim the vehicle by paying all charges which are due. If neither the registered owner nor any lien holder claims the vehicle and pays the charges, the sheriff or other peace officer may sell the vehicle at public or private sale at anytime [sic] thereafter. Any surplus received at the sale, after all charges of the sheriff or other peace officer have been paid and satisfied and all costs of sale have been deducted, shall be returned to any lien holder who has given notice to the sheriff or other peace officer of his claim of lien, within 45 days after the date of the notice to the registered owner and lien holders, and the balance, if any, shall be returned to the registered owner of said vehicle.

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Unregistered abandoned vehicle, disposition.

(c) If the department finds that the vehicle is not currently registered in this state, it shall notify the sheriff or other peace officer who may sell the vehicle at public auction after publishing, at least once, in a newspaper printed and circulated in the county in which the vehicle was abandoned, a notice containing a description thereof, stating that the vehicle will be sold at public auction at a date, time and place specified therein, not less than 30 days after the date of publication. If any person, prior to the date of sale specified in the notice, establishes to the satisfaction of the sheriff or other peace officer either that he is the owner of the vehicle, or that he is the holder of a lien against it, the person may claim the vehicle by paying all charges and costs which are due, including the cost of publication. If the abandoned vehicle bears a registration plate issued by any other state or country, the department of state may notify the motor vehicle administrator or other appropriate official of the other state.

Abandoned vehicle valued at less than $100.00, disposition.

(d) If any vehicle found abandoned on a street or highway or any other place, whether public or private, has a value of less than $100.00, the sheriff or other peace officer may deliver it to a garagekeeper within the county where the vehicle is found abandoned, and the garagekeeper, after giving the notice and holding the vehicle for the specified time, may apply for a title for the vehicle in his own name. Whenever a vehicle is turned over to a garagekeeper by a sheriff or other peace officer, the garagekeeper shall notify the department, on a form prescribed by it, within 10 days of the date the vehicle is delivered into his custody. In addition to other information which may be required by the department, the notice shall set forth a description of the vehicle; the value of the vehicle when impounded; and the official capacity of the officer who ordered the vehicle impounded. On receipt of the notice, the department shall check its records to determine if it is currently registered in this state. If the vehicle is currently registered, the department shall send a notice to the registered owner, by certified mail, and to all lien holders, if any, as shown by the records of the department, by first class mail, that the vehicle has been placed in the custody of the garagekeeper and that if it is not claimed within 15 days of the date of the notice, by the registered owner or lien holder, and all charges paid, the garagekeeper may obtain a certificate of title in his name for the vehicle, free and clear of all liens and encumbrances. All vehicles shall be stored a minimum of 30 days before a certificate of title is obtained. If the vehicle is not currently registered in this state, the department shall notify the garagekeeper. Thereafter, the garagekeeper may sell the vehicle at public auction after publishing, at least once, in a newspaper printed and circulated in the county in which the vehicle was abandoned, a notice containing a description of the vehicle, reciting that it is deemed an abandoned vehicle, and that it will be sold at public auction at a time and place specified therein, not less than 30 days after date of the publication. At the public sale, the garagekeeper may bid for and purchase the vehicle. If prior to the date of sale specified in the notice, any person establishes to the satisfaction of the sheriff or other peace officer either that he is the registered owner of the vehicle, or that he is the holder of a lien against it, he may reclaim it by paying all charges and costs which are due. If the abandoned vehicle bears a registration plate issued by any other state or country, the department of state may notify the motor vehicle administrator or other official of the other state.

Vehicle left at garage by other than registered owner.

(e) Any vehicle left in a garage for more than 10 days, where the same has not been left by the registered owner under a contract of service, storage or repair, shall be deemed an abandoned vehicle, and shall be reported by the garagekeeper to the sheriff of the county or the police department of the unit of government in which the ga-

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rage is located. Any garagekeeper who fails to report the possession of such a vehicle at the end of 10 days, or who fails to report the possession of such a vehicle, within 10 days of the date he learns that it was not left by the registered owner, shall forfeit all claims for servicing, storage or repair of the vehicle. All abandoned vehicles left in garages shall be turned over to the sheriff of the county or the police department of the unit of government in which the garage is located to be by him sold in accordance with the procedures set forth in this section.

Abandoned vehicle valued at $25.00 or less, disposition.

(f) Any abandoned vehicle 5 years or older which has extensive damage by collision or vandalism, including but not limited to a broken window or windshield, missing wheels, tires, motor or transmission, and not displaying a current year registration plate, or any combination of these circumstances rendering the vehicle inoperative, and whose fair market value is $25.00 or less shall be photographed by a law enforcement officer or bonded licensed dealer in the place where abandoned. The officer or bonded licensed dealer shall detail the damage or missing equipment to substantiate the appraisal of $25.00 or less. After it has been determined that the vehicle has not been reported stolen, the vehicle may be processed immediately as scrap. The records shall be kept by the law enforcement agency or bonded licensed dealer and secretary of state for a period of at least 2 years.

HISTORY: New 1949, p. 534, Act 300, Eff. Sep. 23;—Am. 1964, p. 97, Act 99, Eff. Aug. 28;—Am. 1966, p. 177, Act 157, Imd. Eff. Jul. 1;—Am. 1968, p. 260, Act 170, Imd. Eff. Jun. 17.

CITED IN OTHER SECTIONS: The above section is cited in § 570.302a.

257.253 Reports; filing, exchange of lists.

Sec. 253. (a) The department upon receiving a report of a stolen vehicle shall file the same in an index to be classified as "stolen motor vehicle index," and shall immediately suspend the registration of the vehicle so reported and shall not transfer the registration of the same until such time as it is notified in writing that such vehicle has been recovered.

1. The secretary of state shall publish once a month a list of all motor vehicles stolen or abandoned that have not been reported as recovered within the month, and forward a copy of same to every sheriff, the commanding officer of the Michigan state police, and all police departments in cities of over 10,000 inhabitants. Such list shall also be forwarded to the secretary of state, and other proper officials in every state in the United States.

2. It shall be the duty of the secretary of state to file reports of stolen and recovered motor vehicles reported to him by other states.

(b) In the case of abandoned vehicles, the department shall check the sheriff's report immediately with the stolen car report file and notify the owner, and the last known lien-holder, if any, as shown by the record, by registered mail, that such car is now an abandoned car and held in custody by the officer.

HISTORY: New 1949, p. 535, Act 300, Eff. Sep. 23.

257.254 False statement in application for certificate of title or possession of stolen vehicles; penalty.

Sec. 254. Any person who shall knowingly make any false statement of a material fact, either in his application for the certificate of title herein provided for, or in any assignment thereof, or who, with intent to procure or pass title to a motor vehicle which he knows or has reason to believe has been stolen, shall receive or transfer possession of the same from or to another, or who shall have in his possession any motor vehicle which he knows or has reason to believe has been stolen, and who is not an officer of the law engaged at the time in the performance of his duty as such officer, shall be deemed guilty of a felony and upon conviction shall be punished by a fine of not more than $5,000.00 or by imprisonment in any penal institution within the state

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for not more than 10 years, or both, in the discretion of the court. This provision shall not be exclusive of any other penalties prescribed by any law for the larceny of the unauthorized taking of a motor vehicle.

HISTORY: New 1949, p. 535, Act 300, Eff. Sep. 23.

OFFENSES AGAINST REGISTRATION LAWS AND CANCELLATION OF REGISTRATION

257.255 Motor Vehicle registration; evidence; wrecking, junking, repairing; violation of section, misdemeanor.

Sec. 255. No person shall operate, nor shall an owner knowingly permit to be operated, upon any highway any vehicle required to be registered hereunder unless there shall be attached thereto and displayed thereon when and as required by this chapter a valid registration certificate and registration plate or plates issued therefor by the department for the current registration year except as otherwise expressly permitted in this chapter. No registration plate or plates shall be required upon any wrecked or disabled vehicle, or vehicle destined for repair or junking, and being transported or drawn upon the highway by a wrecker, or a registered motor vehicle. Any violation of this section is a misdemeanor.

HISTORY: New 1949, p. 535, Act 300, Eff. Sep. 23;—Am. 1961, p. 27, Act 26, Imd. Eff. May 11;—Am. 1962, p. 47, Act 58, Eff. Mar. 28, 1963;—Am. 1963, p. 100, Act 88, Eff. Sep. 6.

257.256 Improper use of registration or certificate of title; penalty.

Sec. 256. No person shall lend to another any certificate of title, registration certificate, registration plate, special plate, or permit issued to him if the person desiring to borrow the same would not be entitled to the use thereof, nor shall any person knowingly permit the use of any of the same by one not entitled thereto, nor shall any person carry or display upon a vehicle any registration certificate or registration plate, not issued for such vehicle or not otherwise lawfully used thereon under this act. Any violation of this section is a misdemeanor.

HISTORY: New 1949, p. 536, Act 300, Eff. Sep. 23.

257.257 Alteration or forging of documents; penalty.

Sec. 257. It shall be deemed to be a felony for any person to commit any of the following acts:

1. To alter with fraudulent intent any certificate of title, registration certificate or registration plate, issued by the department;

2. To forge or counterfeit any such document or plate purporting to have been issued by the department;

3. To alter or falsify with fraudulent intent or forge any assignment upon a certificate of title;

4. To hold or use any such document or plate knowing the same to have been so altered, forged, or falsified.

HISTORY: New 1949, p. 536, Act 300, Eff. Sep. 23.

257.258 Registration or certificate of title; grounds for cancellation.

Sec. 258. (a) The department may cancel, revoke or suspend the registration of a vehicle or a certificate of title, registration certificate or registration plate in any of the following events:

(1) When the department is satisfied that such registration or that such certificate of title or plate was fraudulently or erroneously issued.

(2) When the department determines that the licensee has made or is making an unlawful use of his registration certificate, plate or title certificate.

(3) When a registered vehicle has been dismantled or wrecked.

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(4) When the department determines that the required fee has not been paid and the same is not paid upon reasonable notice or demand.

(5) When a registration certificate or registration plate is knowingly displayed upon a vehicle other than the one for which issued.

(6) When the department determines that the owner has committed any offense under this act involving the registration or certificate of title.

(7) When the department is so authorized under any other provision of this act.

(8) Upon receipt of notification from another state or foreign country that a certificate of title issued by the department has been surrendered by the owner in conformity with the laws of such other state or foreign country.

(9) When it is shown by satisfactory evidence that delivery of a motor vehicle in the possession of a dealer was not made to the applicant registered under this act. The money paid for registration and license fees may be refunded to the party who makes application for the refund.

Elected gross weight violations; penalty.

(b) If the offense of the licensee consists in hauling on the registered vehicle a gross weight more than 1,000 pounds in excess of the elected gross weight specified on the owners' reregistration [sic] certificate, the registration shall be canceled and the vehicle shall not again be operated on the highways, roads and streets of the state until it is reregistered, and new plates are issued. The reregistration fee shall be computed on the basis of twice the difference between the original registration fee and the registration fee applicable to the gross weight constituting the violation of the elected gross weight, one-half of which registration fee shall be a penalty. The period of the reregistration fee shall not extend beyond the termination date of the canceled registration certificate. The reregistration fee shall not exceed the maximum gross weight of the vehicle or combination of vehicles as determined by the number of axles and the legal weight applicable to such axles as specified by section 722. For the purpose of this act the gross weight of a vehicle or combination of vehicles may be determined by weighing the individual axles or group of axles and the total weight on all axles shall be the gross vehicle weight.

Notice; hearing.

(c) Before any cancellation under subparagraphs 1, 2, 5, 6 and 7 of this section is made, the person affected thereby shall be given notice and an opportunity to be heard.

HISTORY: New 1949, p. 536, Act 300, Eff. Sep. 23;—Am. 1951, p. 465, Act 270, Eff. Sep. 28;—Am. 1959, p. 382, Act 250, Imd. Eff. Aug. 21;—Am. 1968, p. 311, Act 214, Eff. Nov. 15;—Am. 1969, p. 593, Act 309, Imd. Eff. Aug. 14.

257.259 Evidence of registration; title; dealer or wreckers' licenses; return to state on cancellation; failure or refusal to surrender unlawful.

Sec. 259. (a) All license plates, certificates of title, registration certificates or the license of any dealer or wrecker, shall be deemed to be the property of the state of Michigan and whenever the department as authorized hereunder cancels or suspends the registration of a vehicle or a certificate of title, or the license of any dealer or wrecker, the owner or person in possession of the same shall immediately return the evidence of registration, title, or license so cancelled or suspended to the department.

(b) It is unlawful for any person to fail or refuse to surrender to the department upon demand any registration, certificate of title or license of any dealer as required in this section.

HISTORY: New 1949, p. 536, Act 300, Eff. Sep. 23;—Am. 1951, p. 465, Act 270, Eff. Sep. 28.

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CHAPTER III.

OPERATOR'S AND CHAUFFEUR'S LICENSE

257.301 Operator's and chauffeur's licenses; necessity; surrender of foreign license; number permitted.

Sec. 301. (a) No person, except those hereinafter expressly exempted, shall drive any motor vehicle upon a highway in this state unless such person, upon application, has been licensed as an operator or chauffeur by the department under the provisions of this chapter. No person shall receive an operator's license until he surrenders to the department all valid operators' licenses issued to him by any state or furnishes an affidavit that he does not possess any such valid operator's license. All surrendered licenses shall be returned by the department to the issuing state together with information that the licensee is now licensed in this state. No person shall be permitted to have more than 1 valid operator's license at any time.

(b) No person shall drive a motor vehicle as a chauffeur unless he holds a valid chauffeur's license. No person shall receive a chauffeur's license until he surrenders to the department any valid operator's or chauffeur's license issued to him by any state or furnishes an affidavit that he does not possess any such valid operator's or chauffeur's license.

(c) Any person holding a valid chauffeur's license need not procure an operator's license.

HISTORY: New 1949, p. 537, Act 300, Eff. Sep. 23;—Am. 1967, p. 14, Act 7, Imd. Eff. Apr. 21.

257.302 Operator's and chauffeur's licenses; persons exempt.

Sec. 302. The following persons are exempt from license hereunder:

1. Every person in the service of the army, navy or marine corps of the United States and when furnished with a driver's permit and when operating an official motor vehicle in such service. A person who is a civilian and in the employ of the army, navy or marine corps of the United States shall not be exempt from license under this chapter.

2. Any person while driving or operating a road roller, snow motor, road machinery or any farm tractor or implement of husbandry temporarily drawn, moved or propelled on the highways.

3. A nonresident who is at least 16 years of age and who has been duly licensed either as an operator or chauffeur under a law requiring the licensing of operators or chauffeurs in his home state and who has in his immediate possession either a valid operator's or chauffeur's license issued to him in his home state.

4. Any nonresident who is over the age of 17 years, whose home state does not require the licensing of operators, may operate a motor vehicle as an operator only, for a period of not more than 90 days in any calendar year, if the motor vehicle so operated is duly registered in the home state of such nonresident, and that the nonresident owner, chauffeur or driver has in his immediate possession a registration card evidencing such ownership and registration in his home state or country, or is able at any time or place required to prove lawful possession or the right to operate such motor vehicle and establish his proper identity.

5. A person who is a member of the armed forces of the United States on official leave, who on the date of his orders granting leave, possessed an operator's license, valid except for the expiration date of the license. This section shall apply only to the person's first leave of absence following the expiration of his license, and shall exempt him from the provisions of this act for a period of not to exceed 30 days.

HISTORY: New 1949, p. 537, Act 300, Eff. Sep. 23;—Am. 1968, p. 144, Act 90, Imd. Eff. Jun. 4.

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257.303 Operator's and chauffeur's licenses; issuance, prohibitions and restrictions.

Sec. 303. The commissioner shall not recommend nor shall the department issue any license hereunder:

1. To any person, as an operator, who is under the age of 16 years, except that the department may issue a restricted license as hereinafter provided to any person who is at least 14 years of age.

2. To any person, as a chauffeur, who is under the age of 18 years.

3. To any person whose license, either as operator or chauffeur, has been suspended during the period for which such license was issued; nor to any person whose license, either as an operator or chauffeur, has been revoked under the provisions of this act until the expiration of 1 year after such license was revoked.

4. To any person who has been convicted and is an habitual drunkard or is addicted to the use of narcotic drugs. Two convictions of driving while under the influence of intoxicating liquor under this or any other Michigan statute relating thereto or under the ordinance of any municipality which is substantially the same as the state law, shall be prima facie evidence that such person is an habitual drunkard under this chapter.

5. To any applicant who has previously been adjudged an idiot, imbecile, epileptic or feeble-minded, and who has not at the time of such application been restored to competency by judicial decree, nor then unless the commissioner is satisfied that such person is competent to operate a motor vehicle with safety to persons and property.

6. To any person when in the opinion of the commissioner such person is afflicted with or suffering from such physical or mental disability or disease as will serve to prevent such person from exercising reasonable and ordinary control over a motor vehicle while operating the same upon the highways, nor shall a license be issued to any person who is unable to understand highway warning or direction signs in the English language.

7. To any person who is an habitually reckless driver. Four convictions of reckless driving under this or any other Michigan statute relating thereto or under the ordinances of any municipality which define the term "reckless driving" substantially like the state laws shall be prima facie evidence that such person is an habitually reckless driver.

8. To any person who is an habitual criminal. Two convictions of a felony in the case of which felony a motor vehicle was used shall be evidence that such person is an habitual criminal.

HISTORY: New 1949, p. 538, Act 300, Eff. Sep. 23;—Am. 1961, p. 151, Act 123, Eff. Sep. 8.

257.303a Operator's and chauffeur's licenses; mental incompetents, suspension, restoration.

Sec. 303a. (1) Upon the admission of any person to a hospital for care and treatment of a mental illness or at any time thereafter until the person is no longer hospitalized for treatment of a mental illness, the medical superintendent of any hospital at which the person is a patient for treatment shall notify the department if the person has an operator's or chauffeur's license and has become afflicted with mental or physical infirmities or disabilities rendering it unsafe for him to drive. Upon receipt of such notice the department shall suspend the license of the person. The license shall remain suspended and no renewal license shall be issued until the medical superintendent of the hospital at which the person is a patient for care and treatment of a mental illness shall notify the department that the condition no longer exists.

(2) Any person adjudicated mentally ill prior to the effective date of this amendatory section shall be eligible to have his driving privileges restored or a renewal of his

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operator's or chauffeur's license if the medical superintendent of any hospital at which he is a patient for care and treatment, or if the licensed physician from whom the person is receiving treatment, shall certify to the department that he is no longer afflicted with mental or physical infirmities or disabilities rendering it unsafe for him to drive.

HISTORY: Add. 1961, p. 152, Act 123, Eff. Sep. 8.

257.304 Operator's and chauffeur's licenses; change of name report, adjudication of feeble-mindedness, epileptic, liquor or drug addict.

Sec. 304. It shall be the duty of the several probate courts of this state to report to the secretary of state all changes of name authorized by such probate courts, and the name, address, age, description, and operator's or chauffeur's license number when available, of every person adjudged to be feeble-minded, epileptic, or as a liquor or drug addict. The secretary of state shall prescribe and furnish the forms for making such report.

HISTORY: New 1949, p. 538, Act 300, Eff. Sep. 23;—Am. 1961, p. 152, Act 123, Eff. Sep. 8.

257.305 School bus driver; age; license required.

Sec. 305. It shall be unlawful for any person, whether licensed under this act or not, who is under the age of 21 years, to drive a motor vehicle while in use as a school bus for the transportation of pupils. No person regularly employed as a school bus driver shall drive a motor vehicle while in use as a school bus without possessing a valid chauffeur's license. No person shall operate a school bus or a passenger carrying motor vehicle with a manufacturer's rated seating capacity of 12 or more persons unless he possesses a valid chauffer's license.

HISTORY: New 1949, p. 538, Act 300, Eff. Sep. 23;—Am. 1956, p. 334, Act 176, Eff. Aug. 11;—Am. 1964, p. 88, Act 89, Eff. Aug. 28;—Am. 1965, p. 458, Act 268, Imd. Eff. Jul. 21;—Am. 1969, p. 465, Act 240, Eff. Mar. 20, 1970.

257.305a School bus driver; safety education course, approval; certificate of enrollment or completion; failure to complete; exemptions.

Sec. 305a. A driver of a public school bus shall have in his possession a certificate stating he has been enrolled in or has completed a course in school bus safety education conducted during or not more than 2 years prior to the school district fiscal year in which he drives a school bus. The course shall be approved by the superintendent of public instruction and shall be provided by an intermediate school district or a state university. The certificate of enrollment or completion of the course shall be prescribed by the superintendent of public instruction and completed by an instructor of the course. Failure to complete the course shall be reported by the instructor to the department of education and to the board of education of the school district in which the bus driver is employed. A driver who fails to complete the course within the school district fiscal year in which he is enrolled shall not be permitted to drive a bus. Nothing herein shall apply to employees or transportation equipment operators of commercial bus companies in the regular business of carrying passengers for hire.

HISTORY: Add. 1969, p. 357, Act 177, Imd. Eff. Aug. 5.

257.306 Temporary instruction permit; term, renewal.

Sec. 306. (a) The director upon receiving from any person over the age of 14 years, an application for a temporary instruction permit may issue such a permit entitling the applicant, while having such permit in his immediate possession, to drive a motor vehicle upon the highways for a period of 60 days when accompanied by a licensed adult operator or chauffeur who is actually occupying a seat beside the driver. Any such permit may be renewed or a new permit issued for an additional period of 90 days.

Restricted instruction permit, driver education program.

(b) The director upon receiving proper application, in his discretion may issue a restricted instruction permit effective for a school year or more restricted period to an applicant who is enrolled in a driver-education program which includes practice driv-

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ing and which is approved by the department of public instruction. The instruction permit shall entitle the permittee when he has the permit in his immediate possession to operate a motor vehicle only on a designated highway or within a designated area but only when an approved instructor is occupying a seat beside the permittee.

Additional instruction to permittee under 16.

(c) Upon completion of an approved driver education course and the issuance of a driver education certificate to the permittee, the permittee may be authorized to drive when accompanied by a parent or guardian for the purpose of additional instruction until reaching age of 16.

HISTORY: New 1949, p. 538, Act 300, Eff. Sep. 23;—Am. 1956, p. 144, Act 60, Imd. Eff. Apr. 2;—Am. 1957, p. 163, Act 141, Imd. Eff. May 28.

257.307 Operator's and chauffeur's licenses; application, contents.

Sec. 307. (a) Every application for an operator's or chauffeur's license shall be made upon a form furnished by the department and shall contain such provisions not inconsistent with this chapter as said department and said commissioner may determine but such application shall contain the following: Full name, date of birth, description, post office address, place of residence and signature of the applicant.

Photograph; additional fees; photographic equipment.

(b) Each applicant for an operator's or chauffeur's license shall be photographed simultaneously at the time the application for the respective license is made. The applicant shall pay in addition to the regular fee a sum of not to exceed 50 cents for the cost of processing the photograph. Such fee shall be forwarded to the secretary of state and credited to the general fund. The secretary of state shall acquire by purchase or lease the equipment for taking the pictures and furnish it to the local unit. Any equipment purchased or leased for carrying out the provisions of this act shall be acquired in accordance with standard purchasing procedures of the department of administration based on standards and specifications established by the secretary of state. No fees shall be collected under the provisions of this subsection, nor shall any equipment be purchased or leased until an appropriation therefor has been made by the legislature after a budget request has been properly presented to it. The photograph shall appear on the applicant's driver's license only and no photograph or any negative thereof shall be kept on file by the secretary of state or any other enforcement agency.

Oath, fee, examination.

(c) Every such application shall be signed by the applicant and verified by him under oath before the examiner, who is hereby authorized to and shall administer the oath required by this section and shall charge no fee therefor. Every application shall be accompanied by the proper fee to be collected by the examiner and forwarded to the department with the application. This fee shall be refunded to the applicant whenever the license applied for is denied, but in no case shall such fee be refunded to an applicant who fails to complete all examination requirements of the commissioner within 90 days from date of application for a license.

Applications of persons licensed in other jurisdictions; request for copy of drivers' records; use.

(d) Whenever application is received from a person previously licensed in another jurisdiction, the department shall request a copy of the applicant's record from the other jurisdiction. When received, the driving record shall become a part of the driver's record in the state with the same force and effect as though entered on the driver's record in this state in the original instance.

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Drivers' records from other licensing jurisdictions; forwarding cost.

(e) Whenever the department receives request for a driving record from another licensing jurisdiction the record shall be forwarded without charge.

HISTORY: New 1949, p. 538, Act 300, Eff. Sep. 23;—Am. 1951, p. 465, Act 270, Eff. Sep. 28;—Am. 1958, p. 297, Act 217, Eff. Sep. 13;—Am. 1964, p. 404, Act 260, Imd. Eff. Jun. 3;—Am. 1967, p. 305, Act 212, Eff. Nov. 2.

257.308 Operator's licenses; minors, approval by parent or guardian.

Sec. 308. The commissioner shall not approve the application of any minor under the age of 18 years for an operator's license unless such application is signed by the father, mother or guardian of the applicant, or in the event a minor under the age of 18 years has no father, mother or guardian, then no license shall be granted to the minor unless his application therefor is signed by another responsible adult.

HISTORY: New 1949, p. 539, Act 300, Eff. Sep. 23;—Am. 1958, p. 131, Act 123, Eff. Sep. 13.

257.309 Operator's and chauffeur's licenses; examination of applicants.

Sec. 309. (a) Every application shall be referred by the department to the commissioner who, through his agents assigned by him to the department, shall investigate and make recommendation.

Physical impairment, bad driving record; waiver of examination.

(b) The commissioner before recommending the issuance of any license shall examine or cause to be examined every applicant for an operator's license and every applicant for a renewal thereof, who may have suffered a physical impairment or who may have a bad driving record, who at the time of the application, is not the holder of a valid, unrevoked operator's license under the terms of this or any previous law of this state providing for the licensing of operators; and also every applicant for a chauffeur's license. In all other cases the commissioner may waive such examination excepting that whenever it shall appear from the face of the application or from the apparent physical or mental condition of the applicant, or from any other information which has come to the commissioner from any source whatsoever, that the applicant does not apparently possess the physical, mental or other qualifications to operate a motor vehicle in such manner as not to jeopardize the safety of persons or property, or that the applicant is, for one or more of the causes enumerated in section 303 of this chapter, not entitled to a license, the commissioner shall require an examination of the applicant to be made.

Sheriff, deputy sheriff, chief of police as examiner, report.

(c) Sheriffs of the several counties and their deputies and the chiefs of police of the several cities and of villages having organized police departments within this state and their duly authorized representatives, and any members of the division of driver and vehicle services may be appointed examining officers for the purpose of examining applicants for operator's and chauffeur's licenses by the commissioner. It shall be the duty of such examining officer to conduct examinations of applicants for operator's and chauffeur's licenses, under the provisions of this chapter, and in accordance with the rules and regulations as established by the commissioner under paragraph (d) of this section, and to make written reports of their findings and recommendations upon such examination to the commissioner.

Rules; knowledge of English; scope of examination.

(d) The commissioner shall establish rules and regulations for the examination of the applicant as to his physical and mental qualifications to operate a motor vehicle in such manner as not to jeopardize the safety of persons or property, and shall ascertain whether or not any facts exist which would bar the issuance of a license under section 303 of this chapter. He shall also ascertain whether or not the applicant has sufficient knowledge of the English language to understand highway warnings or direction signs written in such language. Such examination shall not include investigation of any facts

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other than those directly pertaining to the ability of the applicants to operate a motor vehicle with safety, or other than those facts declared to be prerequisite to the issuance of a license under this chapter.

Return of application, recommendation.

(e) The commissioner shall immediately after examination, or if examination is waived, after such determination, return such application to the department together with the result of such examination or determination and his recommendation in respect thereto; such report to be upon forms approved by the department. The recommendation of the commissioner with respect to any application shall in all cases be binding upon and followed by the department.

Approval required.

(f) No original license shall be issued by the department excepting with the approval of the sheriff in the county in which the applicant resides, or with the approval of the commissioner, in case the applicant resides outside the limits of an incorporated city or village having an organized police department, and in case the applicant resides within the limits of an incorporated city or village having an organized police department, excepting with the approval of the chief of police or head of the police department in the city or village in which the applicant resides, or with the approval of the commissioner, and upon the recommendation of the commissioner.

HISTORY: New 1949, p. 539, Act 300, Eff. Sep. 23;—Am. 1953, p. 324, Act 215, Eff. Oct. 2;—Am. 1958, p. 131, Act 123, Eff. Sep. 13.

257.310 Operator's and chauffeur's licenses; issuance, contents; forged license, illegal use; temporary permits; blood types.

Sec. 310. (a) The department shall issue to every person licensed as an operator, an operator's license, and to every person licensed as a chauffeur, a chauffeur's license.

(b) Every such license shall bear thereon the distinguishing number permanently assigned to the licensee and shall contain the name, date of birth, place of residence, post office address, an imprinted photograph and a brief description of the licensee for the purpose of identification, and also the signature of the licensee. Any person who reproduces such photograph, or negative of such photograph, or any such license or any part thereof including such photograph or a forged license with unlawful intent, upon conviction shall be punished by imprisonment in the county or municipal jail for not more than 1 year or by a fine of not more than $500.00, or both.

(c) Any person who uses an altered photograph or license or any part thereof or a forged license with unlawful intent, upon conviction shall be punished by imprisonment in the county or municipal jail for not more than 1 year or by a fine of not more than $500.00, or both, and the license of such person shall be revoked.

(d) The commissioner, upon determining after an examination that an applicant is mentally and physically qualified to receive a license, may issue to such person a temporary driver's permit entitling such person while having such permit in his immediate possession to drive a motor vehicle upon the highways for a period of not exceeding 60 days before issuance to such person of an operator's or chauffeur's license by the department.

(e) Any operator or chauffeur may place on the reverse side of his license his blood type, immunization data or medication data.

HISTORY: New 1949, p. 540, Act 300, Eff. Sep. 23;—Am. 1953, p. 149, Act 144, Eff. Oct. 2;—Am. 1957, p. 186, Act 164, Eff. Sep. 27;—Am. 1958, p. 298, Act 217, Eff. Sep. 13;—Am. 1966, p. 232, Act 206, Eff. Aug. 1;—Am. 1967, p. 306, Act 212, Eff. Nov. 2.

257.310a Operator's and chauffeur's licenses; minors' instruction permit, color; adult permit.

Sec. 310a. Every instruction permit, operator's license or chauffeur's license issued to a person who at the time of application has not attained his twenty-first birthday, shall be a color different from those issued to persons who have attained their twenty-

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first birthday, as determined by the secretary of state. Upon attaining his twenty-first birthday, an operator may apply for an adult operator's license at any local driver examining station. Upon presentation of proper proof of age, a temporary permit shall be given the applicant and the department shall issue an adult operator's license for the remaining term of the unexpired license without additional charge.

HISTORY: Add. 1964, p. 10, Act 4, Imd. Eff. Mar. 13.

257.310b Operator's and chauffeur's licenses; original, probationary; suspension, grounds; determination of occurrence of offense.

Sec. 310b. Every original license issued under this act to a person not previously licensed in this or in any other state shall be designated and clearly marked as probationary for 1 year from date of issuance. Such a license may be suspended upon failure of such licensee to appear before a magistrate as hereinbefore provided in this chapter or when the licensee is convicted of a moving violation in this state within 1 year after issuance of the license. The period of suspension shall be determined at a reexamination of the driver and shall be for not less than 1 month and not more than 12 months. For the purposes of this act, upon conviction for any moving violation, the date of the arrest for said violation shall be used in the determination of whether such offense occurred within the 1 year probationary period.

HISTORY: Add. 1966, p. 295, Act 227, Eff. Jan. 1, 1967.

257.310c Operator's and chauffeur's licenses; persons not previously licensed; temporary instruction permit.

Sec. 310c. No operator's or chauffeur's license shall be issued to any person who has not been previously licensed in this or any other state or country until 30 days after he has obtained a temporary instruction permit or a validated driver education certificate.

HISTORY: Add. 1968, p. 457, Act 263, Eff. Nov. 15.

257.311 Operator's and chauffeur's licenses; possession, display.

Sec. 311. The licensee shall have such license in his immediate possession at all times when driving a motor vehicle, and shall display the same upon demand of any uniformed police officer or field deputy or inspector or other duly authorized representative of the commissioner who shall identify himself as such.

HISTORY: New 1949, p. 540, Act 300, Eff. Sep. 23.

257.312 Operator's and chauffeur's licenses; restricted licensees, regulations.

Sec. 312. (a) Upon proper showing of extenuating circumstances and special reasons, or need by an applicant who meets the age qualifications and when accompanied by the fee as hereinafter provided, the commissioner may recommend a restricted operator's or chauffeur's license containing conditions and restrictions applicable to the licensee, the type of special mechanical control devices required in a motor vehicle operated by him, and any area, time, or other condition which the commissioner deems necessary to assure the safe operation of a vehicle by the licensee and under which the licensee may operate a motor vehicle: Provided, That any license issued to a minor who is 14 years of age and under 16 years of age shall contain only the conditions determining the hours during which the licensee may drive a motor vehicle and the purpose for which it is to be driven: Provided, That any license issued to a minor who is 14 years of age and under 16 years of age shall be revoked by the commissioner on the written request of a parent, guardian, or person standing in loco parentis.

(b) Operator's licenses issued to persons between 14 and 16 years of age shall expire 1 year from the issuance thereof.

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(c) Following recommendation of the commissioner in accordance with section 312 (a), the department shall issue a special restricted license containing thereon the restrictions recommended by the commissioner.

(d) The commissioner may upon receiving satisfactory evidence of any violation of the restrictions of such license, cause the suspension or revocation of the same by so recommending to the department.

(e) It shall be a misdemeanor for any person to operate a motor vehicle in any manner in violation of the restrictions imposed in a restricted license issued to him: Provided, That the provisions of this paragraph shall not apply to any minor who is 14 years of age and under 16 years of age.

(f) When a motor vehicle is being driven by a minor who is over the age of 14 years and under the age of 16 years, and such minor is accompanied by a parent, guardian, or person standing in loco parentis, the conditions, limitations and restrictions set forth in this section shall not be applicable.

HISTORY: New 1949, p. 540, Act 300, Eff. Sep. 23.

257.312a Motorcycle indorsement on operator's or chauffeur's license; special restricted operator's license.

Sec. 312a. Every person, before operating any motorcycle or motor driven cycle upon any public street or highway in this state, shall procure a motorcycle indorsement on the operator's or chauffeur's license. Such license shall be issued, suspended, revoked, canceled or renewed in accordance with and governed by the provisions of this act, except that a special restricted operator's license to operate a motor driven cycle may be issued to any person 15 years of age and older if such a person can satisfy the director or an examining officer that he is competent to operate a motor-driven cycle with safety to persons and to property and has successfully passed a driver education course and examination as provided in section 811 of this act. Licenses issued prior to the effective date of this amendatory act shall be valid for the duration of the license period.

HISTORY: Add. 1956, p. 335, Act 178, Imd. Eff. Apr. 16;—Am. 1959, p. 403, Act 280, Eff. Mar. 19, 1960;—Am. 1969, p. 276, Act 134, Eff. Jun. 1, 1970.

257.312b Motorcycle indorsement on operator's or chauffeur's license; examination, subjects; mandatory passing.

Sec. 312b. Before any person is issued a motorcycle indorsement on an operator's or chauffeur's license, he shall pass an examination as provided in section 309 and those subjects set forth in rules and regulations of the department of state. Each written examination given an applicant for a motorcycle indorsement on an operator's or chauffeur's license as provided in section 309 shall also include subjects designed to cover motorcycles and motor driven cycles. Every person shall pass an examination designed to test the competency of the applicant for a motorcycle indorsement on an operator's or chauffeur's license to operate a motorcycle or motor driven cycle upon the highways of this state with safety to other persons and property. All examinations shall be administered as provided in this act. At no time shall the successful completion of a driver education course designed for motorcycles or motor driven cycles be a substitute for the successful passing of a written examination and road test as provided in this act, or in lieu of the other requirements for issuance of an operator's or chauffeur's license issued under the provisions of this act.

HISTORY: Add. 1969, p. 276, Act 134, Eff. Jun. 1, 1970.

257.312c Motorcycle indorsement on operator's or chauffeur's license; fee, disposition, use.

Sec. 312c. Every application for a motorcycle indorsement on an operator's or chauffeur's license for operation of motorcycles or motor driven cycles as provided in

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section 312a shall be accompanied by the following fees which shall be in addition to any other original or renewal operator or chauffeur license fee:

First motorcycle indorsement	$3.00
Renewal of motorcycle indorsement	$1.50

All sums of money received and collected under this section shall be deposited in the state treasury to the credit of the general fund. The division shall refund out of the fees collected to each county or municipality, acting as an examining officer or examining bureau, $3.00 for each applicant examined for a first indorsement and $1.50 for every other applicant examined whose application is not denied, on the condition, however, that such money refunded shall be paid to the county or local treasurer and is appropriated to the county, municipality or officer or bureau receiving the same for the purpose of carrying out the provisions of this act.

HISTORY: Add. 1969, p. 276, Act 134, Eff. Jun. 1, 1970.

257.312d Motorcycle indorsement on operator's or chauffeur's license; inclusive reference.

Sec. 312d. Whenever in this act any reference is made to operator's or chauffeur's license, or both, such reference shall be deemed intended to include motorcycle indorsement on the operator's or chauffeur's license.

HISTORY: Add. 1969, p. 277, Act 134, Eff. Jun. 1, 1970.

257.313 Operator's and chauffeur's licenses; duplicate, fee, proof.

Sec. 313. In the event that an operator's or chauffeur's license issued under the provisions of this chapter is lost, destroyed or mutilated or becomes illegible, the person to whom the same was issued shall obtain a duplicate upon the payment of the required fee and upon furnishing proof satisfactory to the department that such license has been lost, destroyed or mutilated or has become illegible.

HISTORY: New 1949, p. 541, Act 300, Eff. Sep. 23;—Am. 1959, p. 383, Act 250, Imd. Eff. Aug. 21.

257.314 Operator's or chauffeur's license; expiration on holder's birthday.

Sec. 314. (a) Every operator's license shall expire on the birthday of the person to whom it is issued in the third year following the date of its issuance unless suspended or revoked prior thereto but in no event shall any such license be issued for a period longer than 3 years. Any person holding a license may at any time within 3 months prior to the expiration of his license make application for a new license as in this chapter provided, which new license when granted shall expire as hereinbefore provided.

(b) The first chauffeur's license issued to a person shall expire on the licensee's birthday next following unless it is suspended or revoked prior thereto. A subsequent chauffeur's license shall expire on the birthday of the person to whom it is issued in the third year following the date of its issuance unless it is suspended or revoked prior thereto.

HISTORY: New 1949, p. 541, Act 300, Eff. Sep. 23;—Am. 1953, p. 325, Act 215, Eff. Oct. 2;—Am. 1967, p. 97, Act 78, Eff. Jan. 1, 1968.—Am. 1970, p. 385, Act 124, Imd. Eff. Jul. 23.

257.315 Operator's and chauffeur's licenses; change of address, notice.

Sec. 315. (a) Any operator or chauffeur, who shall change his residence previous to the expiration of a license granted under this chapter shall immediately return such license to the local examining board or the department, whose duty it shall be to write the new address on the reverse side of the license and the date of change.

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(b) Failure to have such change of address recorded as herein provided may be cause for revocation or suspension of same immediately if there is no response to a notice mailed to his last known address.

HISTORY: New 1949, p. 541, Act 300, Eff. Sep. 23;—Am. 1966, p. 232, Act 206, Eff. Aug. 1.

257.316 Operator's and chauffeur's licenses; records.

Sec. 316. The department shall file every application for an operator's or chauffeur's license, and the recommendation of the commissioner thereon, and index the same by name and number and maintain suitable records of all licenses issued and all applications for licenses denied, also a record of all licenses which have been revoked or suspended, and shall note upon such records in connection with any license, any conviction of the person to whom the license is granted, as in this act required, and such records shall be preserved for a period of not less than 6 years from date of application.

HISTORY: New 1949, p. 541, Act 300, Eff. Sep. 23.

257.316a School bus drivers and substitutes; qualifications.

Sec. 316a. All regular drivers of school buses, and their substitutes, shall meet the following qualifications:

(a) The driver shall be in good physical and mental health, be able-bodied, free from communicable disease, strong enough physically to handle the bus with ease.

(b) As evidence of his or her physical fitness and mental alertness, the driver shall submit annually to a physical examination by a reputable physician designated by the local board of education and he or she shall present the physician's certificate to the employing school board or the superintendent of the school to which the pupils are being transported.

(c) The driver shall be one with good moral character who will conduct himself or herself in such manner as to exercise good influence over the pupils.

(d) A record of each employed school bus driver together with a physician's certificate shall be maintained in the office of the local school superintendent or in case of a primary school district it shall be filed with the county school superintendent or commissioner of schools on forms prescribed by the superintendent of public instruction.

HISTORY: Add. 1957, p. 133, Act 117, Eff. Aug. 1.

CANCELLATION, SUSPENSION, OR REVOCATION OF LICENSES

257.317 Nonresident operator; operation of motor vehicle when operating privileges suspended or revoked; penalty; notice of conviction or forfeiture of bail.

Sec. 317. (a) The commissioner is authorized to recommend to the department the suspension or revocation of the right of any nonresident to operate a motor vehicle in this state for any cause for which the license of a resident operator or chauffeur may be suspended or revoked, and any nonresident who operates a motor vehicle upon a highway when his privilege to operate has been suspended, revoked or denied by the department shall be guilty of a misdemeanor and shall be punished as provided in section 904.

(b) The department is further authorized upon receiving a record of the conviction or forfeiture of bail in this state of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws of this state, to forward a certified copy of such record to the motor vehicle administrator or other appropriate officer in the state wherein the person so convicted is a resident.

HISTORY: New 1949, p. 541, Act 300, Eff. Sep. 23;—Am. 1951, p. 466, Act 270, Eff. Sep. 28;—Am. 1967, p. 331, Act 226, Eff. Nov. 2.

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257.318 Resident operator; conviction in another state, revocation of license.

Sec. 318. The commissioner is hereby authorized to recommend to the department the suspension or revocation of the license of any resident of this state upon receiving notice of the conviction of such person in another state of an offense therein which, if committed in this state, would be grounds for the suspension or revocation of the license of an operator or chauffeur.

HISTORY: New 1949, p. 542, Act 300, Eff. Sep. 23.

257.319 Mandatory suspension of license for conviction of certain crimes or forfeiture of bail.

Sec. 319. The department shall forthwith suspend for a period of not less than 90 days nor more than 2 years after the expiration of the sentence, not including periods of probation, the license of any person upon receiving a record of the conviction of such person of any of the following crimes, whether such conviction be had under any state law or local ordinance:

(1) Manslaughter or negligent homicide resulting from the operation of a motor vehicle.

(2) Conviction or forfeiture of bail for violation of section 625 (a) or 625 (b).

(3) Perjury or the making of a false affidavit to the commissioner or department under this act or any other law of this state requiring the registration of motor vehicles or regulating their operation on highways.

(4) Any crime punishable as a felony under the motor vehicle laws of this state or any other felony in the commission of which a motor vehicle was used.

(5) Conviction or forfeiture of bail upon 3 charges of reckless driving all within the preceding 12 months.

(6) A conviction of a driver of a motor vehicle involved in an accident resulting in the death or injury of another person, upon a charge of failing to stop and disclose his identity at the scene of such accident.

HISTORY: New 1949, p. 542, Act 300, Eff. Sep. 23;—Am. 1951, p. 466, Act 270, Eff. Sep. 28;—Am. 1967, p. 331, Act 226, Eff. Nov. 2.
CITED IN OTHER SECTIONS: The above section is cited in § 500.3220.

257.320 Operator's and chauffeur's licenses; suspension or revocation, grounds.

Sec. 320. (a) Whenever the commissioner has reason to believe that any licensed operator or chauffeur is or has become incompetent to drive a motor vehicle or is or has become afflicted with mental or physical infirmities or disabilities rendering it unsafe for such person to drive a motor vehicle or as a driver has in 1 or more instances been involved in an accident resulting in the death of a person, or within a 24-month period has been involved in 3 accidents resulting in personal injury or damage to the property of any person in each accident in excess of $200.00 and the official police report indicates any moving violation on the part of the driver or drivers involved in each of the accidents; or whenever any person has charged against him a total of 12 or more points as provided in section 320a within a period of 2 years, the commissioner, after notice as hereinafter provided to such person, may conduct an investigation and require an examination of such person in the county wherein such person may reside, and upon good cause appearing thereon, may thereupon recommend to the department the suspension or revocation of the license of such person or may require the immediate surrender of the license of each person, which together with a recommendation as to the period of suspension or revocation, shall be forwarded to the department. The commissioner shall, in all cases, prescribe the period of suspension and the recommendation of the commissioner in the premises shall, in all cases, be binding upon and followed by the department.

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Service of notice of reexamination.

(b) Service of notice shall be made by regular mail to the last known address of the licensee as shown on the most recent license application or change of address on the license as provided by section 315.

Duration of suspension.

(c) No license shall be suspended under this section for a period of more than 1 year.

Reexamination.

(d) The reexamination may be held by the director in accordance with the provisions of this section notwithstanding any suspension, revocation or denial of an operator's or chauffeur's license under this section, under section 319 or under chapter 5 or under any other law of this state, and any suspension ordered pursuant to the provisions of this section shall be in addition to any other suspensions.

HISTORY: New 1949, p. 542, Act 300, Eff. Sep. 23;—Am. 1958, p. 210, Act 180, Eff. Sep. 13;—Am. 1967, p. 161, Act 132, Eff. Nov. 2;—Am. 1968, p. 608, Act 332, Eff. Jan. 1, 1969.

257.320a Point system; poor driving record.

Sec. 320a. (1) The division of driver and vehicle services, within 10 days after the receipt of a properly prepared abstract, shall record the date of conviction or probate court finding and the number of points for each conviction or probate court finding based on the following formula:

(a) Manslaughter, negligent homicide or other felony resulting from the operation of a motor vehicle ..... 6 points

(b) Operating a motor vehicle while under the influence of intoxicating liquor or narcotic drug ..... 6 points

(c) Failing to stop and disclose identity at the scene of the accident when required by law ..... 6 points

(d) Reckless operation in violation of section 626 of this act, as amended, or a similar violation under the laws of any other state, or municipality within or without the state of Michigan ..... 6 points

(e) Violation of any law or ordinance pertaining to speed by exceeding the lawful maximum by more than 15 miles per hour, or by careless driving ..... 4 points

(f) Violation of any law or ordinance pertaining to speed by exceeding the lawful maximum by more than 10 but not more than 15 miles per hour ..... 3 points

(g) Violation of any law or ordinance pertaining to speed by exceeding the lawful maximum by 10 miles per hour or less ..... 2 points

(h) Disobeying a traffic signal, stop sign or improper passing ..... 3 points

(i) All other moving violations pertaining to the operation of motor vehicles reported under this section ..... 2 points

(j) Failing to answer a citation, or notice to appear in court for any violation of this act or of any ordinance substantially corresponding to this act ..... 1 point

Bond forfeitures outside state.

(2) No points shall be entered for bond forfeitures outside this state.

Weight violations.

(3) No points shall be entered for defective equipment when such defect shall consist of overweighted loads.

Multiple convictions from same incident.

(4) If more than 1 conviction results from the same incident, points shall be entered for the more serious offense only.

9-point driver, interview.

(5) If a person has accumulated 9 points as provided herein, the director may call said person in for an interview as to his driving ability and record after due notice as to

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time and place of said interview. In the event the person fails to appear as provided herein, the director shall add 3 points to his record.

HISTORY: Add. 1958, p. 210, Act 180, Eff. Sep. 13;—Am. 1960, p. 74, Act 82, Eff. Aug. 17;—Am. 1963, p. 33, Act 34, Eff. Sep. 6;—Am. 1965, p. 58, Act 41, Imd. Eff. May 25;—Am. 1965, p. 692, Act 351, Imd. Eff. Jul. 23;—Am. 1968, p. 609, Act 332, Eff. Jan. 1, 1969.

257.320b County driver safety school; establishment, advisory board, members, supervision.

Sec. 320b. (1) There may be established in any county a driver safety school by an advisory board consisting of the superintendent of schools of the largest school district who shall act as chairman and fiscal agent, the county superintendent of schools, the judge of probate, the prosecuting attorney, the sheriff, the chief of police of the largest city; and a municipal judge, a justice of the peace, and 2 citizens at large, who shall be appointed by the county board of supervisors. Any school so established shall be conducted under the supervision of the superintendent of public instruction and in accordance with the rules and regulations prescribed by him.

Courses, purpose, traffic violators, voluntary attendance.

(2) Courses, as prescribed by the superintendent of public instruction, shall be offered for the purpose of developing good driving habits and promoting highway traffic safety. The courses shall be open to: Such persons who shall have been referred to a school by a court having jurisdiction over traffic violations after 2 or more convictions of a moving traffic violation within a 12 month period and who, in the determination of the court, are in need of such remedial education; such persons who, after a hearing as provided in section 320 of this act, shall have been referred to a school by the commissioner; and such persons as may voluntarily choose to attend.

Stay of sentence of convicted person referred to the school.

(3) For the purpose of referral as provided in this section, the court, after entry of judgment of conviction, may stay the imposition of sentence until the violator has attended the school. Any person referred to a school by a court or by the commissioner may attend any school in the state which has been established in conformity with this section.

Fees.

(4) A fee not to exceed $10.00 may be charged for attendance at the school. The fees shall be established by the advisory board and shall be used to defray the cost of instruction, materials and clinical services.

Approval of existing schools; referrals.

(5) The advisory board may approve schools now in existence if the schools are conducted and courses offered in accordance with the rules and regulations of the superintendent of public instruction. No person shall be referred to a school which has not been approved by the advisory board and the superintendent of public instruction.

HISTORY: Add. 1957, p. 289, Act 230, Eff. Sep. 27.

257.320c Operators' and chauffeurs' licenses; reissuance after suspension or revocation, examination and qualifications.

Sec. 320c. Before a license is issued to any person whose license has been suspended or revoked, he shall be examined in a manner prescribed by the secretary of state and shall be required to meet all the qualifications prescribed in section 309.

HISTORY: Add. 1966, p. 195, Act 174, Imd. Eff. Jul. 1.

257.320d Defective equipment not moving violation.

Sec. 320d. Notwithstanding any other provision of law, violations relating to equipment shall not be considered moving violations and conviction of such violations shall not be reported on the abstract required by section 732.

HISTORY: Add. 1970, p. 63, Act 18, Imd. Eff. May 8.

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257.321 Surrender of license; return to licensee.

Sec. 321. The department upon suspending or revoking a license shall require that such license shall be surrendered to and be retained by the department, except that at the end of the period of suspension such license so surrendered shall be returned to the licensee.

HISTORY: New 1949, p. 543, Act 300, Eff. Sep. 23.

257.321a Citation; failure to answer, penalty; notice of suspension; duration; fee.

Sec. 321a. Any person who fails to answer a citation, or notice to appear in court for violating any provision of this act or a provision of any ordinance substantially corresponding to this act, shall be guilty of a misdemeanor, which shall not be considered a violation for any purpose under section 320a. In addition, after 30 days from the date of hearing prescribed in the citation, or notice to appear in court, the court shall give notice by mail at the last known address of such person that if he fails to appear within 10 days from such notice the secretary of state shall suspend his operator's or chauffeur's license. If such person fails to appear within the 10-day period the court shall so inform the secretary of state who shall suspend the license of such person and so notify him by regular mail at his last known address of such suspension. Such suspension shall remain in effect until the court informs the secretary of state that the person has appeared before the court and all matters relating to his violation have been resolved. Before returning the license to its owner the secretary of state shall charge to such person and receive from him a fee of $2.00 for reissuance of such license. Such moneys shall be deposited in the general fund. Any person suspended under this section shall not be subject to the examination provisions of section 320c of this act.

HISTORY: Add. 1968, p. 610, Act 332, Eff. Jan. 1, 1969.

257.321b Suspended or revoked license; obtained from licensee.

Sec. 321b. Any policeman, law enforcing agent or judicial officer who is informed by an official communication from the secretary of state that the license of an operator or chauffeur has been suspended or revoked under the provisions of this act, shall obtain such suspended or revoked license from the operator or chauffeur and forward it to the secretary of state.

HISTORY: Add. 1968, p. 610, Act 332, Eff. Jan. 1, 1969.

257.322 License appeal board; creation, members, compensation, quorum, subpoena of witnesses, oaths; appeals, filing.

Sec. 322. There is hereby created a board to be known as the license appeal board, and hereafter referred to in this act as the "board". Said board shall consist of the secretary of state who shall be chairman, the attorney general and the sheriff of the county wherein the petitioner resides in case he resides outside the limits of an incorporated city or village or the chief of police in case petitioner resides within the limits of an incorporated city or village. None of the members of said board shall receive any additional compensation for their services as such. The respective deputies of each of said members, and any agents, employees or other representatives of said members thereunto duly authorized may, in the absence of the member, act in his stead upon such board. Two members of the board shall constitute a quorum for the transaction of business. The board may issue subpoenas to compel attendance of witnesses in any matter or hearing properly pending before the board, issue process to compel such attendance, and punish for contempt any witness failing to appear or testify in accordance with the rules and practice in circuit courts so far as the same can be made to apply. Each member or his representative shall be authorized to swear witnesses and administer oaths in any matter coming before said board. The chairman of the board shall have power and authority to exemplify its records. Any person, conceiving him-

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self aggrieved by any final determination of the commissioner denying an application for an operator's or chauffeur's license or suspending or revoking the operator's or chauffeur's license of such person, may appeal therefrom to the board and the board shall have the power and authority after hearing to affirm, modify, or set aside, any final determination of the commissioner denying an application for an operator's or chauffeur's license or suspending or revoking an operator's or chauffeur's license: Provided, That such appeal shall be in writing and shall be filed with the department within 10 days after such final determination. The board shall thereupon require production of all documents filed in connection with such matter, together with a transcript of any testimony which may have been taken and may take such additional testimony as it may deem advisable.

HISTORY: New 1949, p. 543, Act 300, Eff. Sep. 23;—Am. 1953, p. 325, Act 215, Eff. Oct. 2.

CITED IN OTHER SECTIONS: The above section is cited in § 16.129.

257.323 Denial, suspension or revocation of license; petition for review by circuit court, procedure, order.

Sec. 323. Any person denied a license to operate a motor vehicle or whose license for such purpose has been revoked or suspended by the secretary of state under the provisions of this act or any other law of this state, with the exception of the financial responsibility act contained in chapter 5 of this act, shall have a right to file a petition for a hearing in the matter in a circuit court in the county from which came the recommendation or conviction upon which such license was denied, suspended or revoked, or, in the circuit court of the county of the residence of such persons in those cases where the license was suspended or revoked under the provisions of section 318 of this act, and such court is hereby vested with jurisdiction and it shall be its duty to enter an order setting the cause for hearing for a day certain in not to exceed 30 days from the date of such order; such order, together with a copy or copies of the petition and all supporting affidavits, shall be served by certified mail on the secretary of state at least 10 days before the date set for such hearing. On the hearing in said cause such court is hereby authorized to take testimony and examine into all the facts and circumstances incident thereto. Such court is further authorized to confirm, modify or set aside such order of suspension, revocation or denial of such license. The order so made shall be duly entered and a certified copy thereof shall be forthwith filed with the secretary of state.

HISTORY: New 1949, p. 543, Act 300, Eff. Sep. 23;—Am. 1951, p. 466, Act 270, Eff. Sep. 28;—Am. 1953, p. 119, Act 120, Eff. Oct. 2.—Am. 1958, p. 119, Act 113, Eff. Sep. 13.

CITED IN OTHER SECTIONS: The above section is cited in § 16.129.

257.323a Suspension or revocation of license; appeal, stay.

Sec. 323a. Any person who conceives himself aggrieved by any final determination of the commissioner suspending or revoking the operator's or chauffeur's license of such person may petition the circuit court of the county from which came the conviction upon which such license was suspended or revoked, or of the county of residence of such person in those cases where the license was suspended or revoked as provided in section 318 of this act, or for the accumulation of 12 or more points as provided in sections 320 and 320a of this act, for an order staying the revocation or suspension of the license. Such court is hereby authorized to enter an ex parte order staying such suspension or revocation subject to such terms and conditions as the court may prescribe for such time as it shall deem proper, or until the determination of any appeal to the license appeal board or circuit court.

Application of section.

The provision of this section shall not be applicable to suspensions for violations of the financial responsibility act contained in chapter 5 of this act.

HISTORY: Add. 1960, p. 72, Act 78, Eff. Aug. 17;—Am. 1961, p. 21, Act 19, Imd. Eff. May 10.

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257.323b Minor's license; cancellation upon request of person signing application.

Sec. 323b. The license of a minor under the age of 18 years shall be cancelled by the commissioner upon the written request of the person who signed said minor's application for license if that person would presently be a proper person to sign application on behalf of said minor. In those cases where the person signing the application is no longer a proper person to sign application on behalf of said minor, the license of said minor, under the age of 18 years, shall be cancelled by the commissioner upon the written request of the person presently having custody of said minor.

HISTORY: Add. 1965, p. 580, Act 306, Eff. Mar. 31, 1966.

257.323c Restricted license; issuance, conditions.

Sec. 323c. (a) A person denied a license to operate a motor vehicle or whose license for such purpose has been revoked or suspended by the secretary of state under section 625f has a right to review the matter in circuit court as provided in sections 323 and 323a. However, upon a determination confirming or modifying the action of the secretary of state, the court may issue a restricted license only when all of the following circumstances exist:

(1) Public transportation is not readily available to such person.

(2) Operating his motor vehicle is the only means by which the person can travel to and from his place of employment.

(3) There are no other persons within the person's household who are licensed to operate a motor vehicle in this state and could transport the person to his place of employment.

When such restricted license is issued it shall be issued on condition that the person operate his motor vehicle only to and from his place of employment.

(b) Notwithstanding any other provision of this section, the court shall not issue a restricted license to any person who has accumulated over 24 points, as provided in section 320a, within the 2-year period preceding the date of the suspension or revocation of his license.

HISTORY: Add. 1968, p. 614, Act 335, Eff. Nov. 15.

VIOLATION OF LICENSE PROVISIONS

257.324 Operator's and chauffeur's licenses; unlawful use; void license; suspension of license.

Sec. 324. (a) It is unlawful for any person:

(1) To display or cause or permit to be displayed or to have in possession any operator's or chauffeur's license knowing the same to be fictitious or to have been canceled, revoked, suspended or altered.

(2) To lend to or knowingly permit use of, by one not entitled thereto, any operator's or chauffeur's license issued to the person so lending or permitting the use thereof.

(3) To display or to represent as one's own any operator's or chauffeur's license not issued to the person so displaying the same.

(4) To fail or refuse to surrender to the department upon demand, any operator's or chauffeur's license which has been suspended, canceled or revoked as provided by law.

(5) To use a false or fictitious name or give a false or fictitious address in any application for an operator's or chauffeur's license, or any renewal or duplicate thereof, or knowingly to make a false statement or knowingly to conceal a material fact or otherwise commit a fraud in any such application.

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(b) Any license for any operator or chauffeur issued under the provisions of this chapter upon an application which is untrue, or which contains any false statements as to any material matters, shall be absolutely void from the date of issuance, and said operator or chauffeur shall be deemed unlicensed and said license so issued shall be at once taken upon request or order of the department.

(c) The department may suspend the license of any operator or chauffeur upon conviction of a violation of 1 of the prohibited practices relating to drivers' licenses described in paragraphs (1), (2), (3) and (5) of subsection (a) above for not more than 1 year.

HISTORY: New 1949, p. 544, Act 300, Eff. Sep. 23;—Am. 1959, p. 383, Act 250, Imd. Eff. Aug. 21;—Am. 1967, p. 24, Act 17, Eff. Nov. 2.

257.325 Unauthorized minor as vehicle operator; owner's permission required.

Sec. 325. It shall be unlawful for any person to cause or knowingly permit any minor under the age of 18 years to drive a motor vehicle upon a highway as an operator, unless such minor shall have first obtained a license to so drive a motor vehicle under the provisions of this chapter.

HISTORY: New 1949, p. 544, Act 300, Eff. Sep. 23.

257.326 Operation of vehicle in violation of act; owner's permission prohibited.

Sec. 326. No person shall knowingly authorize or permit a motor vehicle owned by him or under his control to be driven by any person in violation of any of the provisions of this act.

HISTORY: New 1949, p. 544, Act 300, Eff. Sep. 23.

257.327 Unlicensed chauffeur; employment prohibited.

Sec. 327. No person shall knowingly employ any chauffeur to operate a motor vehicle who is not licensed as provided in this chapter.

HISTORY: New 1949, p. 544, Act 300, Eff. Sep. 23.

CHAPTER IV.

CIVIL LIABILITY ACT

CIVIL LIABILITY OF OWNERS AND OPERATORS OF MOTOR VEHICLES

257.401 Civil actions; liability of owner, consent, presumption; guest passengers.

Sec. 401. Nothing herein contained shall be construed to abridge the right of any person to prosecute a civil action for damages for injuries to either person or property resulting from a violation of any of the provisions of this act by the owner or operator of a motor vehicle, his agent or servant. The owner of a motor vehicle shall be liable for any injury occasioned by the negligent operation of such motor vehicle whether such negligence consists of a violation of the provisions of the statutes of the state or in the failure to observe such ordinary care in such operation as the rules of the common law requires. The owner shall not be liable, however, unless said motor vehicle is being driven with his or her express or implied consent or knowledge. It shall be presumed that such motor vehicle is being driven with the knowledge and consent of the owner if it is driven at the time of said injury by his or her father, mother, brother, sister, son, daughter, or other immediate member of the family: Provided, however, That no person, transported by the owner or operator of a motor vehicle as his guest without payment for such transportation shall have a cause of action for damages against such owner or operator for injury, death or loss, in case of accident, unless such accident shall have been caused by the gross negligence or wilful and wanton misconduct of the owner or operator of such motor vehicle and unless such gross negligence or wilful and

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wanton misconduct contributed to the injury, death or loss for which the action is brought.

HISTORY: New 1949, p. 544, Act 300, Eff. Sep. 23.

257.402 Rear end collision; prima facie evidence of negligence.

Sec. 402. (a) In any action, in any court in this state when it is shown by competent evidence, that a vehicle traveling in a certain direction, overtook and struck the rear end of another vehicle proceeding in the same direction, or lawfully standing upon any highway within this state, the driver or operator of such first mentioned vehicle shall be deemed prima facie guilty of negligence. This section shall apply, in appropriate cases, to the owner of such first mentioned vehicle and to the employer of its driver or operator.

(b) This section may not be invoked by the owner of any vehicle, the rear of which was struck under the circumstances above mentioned, if the accident occurred between 1 hour after sunset and 1 hour before sunrise, and the vehicle so struck did not, at the time, have a lighted lamp or lantern reasonably visible to the drivers of vehicles approaching from the rear.

HISTORY: New 1949, p. 545, Act 300, Eff. Sep. 23.

257.403 Nonresident vehicle operators; service of process, manner, record; service upon defendant, certification; taxable costs; application of section.

Sec. 403. (a) Service of summons in any action against a person, who at the time of such service is a nonresident of this state, growing out of any accident or collision in which such person may have been involved while operating a motor vehicle upon a public highway of this state or in which a motor vehicle owned by him may have been involved while being operated with his consent, express or implied, on such public highway, may be made upon the secretary of state as the true and lawful attorney of such person with the same legal force as if served on him personally within this state. Service of such summons shall be made by leaving a copy thereof with the secretary of state, or his deputy, who shall keep a record of each such process and the day and hour of service, and such service shall be sufficient service upon such nonresident, provided that notice of such service and a copy of the summons are forthwith either served upon the defendant personally by the sheriff or constable of the county in which he resides or sent by registered mail by the plaintiff or his attorney to the defendant. If personal service of such notice and copy of summons is had upon the defendant the officer making the service shall so certify in his return which shall be filed with the court having jurisdiction of said cause, or if service be made by registered mail then the plaintiff or his attorney shall make an affidavit showing that he has made service of the notice of summons upon the defendant by registered mail as herein provided and the affiant shall attach thereto a true copy of the summons and notice so served and the registry receipt of the defendant and shall file the affidavit and attached papers with the court having jurisdiction of the cause. The court in which the action is pending may order such extension of time as may be necessary to afford the defendant reasonable opportunity to defend the action.

The death of the nonresident shall not operate to revoke the appointment by the nonresident of the secretary of state as his true and lawful attorney upon whom may be served the summons in an action against him growing out of any such accident or collision; and in event of his death, any action growing out of such accident or collision may be commenced or prosecuted against his executor or administrator duly appointed by the state, territory or district of the United States or foreign country in which the nonresident was domiciled at the time of his death, and service of the summons shall be made upon the secretary of state, and personal service of such notice

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and the copy of the summons be had upon his executor or administrator in like manner with the same force and effect as service upon such nonresident during his lifetime.

Any action or proceeding pending in any court of this state, in which the court shall have obtained jurisdiction of such nonresident pursuant to the provision of this statute, shall not abate by reason of the death of such nonresident, but his executor or administrator duly appointed in the state, territory or district of the United States or foreign country in which he was domiciled at the time of his death, shall, upon the application of the plaintiff in the action, and upon such notice as the court may prescribe, be brought in and substituted in the place of the decedent, and the action or proceeding shall continue.

(b) The court shall include as taxable costs, in addition to other legal costs, against the plaintiff in case the defendant shall prevail in such suit, the actual traveling expenses of the defendant from his residence to the place of trial and return not to exceed the sum of $100.00.

(c) The provisions of this section shall apply to actions commenced in all courts of this state having civil jurisdiction, including justice courts.

(d) Any service of process made on the secretary of state under this section shall be accompanied by an affidavit by the plaintiff or his attorney setting forth that the defendant is a nonresident of this state, and if known, the last known nonresident address of the defendant.

HISTORY: New 1949, p. 545, Act 300, Eff. Sep. 23;—Am. 1954, p. 17, Act 16, Eff. Aug. 13;—Am. 1967, p. 98, Act 79, Eff. Nov. 2.

257.403a Nonresident; definition.

Sec. 403a. As used in section 403, the term "nonresident" shall include any person who was, at the time of the accident or event, a resident of the state of Michigan but who removed from the state before the commencement of the action or proceeding.

HISTORY: Add. 1957, p. 107, Act 92, Eff. Sep. 27.

257.404 Service of process; place.

Sec. 404. In any tort action for the recovery of damages to person or property resulting from the operation of 1 or more motor vehicles, where the action is brought in the county where the cause of action arose, process from any court of record may be served anywhere within the state where the party upon whom service is to be made may be found.

HISTORY: Add. 1954, p. 18, Act 16, Eff. Aug. 13.

CHAPTER V.

FINANCIAL RESPONSIBILITY ACT

ADMINISTRATION

257.501 Financial responsibility act; administration, rules and regulations.

Sec. 501. The secretary of state through the director of driver services or his authorized agent shall administer and enforce the provisions of this chapter and may make rules and regulations necessary for its administration.

HISTORY: New 1949, p. 546, Act 300, Eff. Sep. 23;—Am. 1966, p. 333, Act 247, Eff. Mar. 10, 1967.

CITED IN OTHER SECTIONS: Sections 257.501 to 257.532 are cited in § 257.1102.

257.502 Operating record; certified abstract inadmissible as evidence.

Sec. 502. (a) The secretary of state shall upon request and upon payment of the required fee furnish any person a certified abstract of the operating record of any person subject to the provisions of this chapter, which abstract shall also fully designate the motor vehicles, if any, registered in the name of such person, and, if there be no record in the office of the secretary of state of any conviction of such person of violating any

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law relating to the operation of a motor vehicle or any injury or damage caused by such person, the secretary of state shall so certify.

(b) Such record shall not be admissible as evidence in any action, civil or criminal, arising out of a motor vehicle accident.

HISTORY: New 1949, p. 546, Act 300, Eff. Sep. 23.

257.502a Proof of compliance with laws of another state.

Sec. 502a. Proof of compliance with the financial responsibility laws of another state may be submitted to the secretary of state in lieu of the proof of financial responsibility required by this chapter if the accident for which proof of financial responsibility is required under this chapter occurred in the state with whose laws there was compliance.

HISTORY: Add. 1966, p. 333, Act 247, Eff. Mar. 10, 1967.

WRITTEN REPORTS OF ACCIDENTS

257.503 Accident; written report required, time, contents; failure to report.

Sec. 503. (a) Every person owning or operating a motor vehicle which is in any manner involved in an accident anywhere within the boundaries of this state in which any person is killed or injured or in which damage in excess of $200.00 is done to the property of any one person, within 30 days from the date of the accident, if not physically or mentally incapacitated, shall report the accident in writing to the secretary of state upon forms prescribed and supplied by him.

(b) The report shall contain the names and addresses of the owners and operators of all motor vehicles involved in the accident, and of all persons injured or killed and of each person whose property was damaged therein in excess of $200.00, the date, time and place of the accident and the name of any insurance carrier whose policy of insurance was in force and applicable to the liability of such owner or operator, and such other information as the secretary of state shall require.

(c) Failure to furnish the report within 30 days shall constitute a misdemeanor and sufficient ground for the suspension or revocation of the person's license and registration.

(d) The secretary of state may, upon good cause shown, reinstate the license and registration of any person suspended under paragraph (c) of this section.

HISTORY: New 1949, p. 546, Act 300, Eff. Sep. 23;—Am. 1955, p. 331, Act 222, Eff. Oct. 14;—Am. 1966, p. 333, Act 247, Eff. Mar. 10, 1967.

257.503a Property damage; security required.

Sec. 503a. In the case of property damage, the amount required as security to satisfy the provisions of this chapter shall be the amount of the actual property damage resulting from the accident.

HISTORY: Add. 1966, p. 334, Act 247, Eff. Mar. 10, 1967.

257.503b Insured vehicles; report not required.

Sec. 503b. If the owner of every vehicle involved in an accident had in effect at the time of the accident a liability insurance policy issued by an insurer authorized to do business in this state covering the vehicle involved in the accident or if the owner of the vehicle did not have such a policy, the operator of the vehicle at the time of the accident had a liability policy issued by an insurer authorized to do business in this state, or was bonded with respect to his operation of the motor vehicle, no report shall be required under section 503.

HISTORY: Add. 1966, p. 334, Act 247, Eff. Mar. 10, 1967.

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257.503c Security; definition.

Sec. 503c. As used in this chapter, the word "security" does not include any amounts which may be payable under Act No. 198 of the Public Acts of 1965, as amended, being sections 257.1101 to 257.1131 of the Compiled Laws of 1948.

HISTORY: Add. 1966, p. 334, Act 247, Eff. Mar. 10, 1967.

SECURITY FOLLOWING ACCIDENT

257.504 Security required after accident; suspension of license, notice; exceptions.

Sec. 504. (a) The secretary of state shall in not less than 30 nor more than 60 days after the receipt of a report required to be made by section 503 suspend the license and/or driving privileges of each operator and owner and all registrations of each owner or operator of a motor vehicle in any manner involved in such accident, and if such operator is a nonresident the privilege of operating a motor vehicle within this state, or if such owner is a nonresident the privilege of the use within this state of any motor vehicle owned by him, unless such operator or owner or both shall deposit security with the secretary of state in such form and amount not in excess of the limits provided in this chapter for the payment of any claims for personal injuries or death or for damage to the property of any one person in excess of $200.00 arising out of said motor vehicle accident, or shall satisfy the secretary of state by an affidavit that all such claims arising out of said accident have been settled. In the event any person involved in such accident fails to submit information indicating the extent of his injuries or of the damage to his property within 90 days after the date of the accident and the secretary of state does not have sufficient information on which to base an evaluation of such injuries or damage, then the secretary of state (1) shall not require any deposit of security for the benefit or protection of such person as to his injuries, and (2) shall not require any deposit of security for the benefit or protection of such person as to the damage to his property.

(b) Notice of such suspension shall be sent by the secretary of state or his authorized agent to such operator and owner not less than 10 days prior to the effective date of such suspension and shall state the amount required as security.

(c) This section shall not apply under the conditions stated in section 505 or to any of the following:

(1) To such operator or owner if such owner had in effect at the time of such accident an automobile liability policy with respect to the motor vehicle involved in such accident.

(2) To such operator, if not the owner of such motor vehicle, if there was in effect at the time of such accident an automobile liability policy or bond with respect to his operation of motor vehicles not owned by him.

(3) To such operator or owner if the liability of such operator or owner for damages resulting from such accident is, in the judgment of the secretary of state, covered by any other form of liability insurance policy, bond or security.

(4) To such operator or owner if such owner was at the time of such accident qualified as a self-insurer under section 531.

(5) To the operator or the owner of a motor vehicle, if at the time of the accident the vehicle was legally parked, or a motor vehicle which is struck in the rear while stopped at a traffic signal, or to an owner or owners of a motor vehicle operated by a person not lawfully in possession thereof at the time of the accident.

(6) To the driver or the owner of a motor vehicle if at the time of the accident the vehicle was stopped, standing or parked and whether attended or unattended, except that the requirements of this chapter shall apply in the event the commissioner deter-

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mines that any such stopping, standing or parking of the vehicle was illegal or that the vehicle was not equipped with lighted lamps or illuminating devices when and as required by the laws of this state and that any such violation contributed to the accident.

(d) No such policy or bond shall be effective under this section unless issued by an insurance carrier or surety company authorized to do business in this state, except that if such motor vehicle was not registered in this state, or was a motor vehicle which was registered elsewhere than in this state at the effective date of the policy or bond or the most recent renewal thereof, such policy or bond shall not be effective under this section unless the insurance carrier or surety company if not authorized to do business in this state shall comply with the provisions of section 519. Every such policy or bond is subject to a limit, exclusive of interest and costs, of not less than $10,000.00 because of bodily injury to or death of 1 person in any one accident, and, subject to said limit for 1 person, to a limit of not less than $20,000.00 because of bodily injury to or death of 2 or more persons in any one accident, and to a limit of not less than $5,000.00 because of injury to or destruction of property of others in any accident.

HISTORY: New 1949, p. 547, Act 300, Eff. Sep. 23;—Am. 1955, p. 331, Act 222, Eff. Oct. 14;—Am. 1966, p. 334, Act 247, Eff. Mar. 10, 1967.

CITED IN OTHER SECTIONS: The above section is cited in §§ 500.3010 and 500.3303.

257.504a Application to circuit court for restoration of license and registration; proof of necessity; jurisdiction of court.

Sec. 504a. Any person whose license, registration or operating privilege shall have been suspended or revoked by the secretary of state under section 504 of this act, may apply to the circuit court of the county in which such person is a resident for the restoration of the license, registration or operating privilege. Such application shall show that the vehicle is needed in order to enable such person to engage in gainful work or occupation. The court shall have jurisdiction to order, under such terms and conditions as the court shall prescribe, the restoration of the license, registration or operating privilege in any such case in which the equities of the situation justify the issuance of any such order.

HISTORY: Add. 1951, p. 466, Act 270, Eff. Sep. 28.

257.505 Government-owned vehicles excepted as to reports and security.

Sec. 505. The provisions of sections 503 and 504 of this chapter shall not be applicable to any motor vehicle, or the driver thereof, owned by the state, or any agency, municipality or political subdivision thereof.

HISTORY: New 1949, p. 547, Act 300, Eff. Sep. 23.

257.505a Secretary of state; injuries to minors, evaluation; evidence of release from liability.

Sec. 505a. If the secretary of state has evaluated the injuries or damages to any minor to be not more than $200.00, the department may accept, for the purposes of this chapter only, evidence of a release from liability executed by a natural guardian or a legal guardian on behalf of the minor without the approval of any court or judge.

HISTORY: Add. 1964, p. 225, Act 171, Eff. Aug. 28.

257.506 License and registration; nonresident's operating privilege; duration of suspension.

Sec. 506. The license and registration and nonresident's operating privilege suspended as provided in section 504 shall remain so suspended and shall not be renewed nor shall any such license or registration be issued to such person until:

(1) Proof of financial responsibility for future accidents has been filed; and

(2) The secretary of state shall be satisfied that all claims resulting from such acci-

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dent have been settled within the limits as provided in subsection (d) of section 504; or

(3) There shall have been deposited with the secretary of state security in such form and amount not in excess of the limits provided in section 508.

HISTORY: New 1949, p. 548, Act 300, Eff. Sep. 23;—Am. 1955, p. 332, Act 222, Eff. Oct. 14;—Am. 1964, p. 225, Act 171, Eff. Aug. 28.

257.507 Unlicensed operator; security requirements prior to licensing.

Sec. 507. In case the operator or the owner of a motor vehicle involved in an accident within this state has no license or registration, he shall not be allowed a license or registration until he has complied with the requirements of this chapter to the same extent that would be necessary if, at the time of the accident, he had held a license and registration.

HISTORY: New 1949, p. 548, Act 300, Eff. Sep. 23.

257.508 Security after accident; form, amount, deposit.

Sec. 508. The security required under this chapter shall be in such form and in such amount as the secretary of state may require but in no case in excess of the limits required for proof of financial responsibility. The person depositing security shall specify in writing the person or persons on whose behalf the deposit is made and, at any time while such deposit is in the custody of the secretary of state or state treasurer, the person depositing it may, in writing, amend the specification of the person or persons on whose behalf the deposit is made to include an additional person or persons: Provided, however, That a single deposit of security shall be applicable only on behalf of persons required to furnish security because of the same accident.

HISTORY: New 1949, p. 548, Act 300, Eff. Sep. 23.

257.509 Security after accident; deposit, custody, payment; release of deposit.

Sec. 509. (a) Security deposited in compliance with the requirements of this chapter shall be placed by the secretary of state in the custody of the state treasurer and shall be applicable only to the payment of a judgment or judgments rendered against the person or persons on whose behalf the deposit was made for damages arising out of the accident in question in an action at law, or for payment under a duly acknowledged agreement of the parties in question in settlement of damages arising out of said accident. All payments for judgments or on agreements under this section shall be made through a court of competent jurisdiction.

(b) Whenever, after the expiration of 1 year from the date of said accident, the files of the secretary of state show no judgment has been entered, or that no suits have been pending for less than 1 year against the depositor and the depositor or his attorney shall make and file his affidavit that no judgment has been entered or that there are no suits pending for less than 1 year, such deposit may then be released to the depositor: Provided, That on application to the circuit court of the county in which the depositor is a resident, the court may order the release of any such deposit in any case in which the equities of the situation justify the issuance of any such order.

HISTORY: New 1949, p. 548, Act 300, Eff. Sep. 23;—Am. 1951, p. 467, Act 270, Eff. Sep. 28;—Am. 1955, p. 333, Act 222, Eff. Oct. 14.

257.510 Report of accident; restricted inspection, use as evidence.

Sec. 510. Reports required to be filed by section 503 of this chapter may be examined by any person named in such report or his attorney designated in writing or by any person to whom a right of action may accrue and shall not be open to general public inspection nor shall copying of lists of such reports be permitted. Neither the said report, the action taken by the secretary of state pursuant to this chapter, the findings,

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if any, upon which this action was based, nor the security filed as provided in this chapter shall be referred to in any way, or be any evidence of the negligence or due care of either party, at the trial of any action at law to recover damages.

HISTORY: New 1949, p. 548, Act 300, Eff. Sep. 23.

PROOF OF FINANCIAL RESPONSIBILITY FOR THE FUTURE

257.511 Nonpayment of judgment; certification to secretary of state; nonresidents.

Sec. 511. (a) Whenever any person fails within 30 days to satisfy any judgment, the clerk of the court, or of the judge of a court which has no clerk, in which the judgment is rendered shall forward to the secretary of state immediately upon the request of the plaintiff or his attorney after the expiration of 30 days an abstract of the court record of the judgment properly certified, on forms supplied by the department.

(b) Failure, refusal or neglect to comply with the provisions of paragraph (a) of this section shall constitute misconduct in office and shall be grounds for removal therefrom.

(c) If the defendant named in any abstract of court record reported to the secretary of state is a nonresident, the secretary of state shall transmit a certified copy of the abstract of court record to the official in charge of the issuance of licenses and registration certificates of the state of which the defendant is a resident.

HISTORY: New 1949, p. 549, Act 300, Eff. Sep. 23;—Am. 1966, p. 335, Act 247, Eff. Mar. 10, 1967.

257.512 Nonpayment of judgment; suspension of registration and nonresident's operating privilege.

Sec. 512. The secretary of state upon receipt of a certified abstract of court record of a judgment rendered in this state or any other state shall forthwith suspend the license and registration and any nonresident's operating privilege of any person against whom such judgment was rendered, except as otherwise provided in this chapter.

HISTORY: New 1949, p. 549, Act 300, Eff. Sep. 23;—Am. 1964, p. 133, Act 140, Eff. Aug. 28.

257.512a Nonpayment of judgment; finding as to insurer, effect.

Sec. 512a. No license, registration or nonresident's operating privilege of any person shall be suspended under the provisions of this chapter if the secretary of state finds that an insurer was obligated to pay the judgment upon which the suspension is based, at least to the extent and for the amounts required in this chapter, but has not paid the judgment for any reason. A finding by the secretary of state that an insurer is obligated to pay a judgment is not binding upon the insurer and shall have no legal effect whatever except for the purpose of administering this section. Whenever in any judicial proceedings it is determined by any final judgment, decree or order that an insurer is not obligated to pay any judgment, the secretary of state, notwithstanding any contrary finding theretofore made by him, shall forthwith suspend as provided in section 512 the license and registration and any nonresident's operating privilege of any person against whom the judgment was rendered.

HISTORY: Add. 1964, p. 133, Act 140, Eff. Aug. 28.

257.513 Nonpayment of judgment; suspension of license, duration; discharge in bankruptcy; satisfaction of judgment.

Sec. 513. (a) The license, registration and nonresident's operating privilege shall remain so suspended and shall not be renewed, nor shall any license or registration be thereafter issued in the name of the person, including any person not previously licensed unless and until the judgment is satisfied in full or to the extent hereinafter provided, and until the person gives proof of financial responsibility subject to the exception stated in section 515.

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(b) A discharge in bankruptcy following the rendering of any such judgment shall not relieve the judgment debtor from any of the requirements of this chapter.

(c) Judgments shall be deemed to be satisfied in full under this section if not renewed prior to the expiration of the statute of limitations.

HISTORY: New 1949, p. 549, Act 300, Eff. Sep. 23;—Am. 1952, p. 17, Act 17, Eff. Sep. 18;—Am. 1964, p. 226, Act 171, Eff. Aug. 28.—Am. 1966, p. 335, Act 247, Eff. Mar. 10, 1967.

CITED IN OTHER SECTIONS: The above section is cited in § 600.2914.

257.514 Satisfaction of judgment.

Sec. 514. Judgments herein referred to shall, for the purpose of this chapter only, be deemed satisfied:

1. When $10,000.00 has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of 1 person as the result of any 1 accident; or

2. When, subject to such limit of $10,000.00 because of bodily injury to or death of 1 person, the sum of $20,000.00 has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of 2 or more persons as the result of any 1 accident; or

3. When $5,000.00 has been credited upon any judgment or judgments rendered in excess of that amount because of injury to or destruction of property of others as a result of any 1 accident.

HISTORY: New 1949, p. 549, Act 300, Eff. Sep. 23;—Am. 1958, p. 168, Act 155, Eff. Sep. 13.

257.515 Installment payment of judgment; default.

Sec. 515. (a) A judgment debtor upon due notice to the judgment creditor may apply to the court in which such judgment was rendered for the privilege of paying such judgment in installments and the court, in its discretion and without prejudice to any other legal remedies which the judgment creditor may have, may so order and fix the amounts and times of payment of the installments. A true copy of the order shall be filed with the secretary of state. In lieu of a court order for installment payments, the judgment debtor and judgment creditor may make an agreement in writing, a copy of which shall be filed with the secretary of state, for the payment of the judgment in installments.

(b) The secretary of state shall not suspend a license, registration, or nonresident's operating privilege, and shall restore any license, registration, or nonresident's operating privilege suspended following non-payment of a judgment, when the judgment debtor gives proof of financial responsibility and obtains an order, or written agreement, permitting the payment of the judgment in installments, and while the payment of any installment is not in default.

(c) If the judgment debtor fails to pay any installments as specified by the order, or written agreement, then upon notice of the default, the secretary of state shall forthwith suspend the license, registration, or nonresident's operating privilege of the judgment debtor until the judgment is satisfied, as provided in this chapter.

HISTORY: New 1949, p. 549, Act 300, Eff. Sep. 23;—Am. 1964, p. 134, Act 140, Eff. Aug. 28.

257.515a Restoration of license or registration after nonpayment of installment; limitation.

Sec. 515a. The secretary of state shall not restore a license, registration or nonresident's operating privilege of any person more than twice within a 2-year period following nonpayment of the installment agreement, judgment, order or other written agreement contemplated in section 515 of this chapter.

HISTORY: Add. 1966, p. 335, Act 247, Eff. Mar. 10, 1967.

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257.516 Suspension of license and registration; proof of financial responsibility.

Sec. 516. (a) Whenever the secretary of state, under section 319 of chapter 3 of this act suspends the license of any person upon receiving record of a conviction, or, forfeiture of bail, the secretary of state shall also suspend the registration for all motor vehicles registered in the name of such person, except that he shall not suspend such registration, unless otherwise required by law, if such person has previously given or shall immediately give and thereafter maintain proof of financial responsibility with respect to all motor vehicles registered by such person.

(b) Such license and registration shall remain suspended and shall not at any time thereafter be renewed nor shall any license be thereafter issued to such person, nor shall any motor vehicle be thereafter registered in the name of such person until permitted under the motor vehicle laws of this state and not then unless and until he shall give and thereafter maintain proof of financial responsibility.

(c) If a person is not licensed, but by final order or judgment is convicted of or forfeits any bail or collateral deposited to secure an appearance for trial for any offense requiring the suspension of license, no license shall be thereafter issued to such person and no motor vehicle shall continue to be registered or thereafter be registered in the name of such person until he shall give and thereafter maintain proof of financial responsibility.

(d) Whenever the secretary of state suspends a nonresident's operating privilege by reason of a conviction or forfeiture of bail, such privilege shall remain so suspended unless such person shall have previously given or shall immediately give and thereafter maintain proof of financial responsibility.

(e) This section shall apply to residents of this state who shall have been convicted, pleaded guilty to, or shall have forfeited bail or collateral deposited to secure his appearance for trial as defendant in another state for any offense which would require suspension if committed in this state.

HISTORY: New 1949, p. 550, Act 300, Eff. Sep. 23;—Am. 1951, p. 467, Act 270, Eff. Sep. 28.

257.517 Proof of financial responsibility; alternative methods.

Sec. 517. Proof of financial responsibility when required under this chapter may be given by filing:

1. A certificate of insurance as provided in section 518 or section 519; or

2. A bond as provided in section 523; or

3. A certificate of deposit of money or securities as provided in section 524.

HISTORY: New 1949, p. 550, Act 300, Eff. Sep. 23.

257.518 Proof of financial responsibility; certificate of insurance.

Sec. 518. (a) Proof of financial responsibility may be furnished by filing with the secretary of state the written certificate of any insurance carrier duly authorized to do business in this state certifying that there is in effect a motor vehicle liability policy for the benefit of the person required to furnish proof of financial responsibility. Such certificate shall give the effective date of such motor vehicle liability policy, which date shall be the same as the effective date of the certificate, and shall designate by explicit description or by appropriate reference all motor vehicles covered thereby, unless the policy is issued to a person who is not the owner of a motor vehicle.

(b) No motor vehicle shall be or continue to be registered in the name of any person required to file proof of financial responsibility unless such motor vehicle is so designated in such a certificate.

HISTORY: New 1949, p. 550, Act 300, Eff. Sep. 23.

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257.519 Proof of financial responsibility; nonresident, compliance of insurance carrier.

Sec. 519. (a) The nonresident owner of a motor vehicle not registered in this state may give proof of financial responsibility by filing with the secretary of state a written certificate or certificates of an insurance carrier authorized to transact business in the state in which the motor vehicle, or motor vehicles, described in such certificate is registered, or if such nonresident does not own a motor vehicle, then in the state in which the insured resides, provided such certificate otherwise conforms with the provisions of this chapter, and the secretary of state shall accept the same upon condition that said insurance carrier complies with the following provisions with respect to the policies so certified:

1. Said insurance carrier shall execute a power of attorney authorizing the secretary of state to accept service on its behalf of notice or process in any action arising out of a motor vehicle accident in this state;

2. Duly adopt a resolution providing that its policies shall be deemed to be varied to comply with the law of this state relating to the terms of motor vehicle liability policies issued therein; and

3. Agree to accept as final and binding any final judgment duly rendered in any action arising out of a motor vehicle accident in any court of competent jurisdiction in this state.

(b) If any insurance carrier not authorized to transact business in this state, which has qualified to furnish proof of financial responsibility, defaults in any said undertakings or agreements, the secretary of state shall not thereafter accept as proof any certificates of said carrier whether theretofore filed or thereafter tendered as proof, so long as such default continues.

HISTORY: New 1949, p. 551, Act 300, Eff. Sep. 23;—Am. 1951, p. 468, Act 270, Eff. Sep. 28.

257.520 Motor vehicle liability policy; definition; contents; liabilities; collusive judgment; binders.

Sec. 520. (a) A "motor vehicle liability policy" as said term is used in this chapter, shall mean an owner's or an operator's policy of liability insurance, certified as provided in section 518 or section 519 as proof of financial responsibility, and issued, except as otherwise provided in section 519, by an insurance carrier duly authorized to transact business in this state, to or for the benefit of the person named therein as insured.

(b) Such owner's policy of liability insurance:

(1) Shall designate by explicit description or by appropriate reference all motor vehicles with respect to which coverage is thereby to be granted; and

(2) Shall insure the person named therein and any other person, as insured, using any such motor vehicle or motor vehicles with the express or implied permission of such named insured, against loss from the liability imposed by law for damages arising out of the ownership, maintenance or use of such motor vehicle or motor vehicles within the United States of America or the Dominion of Canada, subject to limits exclusive of interest and costs, with respect to each such motor vehicle, as follows: $10,000.00 because of bodily injury to or death of 1 person in any 1 accident and, subject to said limit for 1 person, $20,000.00 because of bodily injury to or death of 2 or more persons in any 1 accident, and $5,000.00 because of injury to or destruction of property of others in any 1 accident;

(3) When a certificate is filed showing that a policy or policies have been issued covering all motor vehicles owned by the insured but not insuring such person when operating any motor vehicle not owned by him, it shall be unlawful for such person to operate any motor vehicle not owned by him or not covered by such certificate.

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(c) Such operator's policy of liability insurance shall insure the person named as insured therein against loss from the liability imposed upon him by law for damages arising out of the use by him of any motor vehicle not owned by him, within the same territorial limits and subject to the same limits of liability as are set forth above with respect to an owner's policy of liability insurance.

(d) Such motor vehicle liability policy shall state the name and address of the named insured, the coverage afforded by the policy, the policy period, and the limits of liability, and shall contain an agreement or be indorsed that insurance is provided thereunder in accordance with the coverage defined in this chapter as respects bodily injury and death or property damage, or both, and is subject to all the provisions of this chapter.

(e) Such motor vehicle liability policy need not insure any liability under any workmen's compensation law nor any liability on account of bodily injury to or death of an employee of the insured while engaged in the employment, other than domestic, of the insured, or while engaged in the operation, maintenance or repair of any such motor vehicle nor any liability for damage to property owned by, rented to, in charge of, or transported by the insured.

(f) Every motor vehicle liability policy shall be subject to the following provisions which need not be contained therein:

(1) The liability of the insurance carrier with respect to the insurance required by this chapter shall become absolute whenever injury or damage covered by said motor vehicle liability policy occurs; said policy may not be cancelled or annulled as to such liability by any agreement between the insurance carrier and the insured after the occurrence of the injury or damage; no statement made by the insured or on his behalf and no violation of said policy shall defeat or void said policy, and except as hereinafter provided, no fraud, misrepresentation, assumption of liability or other act of the insured in obtaining or retaining such policy, or in adjusting a claim under such policy, and no failure of the insured to give any notice, forward any paper or otherwise cooperate with the insurance carrier, shall constitute a defense as against such judgment creditor.

(2) The satisfaction by the insured of a judgment for such injury or damage shall not be a condition precedent to the right or duty of the insurance carrier to make payment on account of such injury or damage.

(3) If any person shall secure final judgment against the insured for loss or damage covered by any such policy and if such judgment is not satisfied within 30 days after it shall have become final, then such judgment creditor shall be entitled to recover under the terms of such policy in the same manner and to the same extent as the insured, except as hereinafter provided.

(4) The insurance carrier shall have the right to settle any claim covered by the policy, and if such settlement is made in good faith, the amount thereof shall be deductible from the limits of liability specified in subparagraph (2) of paragraph (b) of this section.

(5) The policy, the written application therefor, if any, and any rider or indorsement which does not conflict with the provisions of this chapter, shall constitute the entire contract between the parties.

(6) The insurance carrier shall not be liable on any judgment if it has not had prompt notice of and reasonable opportunity to appear in and defend the action in which such judgment was rendered, or if the judgment has been obtained through collusion between the judgment creditor and the insured.

(g) Any policy which grants the coverage required for a motor vehicle liability policy may also grant any lawful coverage in excess of or in addition to the coverage spec-

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ified for a motor vehicle liability policy and such excess or additional coverage shall not be subject to the provisions of this chapter. With respect to a policy which grants such excess or additional coverage the term "motor vehicle liability policy" shall apply only to that part of the coverage which is required by this section.

(h) Any motor vehicle liability policy may provide that the insured shall reimburse the insurance carrier for any payment the insurance carrier would not have been obligated to make under the terms of the policy except for the provisions of this chapter.

(i) Any motor vehicle liability policy may provide for the prorating of the insurance thereunder with other valid and collectible insurance.

(j) The requirements for a motor vehicle liability policy may be fulfilled by the policies of 1 or more insurance carriers which policies together meet such requirements.

(k) Any carrier authorized to issue motor vehicle liability policies may, pending the issuance of such a policy, execute an agreement, to be known as a "binder", or may, in lieu of such a policy, issue an indorsement to an existing policy. Every such binder or indorsement shall be subject to the provisions of this section and shall be construed to provide indemnity or insurance in like manner and to the same extent as a motor vehicle liability policy.

HISTORY: New 1949, p. 551, Act 300, Eff. Sep. 23;—Am. 1955, p. 325, Act 219, Eff. Oct. 14;—Am. 1958, p. 168, Act 155, Eff. Sep. 13,—Am. 1966, p. 336, Act 247, Eff. Mar. 10, 1967.

257.521 Motor vehicle liability policy; notice of termination.

Sec. 521. When an insurance carrier has certified a motor-vehicle liability policy under section 518 or section 519, the insurance so certified shall not be cancelled or terminated until at least 10 days after a notice of cancellation or termination of the insurance so certified shall be filed in the office of the secretary of state, except that such a policy subsequently procured and certified shall, on the effective date of its certification, terminate the insurance previously certified with respect to any motor vehicle designated in both certificates.

HISTORY: New 1949, p. 553, Act 300, Eff. Sep. 23.

257.522 Automobile insurance policies unaffected by chapter.

Sec. 522. (a) This chapter shall not be held to apply to or affect policies of automobile insurance against liability which may now or hereafter be required by any other law of this state, and such policies, if they contain an agreement or are endorsed to conform with the requirements of this chapter, may be certified as proof of financial responsibility under this chapter.

(b) This chapter shall not be held to apply to or affect policies insuring solely the insured named in the policy against liability resulting from the maintenance or use by persons in the insured's employ or on his behalf of motor vehicles not owned by the insured.

HISTORY: New 1949, p. 553, Act 300, Eff. Sep. 23.

257.523 Bond as proof of financial responsibility; satisfaction of judgment.

Sec. 523. (a) The bond of a surety company, duly authorized to transact business within the state, or a bond, with at least 2 individual sureties, each owning real estate within this state, which real estate shall be scheduled in the bond and approved by a judge of a court of record which said bond shall be conditioned for the payment of the amounts specified herein may be accepted as proof of financial responsibility, and such bond shall be filed with the register of deeds of the county where such property is located, and a true copy thereof shall be filed with the secretary of state, and shall not be cancelable except after 10 days' written notice to the secretary of state. Such bonds shall constitute a lien in favor of the state upon the real estate so scheduled or any surety, which lien shall exist in favor of any holder of a final judgment against the person who has filed such proof on account of damage to property or injury to, includ-

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ing death of a person or persons resulting from the ownership, maintenance, use or operation hereafter of a motor vehicle, upon the filing of notice to that effect by the secretary of state in the office of the register of deeds of the county where such real estate is located.

(b) If such judgment rendered against the principal on the surety company or real estate individual bond given under the provisions of this chapter shall not be satisfied within 30 days after it has become final as hereinbefore provided, the judgment creditor may, for his own use and benefit and at his sole expense, bring an action or actions in the name of the state against the company or person executing such bond, including an action or proceeding to foreclose any lien that may exist upon the real estate of a person who has executed such bond in like manner as foreclosure of a mortgage in chancery.

HISTORY: New 1949, p. 553, Act 300, Eff. Sep. 23;—Am. 1951, p. 468, Act 270, Eff. Sep. 28.

257.524 Money or securities as proof.

Sec. 524. (a) The certificate of the state treasurer that the person named therein has deposited with him a sum of money or securities for money approved by him in the amounts as specified herein shall be taken as proof of financial responsibility. The state treasurer shall accept any such deposits and issue a certificate therefor, and the secretary of state shall accept such certificate if accompanied by evidence that there are no unsatisfied judgments against the depositor registered in the office of the county clerk of the county where the depositor resides.

(b) Such deposit shall be held by the state treasurer to satisfy, in accordance with the provisions of this chapter, any execution on a judgment issued against such person making the deposit, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, resulting from the ownership, maintenance, use, or operation of a motor vehicle after such deposit was made. Money or securities so deposited shall not be subject to attachment or execution unless such attachment or execution shall arise out of a suit for damages as aforesaid.

HISTORY: New 1949, p. 553, Act 300, Eff. Sep. 23.

257.525 Owners' proof for others.

Sec. 525. Whenever any person required to give proof of financial responsibility hereunder is or later becomes an operator in the employ of any owner, or is or later becomes a member of the immediate family or household of the owner, the secretary of state shall accept proof given by such owner in lieu of proof by such other person to permit such other person to operate a motor vehicle for which the owner has given proof as herein provided. In like manner the secretary of state shall accept the certificate of self-insurance issued by him to any owner under the provisions of this act in lieu of proof of financial responsibility which would otherwise be required of any person employed as an operator by such owner to permit such person to operate motor vehicles of such self-insured owner. The secretary of state, shall designate the restrictions imposed by this section on the face of such person's license.

HISTORY: New 1949, p. 554, Act 300, Eff. Sep. 23.

257.526 Substitution of proof.

Sec. 526. The secretary of state shall consent to the cancellation of any bond or certificate of insurance or the secretary of state shall direct and the state treasurer shall return any money or securities to the person entitled thereto upon the substitution and acceptance of other adequate proof of financial responsibility pursuant to this chapter.

HISTORY: New 1949, p. 554, Act 300, Eff. Sep. 23.

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257.527 Other proof required.

Sec. 527. Whenever any proof of financial responsibility filed under the provisions of this chapter no longer fulfills the purposes for which required, the secretary of state shall for the purpose of this chapter require other proof as required by this chapter, and shall suspend the license and registration or the nonresident's operating privilege pending the filing of such other proof.

HISTORY: New 1949, p. 554, Act 300, Eff. Sep. 23.

257.528 Cancellation or return of proof.

Sec. 528. (a) The secretary of state shall upon request consent to the immediate cancellation of any bond or certificate of insurance, or the secretary of state shall direct and the state treasurer shall return to the person entitled thereto any money or securities deposited pursuant to this chapter as proof of financial responsibility, or the secretary of state shall waive the requirement of filing proof, in any of the following events:

(1) At any time after 3 years from the date such proof was required when, during the 3-year period preceding the request, the secretary of state has not received record of a conviction or a forfeiture of bail which would require the suspension or revocation of the license, registration or nonresident's operating privilege of the person by or for whom such proof was furnished; or

(2) In the event of the death of the person on whose behalf such proof was filed or the permanent incapacity of such person to operate a motor vehicle; or

(3) In the event the person who has given proof surrenders his license and registration to the secretary of state.

(b) The secretary of state shall not consent to the cancellation of any bond or the return of any money or securities in the event any action for damages upon a liability covered by such proof is then pending or any judgment upon any such liability is then unsatisfied, or in the event the person who has filed such bond or deposited such money or securities has within 1 year immediately preceding such request been involved as an operator or owner in any motor vehicle accident resulting in injury or damage to the person or property of others. An affidavit of the applicant as to the nonexistence of such facts, or that he has been released from all of his liability, or has been finally adjudicated not to be liable, for such injury or damage, shall be sufficient evidence thereof in the absence of evidence to the contrary in the records of the secretary of state.

(c) Whenever any person whose proof has been cancelled or returned under paragraph (a) subparagraph 3 of this section applies for a license or registration within a period of 3 years from the date proof was originally required, any such application shall be refused unless the applicant shall re-establish such proof for the remainder of such 3-year period.

HISTORY: New 1949, p. 554, Act 300, Eff. Sep. 23;—Am. 1964, p. 226, Act 171, Eff. Aug. 28.

VIOLATION OF PROVISIONS OF ACT

257.529 Transfer of registration.

Sec. 529. This chapter shall not prevent the owner of a motor vehicle, the registration of which has been suspended hereunder, from effecting a bona fide transfer of such motor vehicle to another person whose rights or privileges are not suspended under this chapter nor prevent the registration of such motor vehicle by such transferee. This chapter shall not in anywise affect the rights of any conditional vendor, chattel mortgagee, or lessor of a motor vehicle registered in the name of another as owner who becomes subject to the provisions of this chapter.

HISTORY: New 1949, p. 555, Act 300, Eff. Sep. 23.

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257.530 Surrender of license and registration upon suspension or for lack of sufficient proof.

Sec. 530. Any person whose license or registration shall have been suspended as herein provided, or whose policy of insurance or bond, when required under this chapter, shall have been cancelled or terminated, or who shall neglect to furnish other proof upon request of the secretary of state shall immediately return his license and registration to the secretary of state. If any person wilfully fails to return to the secretary of state the license or registration provided herein, the secretary of state shall forthwith direct any peace officer to secure possession thereof and to return the same to the secretary of state.

HISTORY: New 1949, p. 555, Act 300, Eff. Sep. 23.

GENERAL PROVISIONS

257.531 Self-insurance; certificate, cancellation.

Sec. 531. (a) Any person in whose name more than 25 motor vehicles are registered may qualify as a self-insurer by obtaining a certificate of self-insurance issued by the secretary of state as provided in paragraph (b) of this section.

(b) The secretary of state may, in his discretion, upon the application of such a person, issue a certificate of self-insurance when he is satisfied that such person is possessed and will continue to be possessed of ability to pay judgments obtained against such person.

(c) Upon not less than 5 days' notice and a hearing pursuant to such notice, the secretary of state may upon reasonable grounds cancel a certificate of self-insurance. Failure to pay any judgment within 30 days after such judgment shall have become final shall constitute a reasonable ground for the cancellation of a certificate of self-insurance.

HISTORY: New 1949, p. 555, Act 300, Eff. Sep. 23.

257.532 Availability of other security.

Sec. 532. Nothing in this chapter shall be construed as preventing the plaintiff in any action at law from relying for security upon the other processes provided by law.

HISTORY: New 1949, p. 555, Act 300, Eff. Sep. 23.

CHAPTER VI.

OBEDIENCE TO AND EFFECT OF TRAFFIC LAWS

257.601 Applicability of chapter to operations on highways; exceptions.

Sec. 601. The provisions of this chapter relating to the operation of vehicles refer exclusively to the operation of vehicles upon highways except where a different place is specifically referred to in a given section.

HISTORY: New 1949, p. 556, Act 300, Eff. Sep. 23.

257.602 Obedience to police officers.

Sec. 602. No person shall refuse to comply with any order of police officer when such officer, for public interest and safety, is guiding, directing, controlling or regulating traffic on the highways of this state.

HISTORY: New 1949, p. 556, Act 300, Eff. Sep. 23.

257.602a Failure to stop in obedience to direction of police officer; misdemeanor.

Sec. 602a. A driver of a motor vehicle, who is given by hand, voice, emergency light or siren a visual or audible signal by a police or conservation department officer, acting in the lawful performance of his duty, directing the driver to bring his motor vehicle to a stop, and who wilfully fails to obey such direction, by increasing his speed, extinguishing his lights, or otherwise attempting to flee or elude the officer, is guilty of a

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misdemeanor. The officer giving the signal shall be in uniform; and the vehicle driven shall be adequately identified as an official police or conservation department vehicle.

HISTORY: Add. 1966, p. 227, Act 203, Eff. Sep. 1;—Am. 1968, p. 247, Act 160, Eff. Nov. 15.

257.603 Applicability of chapter to government vehicles; authorized emergency vehicles and workers upon surface of highways.

Sec. 603. (a) The provisions of this chapter applicable to the drivers of vehicles upon the highway shall apply to the drivers of all vehicles owned or operated by the United States, this state or any county, city, town, district or any other political subdivision of the state, subject to such specific exceptions as are set forth in this chapter with reference to authorized emergency vehicles.

(b) The driver of any authorized emergency vehicle when responding to an emergency call, but not while returning therefrom, may exercise the privileges set forth in this section, but subject to the conditions herein stated.

(c) The driver of an authorized emergency vehicle may:

1. Park or stand, irrespective of the provisions of this act.

2. Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation.

3. Exceed the prima facie speed limits so long as he does not endanger life or property.

4. Disregard regulations governing direction of movement or turning in specified direction.

(d) The exemptions herein granted to an authorized emergency vehicle shall apply only when the driver of the vehicle while in motion sounds an audible signal by bell, siren or exhaust whistle as may be reasonably necessary, and when the vehicle is equipped with at least 1 lighted lamp displaying a flashing, oscillating or rotating red or blue light visible under normal atmospheric conditions from a distance of 500 feet to the front of such vehicle. After January 1, 1964, only authorized emergency vehicles operated as police vehicles which are publicly owned or maintained or, if privately owned, at least 50% of the annual total miles traveled by such vehicle shall be driven on official law enforcement business on behalf of the state or a political subdivision thereof and for which reimbursement is made by the state or such subdivision, shall be equipped with a flashing, oscillating or rotating blue light which when activated shall be visible under normal atmospheric conditions from a distance of 500 feet to the front of the vehicle except where it is deemed advisable not to equip such authorized emergency vehicle operating as a police vehicle with a flashing, oscillating or rotating light.

(e) The provisions of this chapter shall not apply to persons, teams, motor vehicles, and other equipment while actually engaged in work upon the surface of a highway but shall apply to such persons and vehicles when traveling to or from work. The provisions of this chapter governing the size and width of vehicles shall not apply to vehicles owned by public highway authorities when such vehicles are proceeding to or from work on public highways.

HISTORY: New 1949, p. 556, Act 300, Eff. Sep. 23;—Am. 1951, p. 468, Act 270, Eff. Sep. 28;—Am 1958, p. 147, Act 133, Imd. Eff. Apr 18;—Am. 1962, p. 404, Act 188, Eff. Mar. 28, 1963;—Am. 1964, p. 12, Act 7, Imd. Eff. Mar. 20.

257.604 Applicability of chapter to riders of animals and drivers of animal-drawn vehicles.

Sec. 604. Every person riding an animal or driving any animal-drawn vehicle upon a roadway shall be granted all of the rights and shall be subject to all the duties applicable to the driver of a vehicle by this chapter, except those provisions of this chapter which by their very nature can have no application.

HISTORY: New 1949, p. 556, Act 300, Eff. Sep. 23;—Am. 1951, p. 469, Act 270, Eff. Sep. 28.

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257.605 Applicability of chapter; uniformity throughout state.

Sec. 605. The provisions of this chapter shall be applicable and uniform throughout this state and in all political subdivisions and municipalities therein and no local authority shall enact or enforce any ordinance, rule or regulation in conflict with the provisions of this chapter.

HISTORY: New 1949, p. 556, Act 300, Eff. Sep. 23.

257.606 Local authorities; police powers for control of traffic; impounding vehicles.

Sec. 606. (a) The provisions of this chapter shall not be deemed to prevent local authorities with respect to streets and highways under their jurisdiction and within the reasonable exercise of the police power from:

1. Regulating the standing or parking of vehicles;

2. Regulating traffic by means of police officers or traffic-control signals;

3. Regulating or prohibiting processions or assemblages on the highways;

4. Designating particular highways as 1-way highways and requiring that all vehicles thereon be moved in 1 specific direction;

5. Regulating the speed of vehicles in public parks;

6. Designating any highway as a through highway and requiring that all vehicles stop before entering or crossing the same; designating any intersection as a stop intersection and requiring all vehicles to stop at 1 or more entrances to such intersections; or designating intersections at which vehicular traffic shall be required to yield the right-of-way at 1 or more entrances to such intersections;

7. Restricting the use of highways as authorized in section 726 of this chapter;

8. Regulating the operation of bicycles and requiring the registration and licensing of same, including the requirement of a registration fee;

9. Regulating or prohibiting the turning of vehicles at intersections;

10. Increasing the prima facie speed limits as authorized herein;

11. Adopting such other traffic regulations as are specifically authorized by this chapter.

(b) No local authority shall erect or maintain any stop sign or traffic-control device at any location so as to require the traffic on any state trunkline highway to stop before entering or crossing any intersecting highway unless approval in writing has been first obtained from the state highway commissioner.

(c) No ordinance or regulation enacted under subparagraphs (1), (4), (5), (6), (7), (9) or (10) of this section shall be enforceable until signs giving notice of such local traffic regulations are posted upon or at the entrance to the highway or part thereof affected as may be most appropriate and sufficiently legible as to be seen by an ordinarily observant person: Provided, That posting of signs giving notice shall not be required in the case of any local ordinance which does not differ from the provisions of this act regulating the parking or standing of vehicles, nor to ordinances and regulations of general application throughout the jurisdiction of the municipalities enacting such ordinances or regulations which prohibit, limit or restrict "all night" parking or parking during the early morning hours, if signs, approximately 3 feet by 4 feet sufficiently legible as to be seen by an ordinarily observant person giving notice of such ordinances or regulations relating to all night parking or parking during the early morning hours, are posted on highways at the corporate limits of the municipality.

(d) No local authority, in providing by ordinance or regulation for the impounding of any motor vehicle parked contrary to any local ordinance or regulation, shall require a bond or cash deposit by the owner of the motor vehicle in excess of $500.00 in

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order to recover the possession of the said motor vehicle pending final adjudication of the case.

HISTORY: New 1949, p. 556, Act 300, Eff. Sep. 23;—Am. 1951, p. 469, Act 270, Eff. Sep. 28;—Am. 1952, p. 423, Act 254, Eff. Sep. 19.—Am. 1955, p. 251, Act 165, Imd. Eff. Jun. 13.

257.607 Realty owners' regulation of traffic on private property.

Sec. 607. Nothing in this act shall be construed to prevent the owner of real property used by the public for purposes of vehicular travel by permission of the owner and not as a matter of right from prohibiting such use nor from requiring other or different or additional conditions than those specified in this act or otherwise regulating such use as may seem best to such owner.

HISTORY: New 1949, p. 557, Act 300, Eff. Sep. 23.

TRAFFIC SIGNS, SIGNALS, AND MARKINGS

257.608 Uniform system of traffic-control devices; manual.

Sec. 608. The state highway commissioner and commissioner of state police shall adopt a manual and specifications for a uniform system of traffic-control devices consistent with the provisions of this chapter for use upon highways within this state. Such uniform system shall correlate with and so far as possible conform to the system then current as approved by the American Association of State Highway Officials and such manual may be revised whenever necessary to carry out the provisions of this act. It is hereby declared to be the policy of the state of Michigan to achieve, insofar as is practicable, uniformity in the design, and shape and color scheme of traffic signs, signals and guide posts erected and maintained upon the streets and highways within the state with other states.

HISTORY: New 1949, p. 557, Act 300, Eff. Sep. 23.

CITED IN OTHER SECTIONS: The above section is cited in §§ 247.291 and 254.20.

257.609 Traffic-control devices; placement and maintenance; restrictions; county road commission, permission, costs.

Sec. 609. (a) The state highway commission shall place or require to be placed and maintain or require to be maintained such traffic-control devices, conforming to said manual and specifications, upon all state highways as it shall deem necessary to indicate and to carry out the provisions of this chapter or to regulate, warn or guide traffic.

(b) No local authority shall place or maintain any traffic-control device upon any trunk line highway under the jurisdiction of the state highway commissioner except by the latter's permission or upon any county road without the permission of the county road commission having jurisdiction thereof. With the approval of the department of state highways, the board of county road commissioners of any county, at its option, may install and maintain uniform traffic-control devices according to the standards promulgated by the department of state highways and as required by the commission on trunk line highways, if the cost would be less than that estimated by the state highway commission, billing the state highway commission for its share of the cost of installation.

HISTORY: New 1949, p. 557, Act. 300, Eff. Sep. 23;—Am. 1953, p. 72, Act 76, Eff. Oct. 2;—Am. 1968, p. 153, Act 98, Imd. Eff. Jun. 7

257.610 Traffic-control devices; state manual and specifications.

Sec. 610. (a) Local authorities and county road commissions in their respective jurisdictions shall place and maintain such traffic-control devices upon highways under their jurisdiction as they may deem necessary to indicate and to carry out the provisions of this chapter or local traffic ordinances or to regulate, warn, or guide traffic. All such traffic-control devices hereafter erected shall conform to the state manual and specifications.

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Same; failure to install; withholding of tax refunds.

(b) The state highway commissioner shall withhold from any township, incorporated village, city or county, failing to comply with the provisions of sections 608, 609, 612 and 613 of this chapter, the share of weight and gasoline tax refunds otherwise due said township, incorporated village, city or county: Provided, That notice of such failure, and a reasonable time to comply therewith, shall first be given.

HISTORY: New 1949, p. 557, Act 300, Eff. Sep. 23;—Am. 1955, p. 390, Act 245, Eff. Oct. 14.

257.611 Traffic-control devices; obedience required.

Sec. 611. No driver of a vehicle or motorman of a street car shall disobey the instructions of any traffic-control device placed in accordance with the provisions of this chapter unless at the time otherwise directed by a police officer.

HISTORY: New 1949, p. 558, Act 300, Eff. Sep. 23.

257.612 Traffic-control signal legend; signals over travelled portion of roadway.

Sec. 612. Whenever traffic is controlled by traffic-control signals, at least 1 signal shall be located over the traveled portion of the roadway so as to give drivers a clear indication of the right of way assignment from their normal positions approaching the intersection. The vehicle signals shall exhibit different colored lights successively 1 at a time, or with arrows. The following colors shall be used and said terms and lights shall indicate and apply to drivers of vehicles as follows:

(a) Green indication.

Vehicular traffic facing the signal, except when prohibited under section 664 may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right of way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(b) Steady yellow indication.

Vehicular traffic facing the signal shall stop before entering the nearest crosswalk at the intersection or at a limit line when marked, but if such stop cannot be made in safety, a vehicle may be driven cautiously through the intersection.

(c) Steady red indication.

Vehicular traffic facing a steady red signal alone shall stop before entering the crosswalk on the near side of the intersection or at a limit line when marked, or if none, then before entering the intersection and shall remain standing until a green indication is shown.

(d) Arrow indications.

(1) Green arrow (steady): Vehicular traffic facing a green arrow signal, shown alone or in combination with another indication, may cautiously enter the intersection only to make the movement indicated by such arrow, or such other movement as is permitted by other indications shown at the same time. Vehicle traffic shall yield the right of way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

(2) Red arrow (flashing): When a red arrow is illuminated by rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked or if none then before entering the intersection and shall then be privileged to make the movement indicated if no interference is offered pedestrians or vehicles lawfully on the highway.

(e) If a traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a

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sign or marking on the pavement indicating where the stop shall be made, but in the absence of any sign or marking the stop shall be made at the signal.

HISTORY: New 1949, p. 558, Act. 300, Eff. Sep. 23;—Am. 1955, p. 391, Act 245, Eff. Oct. 14;—Am. 1964, p. 295, Act 222, Eff. Aug. 25.—Am. 1966, p. 317, Act 237, Eff. Mar. 10, 1967.

257.613 Traffic-control signals; applicability to pedestrians.

Sec. 613. (a) Whenever special pedestrian-control signals are not utilized, the regular traffic-control signals as indicated in section 612 shall apply to pedestrians as follows:

(1) Green indication. Pedestrians facing such signal may proceed across the roadway within any marked or unmarked crosswalk.

(2) Steady yellow indication. Pedestrians facing such signal are advised that there is insufficient time to cross the roadway and any pedestrian then starting to cross shall yield the right of way to all vehicles.

(3) Steady red indication. Pedestrians facing such signal shall not enter the highway unless they can do so safely and without interfering with any vehicular traffic.

(4) Red with arrow. Pedestrians facing such signal shall not enter the highway unless they can do so safely without interfering with any vehicular traffic.

(b) Whenever special pedestrian-control signals are installed they shall be placed at the far end of each crosswalk and shall indicate a "walk" or "don't walk" interval. These special signals shall apply to pedestrians only to the exclusion of any regular traffic-control signal or signals which may be present at the same location.

(1) Walk interval—Pedestrians facing such signal may proceed across the highway in the direction of the signal and shall be given the right of way by the drivers of all vehicles.

(2) Don't walk (steady burning or flashing) interval—No pedestrian shall start to cross the highway in the direction of such signals, but any pedestrian who has partially completed his crossing on the walk interval of such signal shall proceed to a sidewalk or safety island while the don't walk interval of the signal is showing.

(3) Until January 1, 1969, but not on or after that date, the don't walk interval may be indicated by existing "wait" signals.

HISTORY: New 1949, p. 559, Act 300, Eff. Sep. 23;—Am. 1955, p. 391, Act 245, Eff. Oct. 14;—Am. 1958, p. 152, Act 71, Eff. Aug. 11.—Am. 1964, p. 296, Act 222, Eff. Aug. 28;—Am. 1966, p. 318, Act 237, Eff. Mar. 10, 1967.

257.614 Flashing red or yellow signals; obedience by vehicular traffic.

Sec. 614. Whenever flashing red or yellow signals are used they shall require obedience by vehicular traffic as follows:

1. Flashing red (stop signal). When a red lens is illuminated by rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

2. Flashing yellow (caution signal). When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

HISTORY: New 1949, p. 559, Act 300, Eff. Sep. 23.

257.615 Signs or lights resembling traffic-control devices and commercial advertising on traffic signs; prohibition.

Sec. 615. (a) Except with authority of a statute or of a duly authorized public body or official, no person shall place, maintain, or display along any highway or upon any structure in or over any highway any sign, signal, marking, device, blinking, oscillating or rotating light or lights, decoration or banner which is or purports to be or is in imitation of or resembles or which can be mistaken for a traffic control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides

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from view or interferes with the effectiveness of any traffic control device or any railroad sign or signal, and no person shall place or maintain nor shall any public authority permit upon any highway any traffic sign or signal bearing thereon any commercial advertising.

Emergency vehicles; distinguishing lights; prohibited lights.

(b) No person shall place, maintain or display along any highway any blinking, oscillating or rotating light or lights sufficiently similar in color and design that they may be mistaken for the distinguishing lights authorized by law for emergency vehicles or that creates a hazard for the safety of drivers using said highways.

Prohibited signs; public nuisance, removal.

(c) Every such prohibited sign, signal, marking, device, decoration or banner is hereby declared to be a public nuisance and the authority having jurisdiction over the highway is hereby empowered to remove the same or cause to be removed without notice.

Placement of street decorations and banners; obstruction of traffic lights and signals.

(d) Decorations or banners which may be placed over the traveled portion of any street or highway shall be placed not closer than 10 feet on either side of traffic lights or signals and shall be so placed as to not obstruct a clear view of such traffic lights or signals.

HISTORY: New 1949, p. 559, Act 300, Eff. Sep. 23;—Am. 1955, p. 392, Act 245, Eff. Oct. 14;—Am. 1957, p. 129, Act 112, Eff. Sep. 27;—Am. 1958, p. 107, Act 98, Eff. Sep. 13.

257.616 Traffic-control devices or railroad signs or signals; interference prohibited.

Sec. 616. No person shall without lawful authority attempt to or in fact alter, deface, injure, knock down, or remove any traffic-control device or any railroad sign or signal or any inscription, shield, or insignia thereon, or any other part thereof.

HISTORY: New 1949, p. 559, Act 300, Eff. Sep. 23.

ACCIDENTS

257.617 Accident; personal injury or death, stopping required.

Sec. 617. (a) The driver of any vehicle who knows or who has reason to believe that he has been involved in an accident upon either public or private property, when such property is open to travel by the public, resulting in injury to or death of any person shall immediately stop such vehicle at the scene of such accident and shall remain thereat until he has fulfilled the requirements of section 619. Every such stop shall be made without obstructing traffic more than is necessary.

Penalty.

(b) Any person failing to stop or to comply with said requirements under such circumstances shall upon conviction be punished by imprisonment in the county or municipal jail for not less than 30 days nor more than 1 year, or in the state prison for not less than 1 nor more than 5 years, or by fine of not less than $100.00 nor more than $5,000.00, or by both such fine and imprisonment.

Suspension of license.

(c) The secretary of state shall suspend the operator's or chauffeur's license of the person so convicted as provided in section 319 of this act.

HISTORY: New 1949, p. 559, Act 300, Eff. Sept. 23;—Am. 1951, p. 470, Act 270, Eff. Sep. 28;—Am. 1956, p. 29, Act 22, Eff. Aug. 11;—Am. 1958, p. 40, Act 35, Eff. Sep. 13.

257.618 Accidents; damage to vehicles, stopping, penalty.

Sec. 618. The driver of any vehicle who knows or who has reason to believe that he has been involved in an accident resulting only in damage to a vehicle which is driven

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or attended by any person shall immediately stop such vehicle at the scene of such accident and shall remain thereat until he has fulfilled the requirements of section 619. Every such stop shall be made without obstructing traffic more than is necessary. Any person failing to stop or comply with said requirements under such circumstances shall be guilty of a misdemeanor.

HISTORY: New 1949, p. 559, Act 300, Eff. Sep. 23;—Am. 1958, p. 41, Act 35, Eff. Sep. 13.

257.619 Accidents; giving information and aid.

Sec. 619. The driver of any vehicle who knows or who has reason to believe that he has been involved in an accident resulting in injury to or death of any person or damage to any vehicle which is driven or attended by any person shall give his name, address, and the registration number of the vehicle he is driving, also the name and address of the owner, and exhibit his operator's or chauffeur's license to the person struck or the driver or occupants of any vehicle collided with and shall render to any person injured in such accident reasonable assistance in securing medical aid or transportation of injured person or persons.

HISTORY: New 1949, p. 560, Act 300, Eff. Sep. 23;—Am. 1958, p. 41, Act 35, Eff. Sep. 13.

257.620 Accidents; attended or unattended vehicle; stopping; report.

Sec. 620. The driver of any vehicle which collides upon either public or private property with any vehicle which is attended or unattended shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle of the name and address of the driver and owner of the vehicle striking the vehicle or, if such owner cannot be located, shall forthwith report it to the nearest or most convenient police officer.

HISTORY: New 1949, p. 560, Act 300, Eff. Sep. 23;—Am. 1967, p. 90, Act 71, Eff. Nov. 2.

257.621 Accidents; fixtures on or adjacent to highway, report, notification of owner, exhibition of driver's license.

Sec. 621. (a) The driver of any vehicle involved in an accident resulting only in damage to fixtures legally upon or adjacent to a highway shall take reasonable steps to locate and notify the owner or person in charge of such property of such accident and of his name and address and of the registration number of the vehicle he is driving and shall upon request exhibit his operator's or chauffeur's license and, if such owner cannot be found, shall forthwith report such accident to the nearest or most convenient police officer.

Reports to state police; form, contents, analysis, use.

(b) The officer receiving such report or his commanding officer shall forward each individual report to the director of state police on forms prescribed by him which shall be completed in full by the investigating officer. The director of state police shall analyze each report relative to the cause of the reported accident and shall prepare for public use the information compiled from the reports.

HISTORY: New 1949, p. 560, Act 300, Eff. Sep. 23;—Am. 1966, p. 191, Act 171, Eff. Mar. 10, 1967;—Am. 1967, p. 11, Act 3, Imd. Eff. Mar. 9.

257.622 Accidents resulting in personal injury, death or damages in excess of $200; report, form, contents, analysis, use.

Sec. 622. The driver of every motor vehicle involved in an accident resulting in injury or death of any person or total damage to all property to an apparent extent of $200.00 or more shall forthwith report such accident to the nearest or most convenient police station or police officer. The officer receiving such report or his commanding officer shall forthwith forward each individual report to the director of state police on forms prescribed by him which shall be completed in full by the investigating officer. The director of state police shall analyze each report relative to the cause of the reported accident and shall prepare for public use the information compiled from the re-

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ports. A copy of the report required under sections 621 and 622 of this act shall be retained for at least 3 years at the local police or sheriff's department or local state police post making the report.

HISTORY: New 1949, p. 560, Act. 300, Eff. Sep. 23;—Am. 1966, p. 191, Act 171, Eff. Mar. 10, 1967;—Am. 1967, p. 12, Act 3, Imd. Eff. Mar. 9.

257.623 Accidents; reports by garagekeepers or repairmen.

Sec. 623. The person in charge of any garage or repair shop to which is brought any motor vehicle which shows evidence of having been involved in an accident or having been struck by any bullet shall report the same to the nearest police station or sheriff's office immediately after such motor vehicle is received, giving the engine number, registration number and the name and address of the owner, and/or operator of such vehicle.

HISTORY: New 1949, p. 560, Act 300, Eff. Sep. 23.

257.624 Accidents; use of reports.

Sec. 624. The reports required by this chapter shall not be available for use in any court action, but it shall be for the purpose of furnishing statistical information as to the number and cause of accidents.

HISTORY: New 1949, p. 560, Act 300, Eff. Sep. 23.

DRIVING WHILE INTOXICATED, AND RECKLESS DRIVING

257.625 Drug addicts or intoxicated persons; driving on highways or parking lots prohibited.

Sec. 625. (a) It shall be unlawful and punishable as provided in paragraph (c) of this section for any person whether licensed or not who is an habitual user of narcotic drugs, barbital or any derivative of barbital, or any person who is under the influence of intoxicating liquor or narcotic drugs, barbital or any derivative of barbital, to drive any vehicle upon any highway or any other place open to the general public, including any area designated for the parking of motor vehicles, within this state.

Permitting drug addict or intoxicated person to drive.

(b) It shall also be unlawful and punishable as provided in paragraph (c) of this section, for the owner of any motor vehicle or any person having such in charge or in control thereof to authorize or knowingly permit the same to be driven or operated upon any highway or any other place open to the general public, including any area designated for the parking of motor vehicles, within this state by any person who is an habitual user of narcotic drugs, barbital or any derivative of barbital or any person who is under the influence of intoxicating liquor or narcotic drugs, barbital or any derivative of barbital.

Penalty.

(c) Any person who is convicted of a violation of paragraph (a) or (b) of this section shall be punished by imprisonment in the county jail or Detroit house of correction for not more than 90 days or by a fine of not less than $50.00 nor more than $100.00 or both such fine and imprisonment in the discretion of the court, together with costs of the prosecution.

Same; second conviction.

On a second conviction under this section or a local ordinance substantially corresponding thereto, he shall be guilty of a misdemeanor and punished by imprisonment for not more than 1 year and, in the discretion of the court, a fine of not more than $1,000.00.

Same; third or subsequent conviction, felony.

On a third or subsequent conviction within a period of 10 years under this section or a local ordinance substantially corresponding thereto, he shall be guilty of a felony.

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Acceptance of plea of guilty, advising accused.

(d) It shall be the duty of the magistrate before accepting a plea of guilty under this section to advise the accused of the statutory consequences possible as the result of a plea of guilty in respect to suspension of his operator's or chauffeur's license, financial responsibility, the penalty imposed for violation of this section, and the limitation on his right of appeal.

Surrender of operator's or chauffeur's license.

(e) The operator's or chauffeur's license of any person found guilty of violating the provisions of this section or a local ordinance substantially corresponding thereto shall be thereupon surrendered to the court in which such conviction shall be had; and the judge before whom such conviction was had shall immediately after the expiration of the appeal period notify the secretary of state thereof and the said court shall then cause the license so surrendered to be forwarded with a certificate of conviction to the secretary of state, who shall suspend the license as required under section 319 of this act. If the license is not forwarded, an explanation of the reason why it is absent shall be attached.

HISTORY: New 1949, p. 560, Act 300, Eff. Sep. 23;—Am. 1951, p. 470, Act 270, Eff. Sep. 28;—Am. 1954, p. 13, Act 10, Eff. Aug. 13;—Am. 1956, p. 39, Act 34, Eff. Aug. 11;—Am. 1958, p. 119, Act 113, Eff. Sep. 13.

CITED IN OTHER SECTIONS: The above section is cited in § 600.8391.

257.625a Driving under influence of intoxicating liquor; tests, availability for use in evidence.

Sec. 625a. (1) In any criminal prosecution for driving a vehicle while under the influence of intoxicating liquor, the amount of alcohol in such person's blood at the time alleged as shown by chemical analysis of the person's blood, urine, breath or saliva, shall be admissible into evidence and shall give rise to the following presumptions, and in the event any such tests are given, the results of such tests shall be made available to the person so charged or his attorney upon written request to the prosecution, with a copy of the request filed with the court, and the prosecution shall furnish the report at least 2 days prior to the day of the trial and shall be offered as evidence by the prosecution in a criminal proceeding; failure to fully comply with such request shall bar the admission of the results into evidence by the prosecution:

(a) If there was at that time 0.05% or less by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was not under the influence of intoxicating liquor.

(b) If there was at that time in excess of 0.05% but less than 0.10% by weight of alcohol in the defendant's blood, such fact shall not give rise to any presumption that the defendant was or was not under the influence of intoxicating liquor, but such fact may be considered with other competent evidence in determining the guilt or innocence of the defendant.

(c) If there was at the time 0.10% or more by weight of alcohol in the defendant's blood, it shall be presumed that the defendant's ability to operate a motor vehicle was impaired within the provisions of section 625b of this act due to the consumption of intoxicating liquor.

(d) If there was at that time 0.15% or more by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was under the influence of intoxicating liquor.

Administration of tests; persons authorized, immunity from criminal or civil liability.

(2) Samples and specimens of urine, breath and saliva shall be taken and collected in a reasonable manner; but only a duly licensed physician, or a licensed nurse or medical technician under the direction of a licensed physician and duly qualified to with-

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draw blood, acting in a medical environment, at the request of a police officer, can withdraw blood for the purpose of determining the alcoholic content therein under the provisions of this act. No liability for a crime or civil damages predicated on the act of withdrawing blood and related procedures attaches to a qualified person who withdraws blood or assists in the withdrawal in accordance with this act unless the withdrawal is performed in a negligent manner.

Person charged with driving a vehicle while under the influence of intoxicating liquor; choice of person to administer chemical tests; evidence.

(3) A person charged with driving a vehicle while under the influence of intoxicating liquor who takes a chemical test administered at the request of a police officer as provided in paragraphs (1) and (2) hereof, shall be informed that he will be given a reasonable opportunity to have a person of his own choosing administer one of the chemical tests as provided in this section within a reasonable time after his detention, and the results of such test shall be admissible and shall be considered with other competent evidence in determining the innocence or guilt of the defendant. Any person charged with driving a vehicle while under the influence of intoxicating liquor shall be informed that he has the right to demand that one of the tests provided for in paragraph (1) shall be given him, and the results of such test shall be admissible and shall be considered with other competent evidence in determining the innocence or guilt of the defendant.

Advice as to effect of refusal to take tests.

(4) The person charged shall be advised that his refusal to take a test as herein provided shall result in the suspension or revocation of his operator's or chauffeur's license or his operating privilege.

Additional evidence.

(5) The provision of this section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question of whether or not the defendant was under the influence of intoxicating liquor.

Advice of optional tests; effect of refusal.

(6) Notwithstanding any other provision of this act, a person requested to take this test shall be advised that he has the option to demand that only a breath test shall be given, in which case his refusal to submit to any other test shall not constitute a refusal for the purposes of sections 625d and 625f.

HISTORY: Add. 1960, p. 214, Act 148, Eff. Aug. 17;—Am. 1964, p. 103, Act 104, Eff. Aug. 28;—Am. 1967, p. 453, Act 253, Eff. Nov. 2.

257.625b Driving with impaired ability due to liquor or drugs; penalty.

Sec. 625b. (a) It is unlawful and punishable as provided in this section for any person to operate a vehicle upon any highway or any other place open to the general public, including any area designated for the parking of motor vehicles, within this state when, due to consumption of intoxicating liquor, narcotic drugs, barbital or any derivative of barbital, he has visibly impaired his ability to operate the vehicle. Where a person is charged with violating section 625, a finding of guilty shall be permissible under this section.

(b) Any person convicted of a violation of this section may be imprisoned in the county jail for not more than 90 days or fined not more than $100.00, or both, together with costs of the prosecution. On a second and subsequent conviction under this section or a local ordinance substantially corresponding thereto, he may be imprisoned for not more than 1 year or fined not to exceed $1,000.00, or both. The division of driver and vehicle services, within 10 days after the receipt of a properly prepared abstract, shall record 4 points for each conviction under this section.

HISTORY: Add. 1966, p. 327, Act 243, Eff. Mar. 10, 1967.

CITED IN OTHER SECTIONS: The above section is cited in § 600.8391.

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257.625c Chemical tests; automatic consent.

Sec. 625c. (1) A person who operates a vehicle upon the public highways of this state is deemed to have given consent to chemical tests of his blood, breath, urine or other bodily substances for the purpose of determining the alcoholic content of his blood if:

(a) He is arrested for driving a vehicle while under the influence of intoxicating liquor, or while his ability to operate a vehicle has been impaired due to the consumption of intoxicating liquor.

Any person who is afflicted with hemophilia, diabetes or any condition requiring the use of an anticoagulant under the direction of a physician shall not be deemed to have given consent to the withdrawal of blood.

Law officers; requests for tests; probable cause.

(2) The tests shall be administered at the request of a law enforcement officer having reasonable grounds to believe the person was driving a vehicle upon the public highways of this state while under the influence of intoxicating liquor.

HISTORY: Add. 1967, p. 454, Act 253, Eff. Nov. 2.

257.625d Chemical tests; refusal to submit; report, contents, form.

Sec. 625d. A person under arrest shall be advised of his right to refuse to submit to chemical tests; and if he refuses the request of a law enforcement officer to submit to chemical tests, no test shall be given. A sworn report shall be forwarded to the department by the law enforcement officer stating that he had reasonable grounds to believe that the person had been driving a motor vehicle on the public highways of the state while under the influence of intoxicating liquor or that he had been driving a vehicle while his ability to operate a vehicle had been impaired due to the consumption of intoxicating liquor and that the person had refused to submit to the test upon the request of the law enforcement officer and had been advised of the consequences of such refusal. The form of the report shall be prescribed and furnished by the department of state.

HISTORY: Add. 1967, p. 454, Act 253, Eff. Nov. 2;—Am. 1968, p. 614, Act 335, Eff. Nov. 15.

257.625e Chemical tests; sworn statements; notice of receipt, hearing.

Sec. 625e. Upon receipt of the sworn statement, the department shall immediately notify the person in writing, mailed to his last known address, that the sworn statement has been received and that within 14 days of the date of the notice he may request a hearing as provided in section 322.

HISTORY: Add. 1967, p. 455, Act 253, Eff. Nov. 2;—Am. 1968, p. 614, Act 335, Eff. Nov. 15.

257.625f Chemical tests; hearing not requested, suspension, revocation or denial of license.

Sec. 625f. (1) If the person does not request a hearing within 14 days of the date of such notice, the secretary of state shall suspend or revoke such person's, operator's or chauffeur's license or permit to drive, or any nonresident operating privilege, for a period of not less than 90 days nor more than 2 years. If the person is a resident without a license or permit to operate a vehicle in this state, the secretary shall deny to that person the issuance of a license or permit for a period of not less than 3 months nor more than 2 years.

Hearing; time; place; notice; issues.

(2) If a hearing is requested, the department shall hold such hearing within 30 days of receipt of such request in the same manner and under the same conditions as provided in section 322. The hearing shall be conducted in the county where the arrest was made. At least 10 days' notice of the hearing shall be mailed to the person requesting the hearing, to the law enforcement officer who filed the sworn report and to the

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prosecuting attorney of the county where the arrest was made. The license appeal board shall be authorized to administer oaths, issue subpoenas for the attendance of necessary witnesses, and may grant reasonable requests for adjournment. Such hearing shall cover only the following issues:

(a) Whether the law enforcement officer had reasonable grounds to believe that the person had been driving a motor vehicle upon the highways of this state while under the influence of an intoxicating liquor or while his ability to operate a vehicle had been impaired due to the consumption of intoxicating liquor.

(b) Whether the person was placed under arrest for driving a motor vehicle upon the highways of this state while under the influence of an intoxicating liquor or while his ability to operate a vehicle had been impaired due to the consumption of intoxicating liquor.

(c) Whether the person reasonably refused to submit to the test upon the request of the officer.

(d) Whether the person was advised of his rights as set forth in sections 625a, 625c and 625d.

Suspension, revocation or denial of license; judicial review.

(3) After the hearing, the secretary may suspend, revoke or deny issuance of a license or driving permit or any nonresident operating privilege of the person involved for a period of not less than 90 days nor more than 2 years. If the person involved is a resident without a license or permit to operate a motor vehicle in this state, the secretary may deny to that person the issuance of a license or permit for a period of not less than 3 months nor more than 24 months. The person involved may file a petition in the circuit court of the county in which the arrest was made to review the suspension, revocation or denial in the same manner and under the same conditions as provided in section 323. All hearings in circuit court shall be de novo and shall be limited to those issues enumerated in subsection (2).

Nonresidents; notice to state of residence.

(4) When it has been finally determined that a nonresident's privilege to operate a vehicle in this state has been suspended or revoked, the department shall give notice in writing of the action taken to the motor vehicle administrator of the state in which he has his residence and of any state in which he has a license to operate a motor vehicle.

HISTORY: Add. 1967, p. 455, Act 253, Eff. Nov. 2;—Am. 1968, p. 614, Act 335, Eff. Nov. 15.

257.625g Blood tests; uniform standards for administration.

Sec. 625g. The department of public health may adopt uniform standards for the administration of blood tests for the purposes of this act.

HISTORY: Add. 1967, p. 455, Act 253, Eff. Nov. 2.

257.626 Reckless driving on highway, frozen public lake or parking place; penalty.

Sec. 626. (a) Any person who drives any vehicle upon a highway or a frozen public lake, stream or pond or other place open to the general public, including any area designated for the parking of motor vehicles, within this state, in wilful or wanton disregard for the safety of persons or property is guilty of reckless driving.

(b) Every person convicted of reckless driving shall be punished by imprisonment in the county or municipal jail for a period of not more than 90 days or by a fine of not more than $100.00, or by both.

HISTORY: New 1949, p. 561, Act 300, Eff. Sep. 23;—Am. 1953, p. 4, Act 3, Eff. Oct. 2;—Am. 1957, p. 210, Act 178, Eff. Sep. 27;—Am. 1965, p. 440, Act 262, Eff. Mar. 31, 1966.

CITED IN OTHER SECTIONS: The above section is cited in § 600.8391.

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257.626a Drag races; prohibition on public highways; definition; prima facie evidence.

Sec. 626a. It shall be unlawful for any person to operate any vehicle upon any highway, or any other place open to the general public, including any area designated for the parking of motor vehicles, within this state, in a speed or acceleration contest or for the purpose of making a speed record, whether from a standing start or otherwise over a measured or unmeasured distance, or in a drag race as herein defined.

"Drag racing" means the operation of 2 or more vehicles from a point side by side at accelerating speeds in a competitive attempt to out-distance each other over a common selected course or where timing is involved or where timing devices are used in competitive accelerations of speeds by participating vehicles. Persons rendering assistance in any manner to such competitive use of vehicles shall be equally charged as participants. The operation of 2 or more vehicles either at speeds in excess of prima facie lawfully established speeds or rapidly accelerating from a common starting point to a speed in excess of such prima facie lawful speed is prima facie evidence of drag racing and is unlawful.

HISTORY: Add. 1964, p. 275, Act 206, Eff. Aug. 28;—Am. 1966, p. 180, Act 159, Eff. Mar. 10, 1967.

257.626b Driving on highways, frozen public lakes or parking places in negligent manner.

Sec. 626b. Any person who operates any vehicle upon a highway or a frozen public lake, stream or pond or other place open to the general public including any area designated for the parking of vehicles in a careless or negligent manner likely to endanger any person or property, but without wantonness or recklessness, shall be guilty of a misdemeanor punishable by imprisonment in the county jail for not more than 10 days or a fine of not more than $100.00, or both.

HISTORY: Add. 1965, p. 440, Act 282, Eff. Mar. 31, 1966.

CITED IN OTHER SECTIONS: The above section is cited in § 600.8391.

SPEED RESTRICTIONS

257.627 Speed restrictions; assured clear distance ahead.

Sec. 627. (a) Any person driving a vehicle on a highway shall drive the same at a careful and prudent speed not greater than nor less than is reasonable and proper, having due regard to the traffic, surface and width of the highway and of any other condition then existing, and no person shall drive any vehicle upon a highway at a speed greater than will permit him to bring it to a stop within the assured, clear distance ahead.

Business or residence districts; public parks, posted speed limits.

(b) Subject to the provisions of paragraph (a) of this section and except in those instances where a lower speed is specified in this chapter, it shall be prima facie lawful for the driver of a vehicle to drive the same at a speed not exceeding the following, but in any case when such speed would be unsafe it shall not be lawful:

25 miles an hour on all highways in a business or residence district as defined herein;

25 miles an hour in public parks unless a different speed is fixed and duly posted.

It shall be prima facie unlawful for any person to exceed any of the foregoing speed limitations, except as provided in section 629 of this chapter.

Vehicles with trailers.

(d) No passenger vehicle drawing another vehicle or trailer shall exceed a speed of 50 miles per hour, unless the vehicle or trailer has 2 wheels or less and does not exceed the combined weight of 750 pounds for the vehicle or trailer and load, or a trailer

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coach of not more than 26 feet in length with brakes on each wheel and attached to the passenger vehicle with an equalizing or stabilizing coupling unit.

Trucks and combinations weighing over 5,000 pounds.

(e) No truck, tractor or tractor with trailer, nor any combination of such vehicles with a gross weight, loaded or unloaded, in excess of 5,000 pounds, shall exceed a speed of 50 miles per hour on highways or streets or 60 miles per hour on freeways, which shall be reduced to 35 miles per hour during the period when reduced loadings are being enforced in accordance with the provisions of this chapter.

School buses.

(f) No school bus shall exceed the speed of 50 miles per hour.

HISTORY: New 1949, p. 561, Act 300, Eff. Sep. 23;—Am. 1957, p. 240, Act 190, Eff. Sep. 27;—Am. 1959, p. 86, Act 76, Eff. Mar. 19, 1960;—Am. 1962, p. 110, Act 120, Eff. Mar. 28, 1963;—Am. 1966, p. 271, Act 223, Imd. Eff. Jul. 11.

257.628 Speed limits; maximum, minimum, day and night.

Sec. 628. (a) Whenever the state highway commissioner or county road commission, with respect to highways under its jurisdiction, and the commissioner of the Michigan state police shall jointly determine upon the basis of an engineering and traffic investigation that the speed of vehicular traffic on a state trunk line or county highway is greater or less than is reasonable or safe under the conditions found to exist at any intersection or other place or upon any part of such highway, the officials acting jointly may determine and declare a reasonable and safe maximum or minimum speed limit thereat which shall be effective at such times as may be determined when appropriate signs giving notice thereof are erected at such intersection or other place or part of the highway. The maximum speed limits on all state trunk line highways or parts of such highways upon which maximum speed limits are not otherwise fixed pursuant to this act shall be 65 miles per hour during the daylight hours and 55 miles per hour during the night hours, except upon freeways where the maximum speed limit shall be 70 miles per hour and the maximum speed limits on all highways or parts of highways under the jurisdiction of the county road commission upon which maximum speed limits are not otherwise fixed pursuant to this act shall be 65 miles per hour during the daylight hours and 55 miles per hour during the night hours.

Speed control signs.

(b) If upon investigation they shall find it in the interest of public safety, they may order the township board, city or village officials to erect and maintain, take down or regulate such speed control signs, signals or devices as the state highway commissioner or county road commission and commissioner of the Michigan state police shall direct, and in default thereof the state highway commissioner or county road commission shall be authorized to cause such designated signs, signals and devices to be erected and maintained, taken down, regulated or controlled, in the manner previously directed, and pay for same out of the highway fund designated.

Public record in office of county clerk; temporary construction or repair signs, authorization; evidence.

(c) A public record of any and all such speed control signs, signals or devices so authorized shall be filed in the office of the county clerk of the county wherein such highway is located, and a certified copy thereof shall be prima facie evidence in all courts of the issuance of such authorization. The public record with the county clerk as herein described shall not be required as prima facie evidence of authorization in the case of signs erected or placed temporarily for the control of speed or direction of traffic at points where construction, repairs or maintenance of highways are in progress, if the signs are of uniform design approved by the state highway commissioner and the commissioner of the Michigan state police and clearly indicate a special control, when proved in court that the temporary traffic control sign was placed by the

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state highway commissioner or on the authority of the state highway commissioner and the commissioner of the Michigan state police, or by the county road commission or on the authority of the county road commission, at a specified location.

Failure to observe speed or traffic control signs.

(d) Any person who fails to observe any authorized speed or traffic control signs, signals or devices is guilty of a misdemeanor.

HISTORY: New 1949, p. 562, Act 300, Eff. Sep. 23;—Am. 1955, 1st Ex. Ses., p. 822, Act 10, Eff. Feb. 3, 1956;—Am. 1956, p. 190, Act 5, Imd. Eff. Apr. 5;—Am. 1961, p. 236, Act 164, Eff. Sep. 8;—Am. 1963, p. 196, Act 143, Eff. Sep. 6.

257.628a Minimum speed on freeways.

Sec. 628a. Notwithstanding the provisions of section 628, on all freeways the minimum speed limit shall be 45 miles per hour except when reduced speed is necessary for safe operation or in compliance with law or in compliance with special permit issued by appropriate authority.

HISTORY: Add. 1963, p. 154, Act 113, Eff. Sep. 6.

257.629 Prima facie speed limits; establishment, signs.

Sec. 629. (a) Local authorities are hereby authorized to establish or increase the prima facie speed limits on highways under their jurisdiction subject to the following limitations:

1. All highways within business or residential districts on which the prima facie speed limit is increased shall be designated through highways at the entrance to which vehicles shall be required to stop before entering, except that where 2 such through highways intersect, local authorities may require traffic on 1 highway only to stop before entering the intersection.

2. Said local authorities shall place and maintain upon all through highways upon which the permissible speed is increased adequate signs giving notice of such special regulations and shall also place and maintain upon each and every highway intersecting any said through highway, appropriate stop signs which shall be reflectorized or illuminated at night or so placed as to be illuminated by the headlights of an approaching vehicle or by street lights.

3. Local authorities may establish prima facie lawful speed limits on highways outside of business or residential districts which shall in no case be less than 25 miles per hour.

(b) The state highway commissioner, within his discretion, is hereby authorized to establish the speed which shall be prima facie lawful upon all trunk line highways outside of business districts and located within cities and villages.

1. A written copy of such authorization or determination shall be filed in the office of the county clerk of the county or counties where such highway is located and a certified copy thereof shall be prima facie evidence in all courts of the issuance of such authorization or determination.

2. Whenever the state highway commissioner shall increase the speed upon any trunk line highway as herein provided, the state highway department shall place and maintain upon all such highways adequate signs giving notice of such permissible speed as fixed by said highway commissioner.

(c) Local authorities are hereby authorized to decrease the prima facie speed limits in public parks under their jurisdiction. Such decrease in the prima facie speed limits shall be binding when adequate signs are duly posted giving notice of such reduced speeds.

HISTORY: New 1949, p. 562, Act 300, Eff. Sep. 23.

257.629a County traffic safety organization; creation, appropriation.

Sec. 629a. The board of supervisors of any county may create a county traffic safety organization to cooperate with governmental units and officials thereof in the solution

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of traffic safety problems in the county and to appropriate such sums as it shall deem necessary for the creation and support thereof and to prescribe rules and regulations relative to the duties of such organization and with respect to the expenditure of any such appropriation.

HISTORY: Add. 1954, p. 429, Act 181, Eff. Aug. 13.

257.630 Motor-driven cycles; lights, speed.

Sec. 630. No person shall operate any motor driven cycle on the highways during the night hours unless the cycle is equipped with lights meeting the requirements and limitations set forth in this chapter, the person has received written approval from the chief police officer of the city, township or county in which he resides and the cycle is operated at a speed not to exceed 35 miles per hour, or as fixed by local ordinance, whichever is lesser.

HISTORY: New 1949, p. 563, Act 300, Eff. Sep. 23;—Am. 1959, p. 404, Act 260, Eff. Mar. 19, 1960.

257.631 Speed and load limitations on signposted bridges, causeways and viaducts.

Sec. 631. (a) It shall be unlawful to drive any vehicle upon any public bridge, causeway or viaduct at a speed or with a load which is greater than the maximum speed or load which can with safety to such structure be maintained thereon, when such structure is signposted as provided in this section.

(b) The state highway commissioner, county road commission, or other authority having jurisdiction of any public bridge, causeway or viaduct may conduct an investigation of any public bridge, causeway or viaduct, and if it is thereupon found that such structure cannot with safety to itself withstand vehicles traveling at the speed or carrying a load otherwise permissible under this chapter, the commissioner, commission or other authority shall determine and declare the maximum speed of vehicles or load which such structure can withstand, and shall cause or permit suitable signs stating such maximum speed and load limitations to be erected and maintained not more than 50 feet from each end of the structure, and also at a suitable distance from each end of the bridge to enable vehicles to take a different route.

(c) The findings and determination of the state highway commissioner, county road commission or other local authority, shall be conclusive evidence of the maximum speed and load which can with safety to any such structure be maintained thereon.

HISTORY: New 1949, p. 563, Act 300, Eff. Sep. 23;—Am. 1959, p. 212, Act 151, Imd. Eff. Jul. 16;—Am. 1962, p. 101, Act 112, Eff. Mar. 28, 1963.

257.632 Vehicles in pursuit of criminals, fire patrols and ambulances; exemption from speed limitations.

Sec. 632. The speed limitation set forth in this chapter shall not apply to vehicles when operated with due regard for safety under the direction of the police in the chase or apprehension of violators of the law or of persons charged with or suspected of any such violation, nor to fire department or fire patrol vehicles when traveling in response to a fire alarm, nor to public or private ambulances when traveling in emergencies. This exemption shall not however protect the driver of any such vehicle from the consequences of a reckless disregard of the safety of others.

HISTORY: New 1949, p. 563, Act 300, Eff. Sep. 23.

257.633 Violation of speed regulations; manner of charging, burden of proof in civil actions.

Sec. 633. (a) In every charge of violation of any speed regulation in this chapter the complaint, also the summons or notice to appear, shall specify the speed at which the defendant is alleged to have driven, also the speed applicable within the district or at the location.

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(b) The provision of this chapter declaring any speed limitations shall not be construed to relieve the plaintiff in any civil action from the burden of proving negligence on the part of the defendant as the proximate cause of an accident.

HISTORY: New 1949, p. 564, Act 300, Eff. Sep. 23.

DRIVING ON RIGHT SIDE OF ROADWAY—OVERTAKING AND PASSING, ETC.

257.634 Driving on right side of road; exceptions, multi-lane roads.

Sec. 634. (a) Upon all roadways of sufficient width a vehicle shall be driven upon the right half of the roadway, except as follows:

(1) When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement.

(2) When the right half of a roadway is closed to traffic while under construction or repair or when an obstruction exists making it necessary to drive to the left of the center of the highway: Provided, any driver so doing shall yield the right of way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within such distance as to constitute an immediate hazard.

(3) Upon a roadway divided into 3 marked lanes for traffic under the rules applicable thereon.

(b) Except when lawfully permitted to drive on the left half of the roadway as provided in subparagraph (a), upon a roadway having 2 or more lanes for travel in one direction a vehicle shall be driven in the extreme right hand lane available for travel; except that a vehicle may be driven in any lane lawfully available to traffic moving in the same direction of travel when the lanes are occupied by vehicles moving in substantially continuous lanes of traffic or for a reasonable distance prior to making a left turn.

HISTORY: New 1949, p. 564, Act 300, Eff. Sep. 23;—Am. 1968, p. 449, Act 260, Eff. Nov. 15.

257.635 Passing oncoming vehicles.

Sec. 635. Drivers of vehicles proceeding in opposite directions shall pass each other to the right, each giving to the other at least 1/2 of the main traveled portion of the roadway as nearly as possible.

HISTORY: New 1949, p. 564, Act 300, Eff. Sep. 23.

257.636 Overtaking and passing on left of moving vehicles.

Sec. 636. The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to those limitations, exceptions, and special rules hereinafter stated:

(a) The driver of any vehicle overtaking another vehicle proceeding in the same direction shall pass at a safe distance to the left thereof, and when safely clear of such overtaken vehicle shall take up a position as near the right-hand edge of the main traveled portion of the highway as is practicable.

(b) Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

HISTORY: New 1949, p. 564, Act 300, Eff. Sep. 23.

257.637 Overtaking and passing on right of moving vehicles.

Sec. 637. (a) The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

1. When the vehicle overtaken is making or about to make a left turn;

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2. Upon a street or highway with unobstructed pavement not occupied by parked vehicles of sufficient width for 2 or more lines of moving vehicles in each direction and when such vehicles are moving in substantially continuous lanes of traffic;

3. Upon a 1-way street, or upon any roadway on which traffic is restricted to one direction of movement, where the roadway is free from obstructions and of sufficient width for 2 or more lines of moving vehicles and when such vehicles are moving in substantially continuous lanes of traffic.

(b) The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety. In no event shall such movement be made by driving off the pavement or main-traveled portion of the roadway.

HISTORY: New 1949, p. 564, Act 300, Eff. Sep. 23.

257.638 Overtaking and passing on left; restrictions.

Sec. 638. No vehicle shall be driven to the left side of the center of a 2 lane highway or in the center lane of a 3 lane highway in overtaking and passing another vehicle proceeding in the same direction unless such left side or center lane is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken.

HISTORY: New 1949, p. 565, Act 300, Eff. Sep. 23.

257.639 Driving left of center; prohibition; exception.

Sec. 639. (a) No vehicle shall at any time be driven to the left side of the roadway under the following conditions:

1. When approaching the crest of a grade or upon a curve in the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;

2. When the view is obstructed upon approaching within 100 feet of any bridge, viaduct, or tunnel.

(b) The foregoing limitations shall not apply upon a 1-way roadway.

HISTORY: New 1949, p. 565, Act 300, Eff. Sep. 23.

257.640 No passing zones; marking, violation of section; misdemeanor.

Sec. 640. (a) The state highway commissioner and county road commissions, with respect to highways under their jurisdictions, are hereby authorized to determine those portions of any highway under their jurisdiction where overtaking and passing or driving to the left of the roadway would be especially hazardous, and shall by appropriate signs or markings on the roadway indicate the beginning and end of such zones in such a manner that an ordinary observant driver of a vehicle will be able to observe the directions thereof and obey the same. Beginning January 1, 1972, a sign shall be placed to the left of the highway on those portions of a highway where overtaking and passing or driving to the left of the roadway would be especially hazardous.

(b) The no-passing zones provided for by this section shall be based upon a traffic survey and engineering study and all such traffic-control devices installed pursuant to this section shall conform to the state manual and specifications as provided for by section 608.

(c) Failure to obey such traffic-control devices installed pursuant to this section shall constitute prima facie evidence of a violation hereof and shall be punishable as a misdemeanor.

HISTORY: New 1949, p. 565, Act 300, Eff. Sep. 23;—Am. 1959, p. 334, Act 230, Eff. Mar. 19, 1960;—Am. 1965, p. 469, Act 275, Imd. Eff. Jul. 21;—Am. 1970, p. 375, Act 120, Imd. Eff. Jul. 23.

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257.641 One-way roadways and rotary traffic islands.

Sec. 641. (a) The state highway commissioner may designate any highway or any separate roadway under his jurisdiction for 1-way traffic and shall erect appropriate signs giving notice thereof.

(b) Upon a roadway designated and signposted for 1-way traffic a vehicle shall be driven only in the direction designated.

(c) A vehicle passing around a rotary traffic island shall be driven only to the right of such island.

HISTORY: New 1949, p. 565, Act 300, Eff. Sep. 23.

257.642 Laned roadways; traffic rules.

Sec. 642. Whenever any roadway has been divided into 2 or more clearly marked lanes for traffic the following rules in addition to all others consistent herewith shall apply:

(a) A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety and on highways with 4 or more lanes said vehicle shall be driven within the extreme right hand lane except when overtaking and passing but in no event shall cross the center line of said highway except where making a left turn.

(b) Upon a roadway which is divided into 3 lanes a vehicle shall not be driven to the left of the center lane except when making a left turn and shall not be driven in the center lane except when overtaking and passing another vehicle where the roadway is clearly visible and such center lane is clear of traffic within a safe distance, or in preparation for a left turn or where such center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is signposted to give notice of such allocation.

(c) Official signs may be erected directing slow-moving traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway and drivers of vehicles shall obey the directions of every such sign.

HISTORY: New 1949, p. 565, Act 300, Eff. Sep. 23.

257.643 Following too closely prohibited.

Sec. 643. (a) The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway.

(b) It shall be unlawful to operate any motor vehicle with a gross weight, loaded or unloaded, in excess of 5,000 pounds outside the corporate limits of any city or village, within 500 feet of any like vehicle described herein, moving in the same direction, except when overtaking and passing such vehicle.

(c) A distance of not less than 500 feet must be maintained between any 2 or more driven vehicles being delivered from 1 place to another.

HISTORY: New 1949, p. 566, Act 300, Eff. Sep. 23.

257.643a Space between trucks traveling in line.

Sec. 643a. The driver of any truck or truck tractor, when traveling upon a highway outside of a business or residence district, shall whenever conditions permit, leave sufficient space between his vehicle and any other truck or truck tractor so that any overtaking vehicle may enter and occupy such space without danger, except that this shall not prevent the driver of any truck or truck tractor from overtaking and passing any other truck, truck tractor or other vehicle in a lawful manner.

HISTORY: Add. 1957, p. 416, Act 291, Eff. Sep. 27.

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257.644 Divided highways; crossing; limited access crossovers, use.

Sec. 644. Whenever any highway has been divided into 2 roadways by leaving an intervening space or by a physical barrier or clearly indicated dividing section so constructed as to impede vehicular traffic every vehicle shall be driven only upon the right-hand roadway and no vehicle shall park or be driven over, across or within any such dividing space, barrier or section, except through an opening in such physical barrier or dividing section or space or at a crossover or intersection established by public authority. Crossovers on limited access highways shall not be used except by such vehicles as provided in section 603, except by road service vehicles while going to or returning from servicing a disabled vehicle and except as otherwise permitted by authorized signs. "Road service vehicles" means vehicles clearly marked and readily recognizable as a vehicle used to assist disabled vehicles.

HISTORY: New 1949, p. 566, Act 300, Eff. Sep. 23;—Am. 1964, p. 296, Act 222, Eff. Aug. 28;—Am. 1966, p. 209, Act 184, Imd. Eff. Jul. 1;—Am. 1967, p. 539, Act 277, Eff. Nov. 2.

257.645 Limited access roadways; use.

Sec. 645. No person shall drive a vehicle onto or from any limited-access roadway except at such entrances and exits as are established by public authority.

HISTORY: New 1949, p. 566, Act 300, Eff. Sep. 23.

257.646 Repealed. 1967, p. 544, Act 277, Eff. Nov. 2.

Section related to limited access highway restrictions on use.

TURNING AND STARTING AND SIGNALS ON STOPPING AND TURNING

257.647 Intersections; positions for turning.

Sec. 647. The driver of a vehicle intending to turn at an intersection shall do so as follows:

(a) Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.

(b) Approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof in such a manner as not to interfere with the progress of any streetcar and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered.

(c) Approach for a left turn from a 2-way roadway into a 1-way roadway shall be made in that portion of the right half of the roadway nearest the center line thereof and clear of any existing car tracks in use and by passing to the right of such center line where it enters the intersection. Approach for a left turn from a 1-way roadway into a 2-way roadway shall be made as close as practicable to the left curb or edge of the roadway and by passing to the right of the center line of the roadway being entered.

(d) Where both streets or roadways are 1-way, both the approach for a left turn and a left turn shall be made as close as practicable to the left-hand curb or edge of the roadway.

(e) Local authorities in their respective jurisdictions may cause pavement markers, signs or signals to be placed within or adjacent to intersections and thereby require and direct that a different course from that specified in this section be traveled by vehicles turning at an intersection, and when markers, signs or signals are so placed no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by such markers, signs or signals.

HISTORY: New 1949, p. 566, Act 300, Eff. Sep. 23;—Am. 1967, p. 540, Act 277, Eff. Nov. 2.

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257.648 Signals for starting, stopping and turning; commercial vehicle equipped with signal lamp or device.

Sec. 648. (a) The driver of any vehicle upon a highway before starting, stopping or turning from a direct line shall first see that such movement can be made in safety and shall give a signal as required in this section.

(b) The signal herein required shall be given either by means of the hand and arm in the manner herein specified, or by a mechanical or electrical signal device which conveys an intelligible signal or warning to another driver approaching from the rear, except as otherwise provided in paragraph (c).

Whenever the signal is given by means of the hand and arm, the driver shall indicate his intention to start, stop or turn by extending the hand and arm horizontally from and beyond the left side of the vehicle.

(c) Any commercial motor vehicle other than those in transit from a manufacturer to a dealer, in use on a highway shall be equipped with, and required signal shall be given by, a signal lamp or lamps or mechanical signal device when the distance from the center of the top of the steering post to the left outside limit of the body, cab or load of such commercial motor vehicle exceeds 24 inches, or when the distance from the center of the top of the steering post to the rear limit of the body or load thereof exceeds 14 feet. The latter measurement shall apply to any single vehicle, also to any combination of vehicles.

HISTORY: New 1949, p. 567, Act 300, Eff. Sep. 23;—Am. 1954, p. 429, Act 181, Eff. Aug. 13;—Am. 1958, p. 190, Act 166, Eff. Sep. 13.

RIGHT-OF-WAY

257.649 Right of way at intersections.

Sec. 649. (a) The driver of a vehicle approaching an intersection shall yield the right of way to a vehicle which has entered the intersection from a different highway.

Simultaneous entrance; driver of vehicle to left to yield.

(b) When 2 vehicles enter an intersection from different highways at approximately the same time, the driver of the vehicle on the left shall yield the right of way to the vehicle on the right.

Modification of right-of-way rules at through highways.

(c) The right of way rules declared in paragraphs (a) and (b) are modified at through highways and otherwise as stated in this chapter.

Yield right-of-way signs; driver's duty; stops required.

(d) The driver of a vehicle approaching a yield sign, in obedience to such sign, shall slow down to a speed reasonable for the existing conditions and shall yield the right of way to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard during the time such driver would be moving across or within the intersection. However, if required for safety to stop, the driver shall stop before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway.

Vehicles traveling at unlawful speed to forfeit right-of-way.

(e) The driver of any vehicle traveling at an unlawful speed shall forfeit any right of way which he might otherwise have hereunder.

Stop sign, driver's duty; exceptions.

(f) Except when directed to proceed by a police officer, the driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop before entering the crosswalk on the near side of the intersection, or if there is no crosswalk shall stop at a clearly marked stop line, or if none, then at the point nearest the intersecting roadway

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where the driver has a view of approaching traffic on the intersecting roadway. After having stopped, the driver shall yield the right of way to any vehicle which has entered the intersection from another highway or which is approaching so closely on the highway as to constitute an immediate hazard during the time when the driver would be moving across or within the intersection.

Merging highway; drivers' duties.

(g) When a vehicle approaches the intersection of a highway from an intersecting highway or street which is intended to be, and is constructed as, a merging highway or street, and is plainly marked at such intersection with appropriate merge signs, the vehicle shall yield right of way to any vehicle so close as to constitute an immediate hazard on the highway about to be entered and shall adjust its speed so as to enable it to merge safely with the through traffic.

HISTORY: New 1949, p. 567, Act 300, Eff. Sep. 23;—Am. 1955, p. 252, Act 165, Imd. Eff. Jun. 13;—Am. 1959, p. 340, Act 234, Eff. Mar. 19, 1960;—Am. 1966, p. 318, Act 237, Eff. Mar. 10, 1967.

257.650 Right of way at intersections; left turn.

Sec. 650. The driver of a vehicle within an intersection intending to turn to the left shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard, but said driver, having so yielded and having given a signal when and as required by this chapter, may make such left turn and the drivers of all other vehicles approaching the intersection from said opposite direction shall yield the right-of-way to the vehicle making the left turn: Provided, That at an intersection at which a traffic signal is located, a driver intending to make a left turn shall permit vehicles bound straight through in the opposite direction which are awaiting a go signal to pass through the intersection before making the turn.

HISTORY: New 1949, p. 567, Act 300, Eff. Sep. 23.

257.651 State trunk line highways; preference at intersections; stop, yield or merge signs.

Sec. 651. (a) Except where approved traffic signals are used to control traffic, the state highway commissioner shall erect stop, yield or merge signs at every entrance to a state trunk line highway from intersecting highways or streets. However, after a traffic engineering investigation the state highway commission acting jointly with the commissioner of the Michigan state police may give preference to a city street or a county road over a state trunk line highway, and shall erect appropriate signs.

(b) Where 2 or more state trunk line highways intersect or cross, the state highway commissioner and the commissioner of the Michigan state police, acting jointly, shall determine which traffic, if any, shall be given preference and appropriate stop, yield or merge signs shall be erected.

HISTORY: New 1949, p. 567, Act 300, Eff. Sep. 23;—Am. 1959, p. 212, Act 151, Imd. Eff. Jul. 16;—Am. 1966, p. 319, Act 237, Eff. Mar. 10, 1967.

257.652 Entry on highway; stopping, yielding right of way.

Sec. 652. The driver of a vehicle about to enter or cross a highway from an alley, private road or driveway shall come to a full stop before entering such highway and shall yield right-of-way to all vehicles approaching on the highway.

HISTORY: New 1949, p. 567, Act 300, Eff. Sep. 23;—Am. 1959, p. 341, Act 234, Eff. Mar. 19, 1960.

257.653 Authorized emergency vehicle; right of way yielded by other vehicles.

Sec. 653. (a) Upon the immediate approach of an authorized emergency vehicle equipped with at least 1 lighted flashing, rotating or oscillating lamp exhibiting a red or blue light visible under normal atmospheric condition from a distance of 500 feet to

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the front of such vehicle and when the driver is giving audible signal by siren, exhaust whistle, or bell:

1. The driver of every other vehicle shall yield the right of way and shall immediately drive to a position parallel to and as close as possible to, the righthand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.

2. Upon the approach of an authorized emergency vehicle, as above stated, the motorman of every street car shall immediately stop such car clear of any intersection and keep it in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.

(b) This section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.

HISTORY: New 1949, p. 567, Act 300, Eff. Sep. 23;—Am. 1951, p. 470, Act 270, Eff. Sep. 28;—Am. 1964, p. 13, Act 7, Imd. Eff. Mar. 20.

257.654 Funeral procession; right of way.

Sec. 654. (a) Each motor vehicle forming part of a funeral procession when going to any place of burial shall have the right of way over all other vehicles except fire apparatus, ambulances and police patrol vehicles, at any street or highway intersection within this state if such vehicle in such funeral procession shall have displayed a flag which shall be white in color, and upon which shall be printed, stamped or stained a purple cross or the star of David. In addition, the lead vehicle and the last vehicle in the funeral procession may carry an additional flag. After January 1, 1962, such flags shall contain no names embossed or printed thereon, except the word "funeral" which may so appear.

(b) Any person passing through a funeral procession of motor vehicles, designated as aforesaid with a vehicle of any kind, shall be guilty of a misdemeanor.

HISTORY: New 1949, p. 568, Act 300, Eff. Sep. 23;—Am. 1952, p. 10, Act 9, Eff. Sep. 18;—Am. 1960, p. 110, Act 105, Eff. Aug. 17.

257.655 Pedestrians on highways.

Sec. 655. Where sidewalks are provided, it shall be unlawful for pedestrians to walk upon the main traveled portion of the highway. Where sidewalks are not provided, pedestrians shall, when practicable, walk on the left side of the highway facing traffic which passes nearest.

HISTORY: New 1949, p. 568, Act 300, Eff. Sep. 23.

OPERATION OF BICYCLES, MOTORCYCLES AND TOY VEHICLES

257.656 Bicycles and motorcycles; regulations applicable, penalty.

Sec. 656. (a) It is a misdemeanor for any person to do any act forbidden or fail to perform any act required in sections 656 to 662 inclusive.

(b) The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this chapter.

(c) These regulations applicable to bicycles shall apply whenever a bicycle is operated upon any highway or upon any path set aside for the exclusive use of bicycles, subject to those exceptions stated herein.

(d) These regulations applicable to motorcycles shall be considered supplementary to other provisions of this chapter governing the operation of such vehicles.

HISTORY: New 1949, p. 568, Act 300, Eff. Sep. 23.

257.657 Bicyclists; regulations applicable.

Sec. 657. Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by

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this chapter, except as to special regulations in this article and except as to those provisions of this chapter which by their nature can have no application.

HISTORY: New 1949, p. 568, Act 300, Eff. Sep. 23.

257.658 Bicycle, motorcycle and motor driven cycle; passengers, number and manner of carrying; crash helmets; promulgation of rules.

Sec. 658. (a) A person propelling a bicycle or operating a motorcycle or motor driven cycle shall not ride other than upon and astride a permanent and regular seat attached thereto.

(b) No bicycle or motorcycle shall be used to carry more persons at 1 time than the number for which it is designed and equipped.

(c) No motor driven cycle shall be used to carry more than 1 person at any one time.

(d) A person operating or riding on a motorcycle or motor driven cycle on a public thoroughfare shall wear a crash helmet on his head. Crash helmets shall be approved by the department of state police. The department shall promulgate rules for the implementation of this section in accordance with and subject to the provisions of Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.313 of the Compiled Laws of 1948. Rules in effect when this 1970 amendatory act takes effect shall apply to helmets required by this amendatory act.

HISTORY: New 1949, p. 568, Act 300, Eff. Sep. 23;—Am. 1959, p. 404, Act 260, Eff. Mar. 19, 1960;—Am. 1966, p. 234, Act 207, Eff. Mar. 10, 1967;—Am. 1968, p. 202, Act 141, Imd. Eff. Jun. 12;—Am. 1969, p. 213, Act 118, Eff. Sep. 1;—Am. 1969, p. 277, Act 134, Eff. Jun. 1, 1970;—Am. 1970, p. 71, Act 24, Imd. Eff. Jun. 1.

257.659 Clinging to other vehicles.

Sec. 659. No person riding upon any bicycle, coaster, roller skates, sled, or toy vehicle shall attach the same or himself to any street car or vehicle upon a roadway.

HISTORY: New 1949, p. 568, Act 300, Eff. Sep. 23.

257.660 Bicycles, motorcycle, and motor driven cycles; operation on roadway; special paths; passing; exceptions.

Sec. 660. (a) Every person operating a bicycle upon a roadway shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction. All motorcycles are entitled to full use of a lane and no motor vehicle shall be driven in such a manner as to deprive any motorcycle of the full use of a lane. This subsection shall not apply to motorcycles operated 2 abreast in a single lane.

(b) Persons riding bicycles, motor driven cycles or motorcycles upon a roadway shall not ride more than 2 abreast except on paths or parts of roadways set aside for the exclusive use of such vehicles.

(c) Wherever usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway.

(d) No person operating a motor driven cycle, a motorcycle or a bicycle shall pass between lines of traffic, but may pass on the left of traffic moving in his direction in the case of a two-way street, or on the left or right of traffic in the case of a one-way street, in an unoccupied lane.

(e) This section shall not apply to police officers in the performance of their official duties.

HISTORY: New 1949, p. 569, Act 300, Eff. Sep. 23;—Am. 1966, p. 234, Act 207, Eff. Mar. 10, 1967;—Am. 1969, p. 277, Act 134, Eff. Jun. 1, 1970.

257.661 Carrying articles; hands on handlebars.

Sec. 661. No person operating a bicycle, motorcycle or motor driven cycle shall carry any package, bundle or article which prevents the driver from keeping both hands upon the handle bars of said vehicle.

HISTORY: New 1949, p. 569, Act 300, Eff. Sep. 23;—Am 1966, p. 234, Act 207, Eff. Mar. 10, 1967.

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257.661a Motorcycles and motor driven cycles; handle bars, height.

Sec. 661a. No person shall operate on any public highway of this state any motorcycle or motor driven cycle equipped with handlebars that are higher than 15 inches from the lowest point of the undepressed saddle to the highest point of the handle grip of the operator.

HISTORY: Add. 1969, p. 277, Act 134, Eff. Jun. 1, 1970.

257.662 Bicycles; lights, bells, brakes.

Sec. 662. (a) Every bicycle when in use at night time shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least 500 feet to the front and with a red reflector on the rear which shall be visible from all distances from 50 feet to 300 feet to the rear when directly in front of lawful upper beams of head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector.

(b) No person shall operate a bicycle unless it is equipped with a bell or other device capable of giving a signal audible for a distance of at least 100 feet, except that such vehicles shall not be equipped with nor shall any person use upon such vehicles any siren or whistle.

(c) Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement.

HISTORY: New 1949, p. 569, Act 300, Eff. Sep. 23.

STREET CARS AND SAFETY ZONES

257.663 Street cars; passage to left.

Sec. 663. Except on a 1-way street the driver of a vehicle shall not overtake and pass upon the left any street car proceeding in the same direction whether actually in motion or temporarily at rest, when a travelable portion of the highway exists to the right of such street car.

HISTORY: New 1949, p. 569, Act 300, Eff. Sep. 23.

257.664 Stopping for street cars; exception.

Sec. 664. The driver of a vehicle overtaking any railway or street car stopped or about to stop for the purpose of receiving or discharging any passenger shall bring such vehicle to a full stop at least 10 feet in the rear of such street car and remain stationary until any such passenger has boarded such car or reached the adjacent sidewalk except that where a safety zone has been established, or at an intersection where traffic is controlled by an officer or a traffic stop-and-go signal, a vehicle need not be brought to a full stop before passing any such railway, or street car, but may proceed past such car at a speed not greater than is reasonable or proper and in no event greater than 10 miles an hour and with due caution for the safety of pedestrians.

HISTORY: New 1949, p. 569, Act 300, Eff. Sep. 23.

257.665 Street car tracks; blockage by vehicles, signals.

Sec. 665. (a) The driver of any vehicle proceeding upon any street car track in front of a street car upon a street shall remove such vehicle from the track as soon as practicable after signal from the operator of said street car.

(b) When a street car has started to cross an intersection, no driver of a vehicle shall drive upon or cross the car tracks within the intersection in front of the street car.

(c) The driver of a vehicle upon overtaking and passing a street car shall not turn in front of such street car so as to interfere with or impede its movement.

HISTORY: New 1949, p. 569, Act 300, Eff. Sep. 23.

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257.666 Safety zones occupied by persons.

Sec. 666. The driver of a vehicle shall not at any time drive through or over a safety zone when such safety zone contains any person thereon.

HISTORY: New 1949, p. 570, Act 300, Eff. Sep. 23.

SPECIAL STOPS REQUIRED

257.667 Railroad grade crossings; stopping required; vehicle driving through closed traffic gate.

Sec. 667. (a) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the following circumstances the driver shall stop within 50 feet but not less than 15 feet from the nearest rail of the railroad, and shall not proceed until he can do so safely:

(1) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train.

(2) A crossing gate is lowered or a human flagman gives or continues to give a signal of the approach or passage of a railroad train.

(3) A railroad train approaching within approximately 1,500 feet of the highway crossing gives a signal audible from such distance and the train, by reason of its speed or nearness to such crossing, is an immediate hazard.

(4) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing.

(b) No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed.

HISTORY: New 1949, p. 570, Act 300, Eff. Sep. 23;—Am. 1966, p. 319, Act 237, Eff. Mar. 10, 1967.

257.668 Railroad grade crossings; stop signs, erection; obedience by drivers; failure to replace or maintain; action of negligence against governmental officers.

Sec. 668. The state highway commissioner with respect to highways under his jurisdiction, the several county road commissions and local authorities with reference to highways under their jurisdiction are hereby authorized to designate certain grade crossings of railways by highways as "stop" crossings, and to erect signs thereat notifying drivers of vehicles upon any such highway to come to a complete stop before crossing such railway tracks, and whenever any such crossing is so designated and signposted, it shall be unlawful for the driver of any vehicle to fail to stop within 50 feet but not less than 10 feet from such railway tracks before traversing such crossings. The erection of or failure to replace or maintain such signs shall not be a basis for any action of negligence against the state highway commissioner, the several county road commissions or local authorities.

HISTORY: New 1949, p. 570, Act 300, Eff. Sep. 23;—Am. 1953, p. 73, Act 76, Eff. Oct. 2;—Am. 1961, p. 256, Act 179, Eff. Sep. 8.

257.669 Railroad grade crossings; buses, school buses and carriers of explosives and flammables to stop; exceptions.

Sec. 669. (a) The driver of any motor vehicle carrying passengers for hire, or of any school bus or of any vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo, before crossing at grade any track or tracks of a railroad, shall stop such vehicle within 50 feet but not less than 10 feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train, and for signals indicating the approach of a train, except as hereinafter provided, and shall not proceed until he can do so safely. After stopping as required herein, and upon proceeding when it is safe to do so the driver of the vehicle shall cross only in such gear of the vehicle that there will be no necessity for changing

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gears while traversing such crossing and the driver shall not shift gears while crossing the track or tracks.

(b) No stop need be made at any such crossing where a police officer or a traffic-control signal directs traffic to proceed.

(c) No stop shall be made at any such crossing on a freeway or limited access highway where such crossing is protected by a clearly visible signal, crossing gate or barrier at which time the signal, crossing gate or barrier is not activated.

HISTORY: New 1949, p. 570, Act 300, Eff. Sep. 23;—Am. 1965, p. 407, Act 235, Imd. Eff. Jul. 21;—Am. 1967, p. 125, Act 99, Eff. Sep. 1.

257.670 Railroad grade crossings; slow-moving or heavy equipment, notice to railroad agent.

Sec. 670. (a) No person shall operate or move any caterpillar tractor, steam shovel, derrick, roller, boiler, machinery or any structure or object upon rollers, or any equipment or structure, which, because of the limited power thereof, or the weight or character of the same or of the load thereon, shall have a normal operating speed of 4 miles or less per hour, or which shall have a vertical load or body clearance of less than 9 inches above the level surface of the roadway upon or across any tracks of any steam railroad at grade level without first complying with this section: Provided, however, That this section shall not apply to the movement of electrically propelled cars on fixed rails nor to their loads.

(b) Notice of such intended crossing shall be given to the nearest agent or officer of such steam railroad in time to afford protection to its locomotives, trains or cars at said crossing.

(c) Before making any such crossing the person operating or moving any such vehicle or equipment shall first stop the same not less than 10 feet nor more than 50 feet from the nearest rail of any such track and while so stopped shall listen and look in both directions along such track for any approaching train and for signals indicating the approach of a train, and shall not proceed until the crossing can be made safely.

(d) No such crossing shall be made when warning is given by automatic signal or crossing gates or a flagman or otherwise of the immediate approach of a railroad train or car.

HISTORY: New 1949, p. 570, Act 300, Eff. Sep. 23.

257.671 Through highways; designation; stop signs, location.

Sec. 671. (a) The state highway commissioner with respect to highways under his jurisdiction, the county road commission and local authorities with reference to other highways under their jurisdiction, subject to the approval of the state highway commissioner if a state trunkline highway, may designate through highways and erect stop signs at specified entrances thereto or may designate any intersection as a stop intersection and erect like signs at 1 or more entrances to such intersection.

(b) Every such sign shall be reflectorized or illuminated at night or so placed as to be illuminated by the headlights of an approaching vehicle or by street lights. Every stop sign shall be located as near as practicable at the nearest line of the cross walk thereat, or, if none, at the nearest line of the roadway.

HISTORY: New 1949, p. 571, Act 300, Eff. Sep. 23.

STOPPING, STANDING AND PARKING

257.672 Stopping, parking and standing on pavement; limited access highways; applicability to school buses.

Sec. 672. Outside of the limits of any city or village, it shall be unlawful to stop, park or leave standing any vehicle, attended or unattended, upon the paved or main traveled part of the highway, when it is possible to stop, park or to leave the vehicle off such part of the highway. Inside or outside of the limits of any city or village, it shall

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be unlawful to stop, park or leave standing any vehicle, attended or unattended, upon the paved or unpaved part of a limited access highway, except in an emergency or mechanical difficulty. This section shall apply to the stopping of school buses in accordance with the provisions of section 682.

HISTORY: New 1949, p. 571, Act 300, Eff. Sep. 23;—Am. 1959, p. 213, Act 151, Imd. Eff. Jul. 16;—Am. 1963, p. 294, Act 207, Eff. Sep. 6;—Am. 1968, p. 185, Act 123, Imd. Eff. Jun. 11.

257.673 Removal of illegally stopped vehicles; costs.

Sec. 673. (a) Whenever any police officer finds a vehicle standing upon a highway in violation of the provisions of this chapter, such officer is hereby authorized to remove such vehicle, or require the driver or other person in charge of the vehicle to move the same, to a position off the paved or improved or main traveled part of such highway.

(b) Whenever any police officer finds a vehicle unattended upon any highway where such vehicle constitutes an obstruction to traffic, such officer is hereby authorized to provide for the removal of such vehicle to the nearest garage or other place of safety.

(c) The necessary costs for such removal shall become a lien upon such vehicle and the person into whose custody the vehicle is given may retain it until the expenses involved have been paid.

HISTORY: New 1949, p. 571, Act 300, Eff. Sep. 23.

257.674 Prohibited parking.

Sec. 674. (a) No person shall park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic-control device, in any of the following places:

1. On a sidewalk;

2. In front of a public or private driveway;

3. Within an intersection;

4. Within 15 feet of a fire hydrant;

5. On a crosswalk;

6. Within 20 feet of a crosswalk, or if none, then within 15 feet of the intersection of property lines at an intersection of highways;

7. Within 30 feet upon the approach to any flashing beacon, stop sign, or traffic-control signal located at the side of a highway;

8. Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by official signs or markings;

9. Within 50 feet of the nearest rail of railroad crossing;

10. Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of said entrance when properly signposted;

11. Along side or opposite any street excavation or obstruction when such stopping, standing, or parking would obstruct traffic;

12. On the highway side of any vehicle stopped or parked at the edge or curb of a street;

13. Upon any bridge or other elevated structure upon a highway or within a highway tunnel;

14. At any place where official signs prohibit stopping;

15. Within 500 feet of an accident at which police officers are in attendance when the scene of the accident lies outside of any city of village: Provided, however, That motor buses, for the purpose of taking on or discharging passengers, may be stopped at

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the places designated in subparagraphs 2, 4 and 6 of this section, or on the highway side of a vehicle illegally parked in a legally designated bus loading zone;

16. In front of any theater;

17. In any place or in any manner so as to block immediate egress from any emergency exit or exits conspicuously marked as such of buildings;

18. In any place or in any manner so as to block or hamper the immediate use of and immediate egress from any fire escape conspicuously marked as such providing an emergency means of egress from any building.

(b) No person shall move a vehicle not owned by such person into any such prohibited area or away from a curb such distance as is unlawful.

HISTORY: New 1949, p. 571, Act 300, Eff. Sep. 23.

257.674a Clear vision areas; prohibited parking, commercial enterprises blocking views.

Sec. 674a. No person shall park a vehicle in any area purchased, acquired or used as a clear vision area adjacent to or on a highway right of way nor shall any person conduct vending or other commercial enterprises in a clear vision area.

HISTORY: Add. 1967, p. 540, Act 277, Eff. Nov. 2.

257.675 Parking regulations.

Sec. 675. (a) Except as otherwise provided in this section every vehicle stopped or parked upon a highway shall be so stopped or parked with the wheels of such vehicle parallel to the roadway and within 12 inches of any existing right-hand curb, except as otherwise provided in this chapter.

One-way roadway.

(b) Local authorities may by ordinance permit parking of vehicles with the left-hand wheels adjacent to and within 12 inches of the left-hand curb of a 1-way roadway.

Angle parking.

(c) Local authorities may by ordinance permit angle parking on any roadway, except that angle parking shall not be permitted on any state trunk line highway.

Signs, placing; traffic order, filing, hearing.

(d) The state highway commission with respect to state trunk line highways and the county road commission with respect to county roads, acting jointly with the commissioner of the Michigan state police, may place signs prohibiting or restricting the stopping, standing or parking of vehicles on any highway where in the opinion of said officials as determined by an engineering survey, such stopping, standing or parking is dangerous to those using the highway or where the stopping, standing or parking of vehicles would unduly interfere with the free movement of traffic thereon. Such signs shall be official signs and no person shall stop, stand or park any vehicle in violation of the restrictions stated on such signs. Such signs shall be installed only after a proper traffic order is filed with the county clerk. Upon the application to the state highway commission by any home rule city affected by such order, opportunity shall be given to such city for a hearing before the state highway commission, pursuant to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948, except when an ordinance of the home rule city prohibits or restricts the parking of vehicles on a state trunk line highway or when the home rule city, by lawfully authorized official action, requests the department of state highways to prohibit or restrict parking on a state trunk line highway or when the home rule city enters into a construction agreement with the department of state highways providing for the prohibition or restriction of parking on any state trunk line highway, during or after the period of construction. Traffic control orders, so long as they affect parking upon a state trunk line within the corporate limits of a home rule city, are deemed

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"rules" within the meaning of Act No. 197 of the Public Acts of 1952, as amended, and upon application for hearing by a home rule city, the proceedings before the state highway commission shall be considered a "contested case" within the meaning of such act.

Physically handicapped; certificate, display; evidence of qualification.

(e) Any veteran who has been honorably discharged from any of the armed services of the United States and who has a service connected disability equivalent to the disabilities as prescribed in section 1 of Public Law 187 of the 82nd Congress, First Session, and any physically handicapped person who possesses material incapacity for ambulation, shall be entitled to receive, and the secretary of state is authorized to issue, under such rules and upon such application as he shall prescribe, a serially numbered certificate of identification for the personal use of the veteran or physically handicapped person. The veteran or physically handicapped person shall be entitled to courtesy in the parking of such automobile which shall relieve him from liability for any violations with respect to parking, other than in violation of this act. Any local authority may, by ordinance, prohibit parking on any street or highway for the purpose of creating a fire lane or to provide for the accommodation of heavy traffic during morning and afternoon rush hours and the privileges extending to veterans and physically handicapped persons hereunder shall not apply on streets or highways where and at the times such parking is so prohibited. Any certificate issued as provided herein shall be displayed prominently upon the automobile while being parked by or under the direction of such veteran or physically handicapped person pursuant to this section. Upon conviction of any offense involving a violation of the special privileges hereby conferred upon holders of such special certificates, a magistrate or judge trying such case shall be authorized, as a part of any penalty imposed therein, to confiscate the serially numbered certificate herein provided and to return the same to the secretary of state together with a certified copy of the sentence so imposed. Any person, other than the veteran or physically handicapped person to whom it was issued, who shall use any certificate of identification for the purpose of parking an automobile as permitted by this section shall be guilty of a misdemeanor. As to any applicant for a certificate hereunder any official finding or rating as to disability within the requirements of this section by the United States veterans administration shall be sufficient evidence of the qualifications of the applicant.

HISTORY: New 1949, p. 572, Act 300, Eff. Sep. 23;—Am. 1951, p. 50, Act 47, Imd. Eff. May 14;—Am. 1952, p. 101, Act 90, Eff. Sep. 18;—Am. 1956, p. 153, Act 71, Eff. Aug. 11;—Am. 1957, p. 33, Act 28, Eff. Sep. 27;—Am. 1959, p. 341, Act 234, Eff. Mar. 19, 1960;—Am. 1967, p. 540, Act 277, Eff. Nov. 2.

MISCELLANEOUS RULES

257.676 Unattended motor vehicle; brakes, grades.

Sec. 676. No person having control or charge of a motor vehicle shall allow such vehicle to stand on any highway unattended without first effectively setting the brakes thereon and stopping the motor of said vehicle and when standing upon any grade without turning the front wheels of such vehicle to the curb or side of the highway.

HISTORY: New 1949, p. 572, Act 300, Eff. Sep. 23.

257.676a Highways outside of cities and villages; display of goods, produce, merchandise within right of way, penalty.

Sec. 676a. Any person, firm or corporation who sells or offers for sale, or displays or attempts to display for sale, any goods, wares, produce, fruit, vegetables or merchandise within the right of way of any highway outside of the corporate limits of any city or village, or within the right of way of any state trunkline highway, is guilty of a misdemeanor. This section shall not be construed to interfere with any permanently established business presently located on or partially on private property, nor to grant to

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the owner any additional rights or authority that the owner may not now possess, nor to diminish the legal rights or duties of the authority having jurisdiction of the right of way.

HISTORY: Add. 1957, p. 357, Act 269, Eff. Sep. 27;—Am. 1964, p. 296, Act 222, Eff. Aug. 28.

257.676b Traffic obstructions prohibited; exception.

Sec. 676b. No person, without authority, shall block, obstruct, impede or otherwise interfere with the normal flow of vehicular or pedestrian traffic upon a public street or highway in this state, by means of a barricade, object or device, or with his person. This section shall not apply to persons maintaining, rearranging or constructing public utility facilities in or adjacent to a street or highway.

HISTORY: Add. 1968, p. 214, Act 151, Eff. Nov. 15.

257.677 Obstruction of driver's view or control.

Sec. 677. (a) No person shall drive a vehicle when it is so loaded, or when there are in the front seat such number of persons as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.

(b) No passenger in a vehicle or street car shall ride in such a position as to interfere with the driver's or motorman's view ahead or to the sides, or to interfere with his control over the driving mechanism of the vehicle or street car.

HISTORY: New 1949, p. 572, Act 300, Eff. Sep. 23.

257.678 Coasting prohibited.

Sec. 678. (a) The driver of any motor vehicle when traveling upon a down grade shall not coast with the gears of such vehicle in neutral.

(b) The driver of a commercial motor vehicle when traveling upon a down grade shall not coast with the clutch disengaged.

HISTORY: New 1949, p. 573, Act 300, Eff. Sep. 23.

257.679 Following fire apparatus prohibited.

Sec. 679. The driver of any vehicle other than one on official business shall not follow any fire apparatus traveling in response to a fire alarm closer than 500 feet or drive into or park such vehicle within 500 feet where fire apparatus has stopped in answer to a fire alarm.

HISTORY: New 1949, p. 573, Act 300, Eff. Sep. 23.

257.679a Limited access highway; pedestrians and certain vehicles prohibited.

Sec. 679a. No person shall operate a motor driven cycle or motorcycle with less than a 125 cubic centimeter engine, farm tractor or other self-propelled farm implement, nor shall any pedestrian, bicycle or other nonmotorized traffic be permitted on any limited access highway in this state.

HISTORY: Add. 1961, p. 237, Act 164, Eff. Sep. 8;—Am. 1964, p. 297, Act 222, Eff. Aug. 28;—Am. 1969, p. 277, Act 134, Imd. Eff. Jun. 1, 1970.

257.680 Crossing fire hose prohibited.

Sec. 680. No street car or vehicle shall be driven over any unprotected hose of a fire department when laid down on any street, private driveway, or street car track, to be used at any fire or alarm of fire, without the consent of the fire department official in command.

HISTORY: New 1949, p. 573, Act 300, Eff. Sep. 23.

257.681 Repealed. 1963, p. 137, Act 106, Eff. Sep. 6.

Section prohibited deposit of glass, nails, rubbish or garbage on highways and required any person removing damaged vehicle from highway to remove any glass or injurious substance dropped upon highway from such vehicle.

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257.682 School bus; painting, signs, approval.

Sec. 682. (a) All school buses transporting pupils outside of incorporated cities or villages and inside of incorporated cities or villages where stopping of school buses is controlled by local ordinance shall be painted and shall contain such signs on the back and front thereof, with respect thereto, as shall be approved by the state highway commissioner and the superintendent of public instruction.

Stopping for; resumption of motion; passengers; controlled intersections; local ordinance.

(b) The driver of a vehicle overtaking or meeting any school bus which has stopped and is displaying 2 alternately flashing red lights located at the same level shall bring the vehicle to a full stop at least 10 feet from the school bus and shall not proceed until the school bus resumes motion or the visual signals are no longer actuated. The driver of the school bus, before resuming motion, shall deactivate flashing lights and permit stopped traffic to proceed and shall when resuming motion proceed in such manner as to allow congested traffic to disperse by keeping the bus as near to the right side of the road as can be done with safety. Passengers crossing the road upon being discharged from a school bus shall cross in front of the stopped school bus. At an intersection where traffic is controlled by an officer or a traffic stop-and-go signal a vehicle need not be brought to a full stop before passing a stopped school bus, but may proceed past the school bus at a speed not greater than is reasonable and proper and in no event greater than 10 miles an hour and with due caution for the safety of passengers being received or discharged from the school bus. This section shall not be applicable to buses inside incorporated cities or villages. Where the stopping for school buses is controlled by local ordinance, the ordinance shall be enforceable when signs giving notice of the local traffic regulation are posted upon or at the entrance to the area or part thereof affected as may be most appropriate or sufficiently legible as to be seen by an ordinarily observant person.

Visibility of bus in stopped position.

(c) No school bus driver shall stop his bus for the purpose of receiving or discharging passengers unless the bus is clearly visible in its stopped position to approaching or overtaking drivers of vehicles for a distance of at least 500 feet.

Divided highway.

(d) The driver of a vehicle upon any highway which has been divided into 2 roadways by leaving an intervening space, or by a physical barrier, or clearly indicated dividing sections so constructed as to impede vehicular traffic, need not stop upon meeting a school bus which has stopped across the dividing space, barrier or section.

Flashing red lights; requirements; use.

(e) Every school bus transporting pupils outside of incorporated cities or villages and inside of incorporated cities or villages where stopping of school buses is controlled by local ordinance shall, in addition to any other equipment and distinctive marking required by law, be equipped with signal lamps mounted as high and widely spaced laterally as practicable which shall be capable of displaying to the front 2 alternately flashing red lights located at the same level and to the rear 2 alternately flashing red lights located at the same level. The lights shall have sufficient intensity to be visible from a distance of at least 500 feet in normal sunlight and shall be actuated by the driver of the school bus whenever but only whenever the vehicle is stopped and for a distance of at least 200 feet in advance of a stop for the purpose of receiving or discharging school children. The lights shall not be actuated inside of incorporated cities or villages unless stopping of school buses is controlled by local ordinance.

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Front end mirror.

(f) Every school bus shall be equipped with a mirror, convex in shape, at least 7 inches in diameter firmly mounted at hood or fender-top height in front of the bus. It shall be located on either the left or right side of the bus in such a manner that the seated driver may observe through its use the road from the front bumper forward to the point where direct observation is possible.

Illegal passing; evidence, presumption.

(g) In any proceeding for a violation of subsection (b) of this section, proof that the particular vehicle described in the citation, complaint or warrant was in violation of subsection (b), together with proof that the defendant named in the citation, complaint or warrant was, at the time of the violation, the registered owner of the vehicle, shall constitute in evidence a presumption that the registered owner of the vehicle was the driver of the vehicle at the time of the violation.

HISTORY: New 1949, p. 573, Act 300, Eff. Sep. 23;—Am. 1956, p. 134, Act 48, Eff. Aug. 11;—Am. 1957, p. 393, Act 284, Eff. Sep. 27;—Am. 1958, p. 174, Act 160, Eff. Sep. 13;—Am. 1962, p. 81, Act 92, Eff. Mar. 28, 1963;—Am. 1963, p. 209, Act 149, Eff. Sep. 6;—Am. 1965, p. 465, Act 240, Eff. Mar. 20, 1970.

257.682a Device causing smoke or fire from motor vehicle; unlawful use, exception, penalty.

Sec. 682a. Any person who shall install, sell or distribute any device for the purpose of causing flame or smoke to be emitted from a motor vehicle except highway maintenance vehicles, and any person who shall use any such device on a motor vehicle not so excepted on any highway of this state shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable as provided in section 901 of this act.

HISTORY: Add. 1952, p. 27, Act 22, Imd. Eff. Mar. 14.

EQUIPMENT

257.683 Equipment; condition, inspection; operation of unsafe vehicles, penalty.

Sec. 683. (a) It is a misdemeanor for any person to drive or move or for the owner to cause or knowingly permit to be driven or moved on any highway any vehicle or combination of vehicles which is in such unsafe condition as to endanger any person, or which does not contain those parts or is not at all times equipped with such lamps and other equipment in proper condition and adjustment as required in this chapter, or which is equipped in any manner in violation of this chapter, or for any person to do any act forbidden or fail to perform any act required under this chapter.

(b) Any police officer shall be authorized on reasonable grounds shown to stop any motor vehicle and inspect the same, and if any defects in equipment are found, to arrest the driver in the manner provided in this chapter.

(c) Nothing contained in this chapter shall be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of this chapter.

(d) The provisions of this chapter with respect to equipment on vehicles shall not apply to implements of husbandry, road machinery, road rollers, or farm tractors except as herein made applicable.

HISTORY: New 1949, p. 573, Act 300, Eff. Sep. 23.

257.684 Head lamps; lighting, distance, height.

Sec. 684. (a) Every vehicle upon a highway within this state at any time from a half hour after sunset to a half hour before sunrise and at any other time when there is not sufficient light to render clearly discernible persons and vehicles on the highway at a distance of 500 feet ahead shall display lighted lamps and illuminating devices as hereinafter respectively required for different classes of vehicles, subject to exceptions with respect to parked vehicles as hereinafter stated. When lighted lamps and illumi-

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nated devices are required by law no vehicle shall be operated upon any highway of this state with only the parking lights illuminated on the front of the vehicle.

(b) Whenever requirement is hereinafter declared as to the distance from which certain lamps and devices shall render objects visible or within which such lamps or devices shall be visible, said provisions shall apply during the times stated in paragraph (a) of this section upon a straight, level, unlighted highway under normal atmospheric conditions unless a different time or condition is expressly stated.

(c) Whenever requirement is hereinafter declared as to the mounted height of lamps or devices, it shall mean from the center of such lamp or device to the level ground upon which the vehicle stands when such vehicle is without a load.

HISTORY: New 1949, p. 574, Act 300, Eff. Sep. 23;—Am. 1961, p. 233, Act 160, Eff. Sep. 8;—Am. 1963, p. 65, Act 58, Eff. Sep. 6.

257.685 Head lamps; number, height; auxiliary or spot lamps.

Sec. 685. (a) Every motor vehicle other than a motorcycle, or motor driven cycle, shall be equipped with at least 2 head lamps with at least 1 on each side of the front of the motor vehicle, which head lamps shall comply with the requirements and limitations set forth in this chapter.

(b) Every motorcycle and every motor driven cycle shall be equipped with at least 1 and not more than 2 head lamps which shall comply with the requirements and limitations of this chapter.

(c) Every head lamp, upon every motor vehicle, including every motorcycle, shall be located at a height measured from the center of the head lamp of not more than 54 inches nor less than 24 inches above the level surface upon which said vehicle stands.

(d) Whenever a motor vehicle equipped with head lamps as herein required is also equipped with any auxiliary lamps or a spot lamp or any other lamp on the front thereof projecting a beam of an intensity greater than 300 candlepower, not more than a total of 4 of any such lamps on the front of a vehicle shall be lighted at any one time when upon a highway.

HISTORY: New 1949, p. 574, Act 300, Eff. Sep. 23;—Am. 1957, p. 25, Act 22, Imd. Eff. Apr. 19.

257.686 Rear lamps.

Sec. 686. (a) Every motor vehicle, trailer, semi-trailer, pole-trailer and any other vehicle which is being drawn in a train of vehicles shall be equipped with at least 1 rear lamp mounted on the rear, which, when lighted as hereinbefore required, shall emit a red light plainly visible from a distance of 500 feet to the rear.

(b) Either a tail lamp or a separate lamp shall be so constructed and placed as to illuminate with a white light the rear registration plate and render it clearly legible from a distance of 50 feet to the rear. Any tail lamp or tail lamps, together with any separate lamp for illuminating the rear registration plate, shall be so wired as to be lighted whenever the head lamps or auxiliary driving lamps are lighted.

HISTORY: New 1949, p. 574, Act 300, Eff. Sep. 23.

257.687 Special lamps for passenger buses, trucks and trailers.

Sec. 687. The sections of this chapter immediately following relating to clearance and marker lamps, reflectors and stop lights shall apply as stated in said sections to vehicles of the type therein enumerated, namely: Passenger busses, trucks, truck tractors, and certain trailers, semi-trailers, and pole-trailers, respectively, when operated upon any highway, and said vehicles shall be equipped as required and all lamp equipment required shall be lighted at the times mentioned in section 684 of this chapter except that clearance and side marker lamps need not be lighted on any said vehicle when operated within any municipality where there is sufficient light to render clearly discernible persons and vehicles on the highway at a distance of 500 feet.

HISTORY: New 1949, p. 574, Act 300, Eff. Sep. 23.

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257.688 Additional lights or reflectors on buses, trucks, tractors, trailers, implement of husbandry or special mobile equipment.

Sec. 688. In addition to other equipment required in this chapter, the following vehicles shall be equipped as herein stated under the conditions stated in section 687 of this chapter.

(a) On every bus or truck, whatever its size, there shall be the following:

On the rear, 2 red reflectors, 1 on each side, and 1 red or amber stop light.

(b) On every bus or truck 80 inches or more in overall width, in addition to the requirements in paragraph (a):

On the front, 2 clearance lamps, 1 at each side.

On the rear, 2 clearance lamps, 1 at each side.

On each side, 2 side marker lamps, 1 at or near the front and 1 at or near the rear.

On each side, 2 reflectors, 1 at or near the front and 1 at or near the rear.

(c) On every truck tractor:

On the front, 2 clearance lamps, 1 at each side.

On the rear, 1 stop light.

(d) On every trailer or semitrailer having a gross weight in excess of 3,000 pounds:

On the front, 2 clearance lamps, 1 at each side.

On each side, 2 side marker lamps, 1 at or near the front and 1 at or near the rear.

On each side, 2 reflectors, 1 at or near the front and 1 at or near the rear.

On the rear, 2 clearance lamps, 1 at each side, also 2 reflectors, 1 at each side, and 1 stop light.

(e) On every poletrailer:

On each side, 1 side marker lamp and 1 clearance lamp which may be in combination, to show to the front, side or rear.

On the rear of the poletrailer or load, 2 reflectors, 1 on each side.

(f) On every trailer or semitrailer weighing 3,000 pounds gross or less:

On the rear, 2 reflectors, 1 on each side if any trailer or semitrailer is so loaded or is of such dimensions as to obscure the stop light on the towing vehicle, then such vehicle shall also be equipped with 1 stop light.

(g) When operated on the highway, every vehicle which has a maximum potential speed of 25 miles an hour, implement of husbandry, farm tractor or special mobile equipment shall be identified with a reflective device as follows:

An equilateral triangle in shape, at least 16 inches wide at the base and at least 14 inches in height: with a dark red border, at least 1 ¾ inches wide of highly reflective beaded material;

A center triangle, at least 12 ¼ inches on each side of yellow-orange fluorescent material.

The device shall be mounted on the rear of the vehicle, broad base down, not less than 3 feet nor more than 5 feet above the ground and as near the center of the vehicle as possible. The use of this reflective device is restricted to use on slow moving vehicles specified in this section, and use of such reflective device on any other type of vehicle or stationary object on the highway is prohibited.

On the rear, at each side, red reflectors or reflectorized material visible from all distances within 500 to 50 feet to the rear when directly in front of lawful upper beams of headlamps.

HISTORY: New 1949, p. 575, Act 300, Eff. Sep. 23;—Am. 1963, p. 306, Act 211, Eff. Sep. 6;—Am. 1966, p. 185, Act 163, Eff. Mar 10 1967.

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257.689 Clearance and marker lamps and reflectors; color.

Sec. 689. (a) Front clearance lamps and those marker lamps and reflectors mounted on the front or on the side near the front of a vehicle shall display or reflect an amber color.

(b) Rear clearance lamps and those marker lamps and reflectors mounted on the rear or on the sides near the rear of a vehicle shall display or reflect a red color.

(c) All lighting devices and reflectors mounted on the rear of any vehicle shall display or reflect a red color, except the stop light or other signal device, which may be red or amber, and except that the light illuminating the license plate shall be white.

HISTORY: New 1949, p. 575, Act 300, Eff. Sep. 23.

257.690 Clearance and marker lamps and reflectors; mounting.

Sec. 690. (a) Reflectors shall be mounted at a height not less than 20 inches and not higher than 60 inches above the ground on which the vehicle stands, except that if the highest part of the permanent structure of the vehicle is less than 20 inches the reflector at such point shall be mounted as high as that part of the permanent structure will permit.

1. The rear reflectors on a pole-trailer may be mounted on each side of the bolster or load.

2. Any required red reflector on the rear of a vehicle may be incorporated with the tail lamp, but such reflector shall meet all the other reflector requirements of this chapter.

(b) Clearance lamps shall be mounted on the permanent structure of the vehicle in such a manner as to indicate its extreme width and as near the top thereof as practicable. Clearance lamps and side marker lamps may be mounted in combination provided illumination is given as required herein with reference to both.

HISTORY: New 1949, p. 575, Act 300, Eff. Sep. 23.

257.691 Clearance and marker lamps and reflectors; visibility.

Sec. 691. (a) Every reflector upon any vehicle referred to in section 689 of this chapter shall be of such size and characteristics and so maintained as to be readily visible at nighttime from all distances within 500 feet to 50 feet from the vehicle when directly in front of lawful upper beams of headlamps. Reflectors required to be mounted on the sides of the vehicle shall reflect the required color of light to the sides, and those mounted on the rear shall reflect a red color to the rear.

(b) Front and rear clearance lamps shall be capable of being seen and distinguished under normal atmospheric conditions at the times lights are required at a distance of 500 feet from the front and rear, respectively, of the vehicle.

(c) Side marker lamps shall be capable of being seen and distinguished under normal atmospheric conditions at the times lights are required at a distance of 500 feet from the side of the vehicle on which mounted.

HISTORY: New 1949, p. 576, Act 300, Eff. Sep. 23.

257.692 Combination vehicles; obstructed lights, lighting requirements.

Sec. 692. Whenever motor and other vehicles are operated in combination during the time that lights are required, any lamp (except tail lamps) need not be lighted which, by reason of its location on a vehicle of the combination, would be obscured by another vehicle of the combination, but this shall not affect the requirement that lighted clearance lamps be displayed on the front of the foremost vehicle required to have clearance lamps, nor that all lights required on the rear of the rearmost vehicle of any combination shall be lighted.

HISTORY: New 1949, p. 576, Act 300, Eff. Sep. 23.

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257.693 Lamp or flag on projecting load.

Sec. 693. Whenever the load upon any vehicle extends to the rear 4 feet or more beyond the bed or body of such vehicle there shall be displayed at the extreme rear end of the load, at the times specified in section 684 hereof, a red light or lantern plainly visible from a distance of at least 500 feet to the sides and rear. The red light or lantern required under this section shall be in addition to the red rear light required upon every vehicle. At any other time there shall be displayed at the extreme rear end of such load a red flag or cloth not less than 12 inches square and so hung that the entire area is visible to the driver of a vehicle approaching from the rear.

HISTORY: New 1949, p. 576, Act 300, Eff. Sep. 23.

257.694 Parked vehicles; lighting.

Sec. 694. Whenever a vehicle is parked or stopped upon a highway whether attended or unattended during the times mentioned in section 684, there shall be displayed upon the left side of such vehicle 1 or more lamps projecting a white or amber light visible under normal atmospheric conditions from a distance of 500 feet to the front of such vehicle and projecting a red light visible under like conditions from a distance of 500 feet to the rear, except that local authorities may provide by ordinance that no lights need be displayed upon any such vehicle when parked in accordance with local ordinances upon a highway where there is sufficient light to reveal any person within a distance of 500 feet upon such highway.

HISTORY: New 1949, p. 576, Act 300, Eff. Sep. 23;—Am. 1959, p. 89, Act 80, Imd. Eff. Jun. 29.

257.695 Minimum lighting for all vehicles.

Sec. 695. All vehicles, including animal-drawn vehicles and including those referred to in section 683 (d) not hereinbefore specifically required to be equipped with lamps, shall at the times specified in section 684 hereof be equipped with at least one lighted lamp or lantern exhibiting a white light visible from a distance of 500 feet to the front of such vehicle and with a lamp or lantern exhibiting a red light visible from a distance of 300 feet to the rear.

HISTORY: New 1949, p. 576, Act 300, Eff. Sep. 23.

257.696 Spot lamps; auxiliary driving lamps.

Sec. 696. (a) Any motor vehicle may be equipped with not to exceed 2 spot lamps, except that a motorcycle shall not be equipped with more than 1 spot lamp, and every lighted spot lamp shall be so aimed and used upon approaching another vehicle that no part of the beam will be directed into the eyes of the approaching driver. Spot lamps may not emit other than either a white or amber light.

(b) Any motor vehicle may be equipped with not to exceed 2 auxiliary driving lamps mounted on the front at a height not less than 24 inches above the level surface of which the vehicle stands and every such auxiliary driving lamp or lamps shall meet the requirements and limitations set forth in this chapter.

HISTORY: New 1949, p. 576, Act 300, Eff. Sep. 23.

257.697 Signal lamps and devices.

Sec. 697. (a) Any motor vehicle may be equipped and when required under this chapter shall be equipped with the following signal lamps or devices:

1. A stop lamp on the rear which shall emit a red or amber light and which shall be actuated upon application of the service (foot) brake and which may but need not be incorporated with a tail lamp.

2. A lamp or lamps or mechanical signal device which conveys an intelligible signal or warning to another driver approaching from the rear.

(b) A stop lamp shall be capable of being seen and distinguished from a distance of 100 feet to the rear both during normal sunlight and at nighttime and a signal lamp or

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lamps indicating intention to turn shall be capable of being seen and distinguished during daytime and nighttime from a distance of 100 feet both to the front and rear. When a vehicle is equipped with a stop lamp or other signal lamps, such lamp or lamps shall at all times be maintained in good working condition. No stop lamp or signal lamp shall project a glaring or dazzling light.

(c) All mechanical signal devices shall be self-illuminated when in use at the times mentioned in section 684.

HISTORY: New 1949, p. 577, Act 300, Eff. Sep. 23.

257.697a Sale or operation of certain vehicles unlawful; exception.

Sec. 697a. No person shall sell or offer for sale or operate on the highways any vehicles manufactured or assembled after January 1, 1955, except those exempted from certificate of title requirements under the provisions of section 216 of chapter 2 of this act, as amended, unless it is equipped with mechanical or electrical turn signals meeting the requirements of section 697. This section shall not apply to any motorcycle or motor-driven cycle.

HISTORY: Add. 1954, p. 429, Act 181, Eff. Aug. 13.

257.697b Rear stop lamps; requirements for sale and operation.

Sec. 697b. No person shall sell or offer for sale or operate on the highways any vehicles manufactured or assembled after January 1, 1965, except those exempted from certificate of title requirements under the provisions of section 216 of chapter 2 of this act, as amended, unless it is equipped with 2 rear stop lamps except on motorcycle or motor-driven cycle meeting the requirements of section 697. Any motorcycle or motor-driven cycle shall be required to have 1 rear stop lamp.

HISTORY: Add. 1964, p. 142, Act 150, Eff. Aug. 28.

257.698 Permissible additional lights; flashing, oscillating or rotating lights.

Sec. 698. (a) Any motor vehicle may be equipped with not more than 2 side cowl or fender lamps which shall emit an amber or white light without glare.

(b) Any motor vehicle may be equipped with not more than 1 running-board courtesy lamp on each side thereof which shall emit a white or amber light without glare.

(c) Backing lights of any color may be mounted on the rear of any motor vehicle if the switch controlling such light be so arranged that it may be turned on only when the vehicle is in reverse gear. Such backing lights when unlighted shall be so covered or otherwise arranged as not to reflect objectionable glare in the eyes of drivers of vehicles approaching from the rear.

(d) Any lamps or reflectors on a vehicle other than those expressly required or permitted by the provisions of this chapter shall, if visible from the front, display or reflect a white or amber light; if visible from either side, display an amber light; and if visible from the rear, display or reflect a red light, except as otherwise provided by law. Flashing, oscillating or rotating red lights may be used only as follows:

1. By authorized emergency vehicles as provided by section 603 of this chapter. State, county or municipal vehicles engaged in snow removal or ice control operations shall be equipped with flashing, oscillating or rotating amber lights placed in such position on the vehicle as to be visible throughout an arc of 360 degrees.

2. By public utility service vehicles, ambulances, authorized emergency vehicles, automobile service cars and wreckers engaged in removing or assisting vehicles at the site of traffic accidents and state, municipal and county vehicles actually engaged in the maintenance or repair of the highway.

3. By school buses only when said school bus is stopped on the highway for the purpose of permitting school children to board or alight therefrom.

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4. By farm tractors only when operated on the highway after dark or when visibility is poor.

(e) A flashing red light may be mounted and used on any motor vehicle operated by rural letter carriers when actually engaged in delivering mail on their mail routes, but only when brakes are applied.

HISTORY: New 1949, p. 577, Act 300, Eff. Sep. 23;—Am. 1951, p. 471, Act 270, Eff. Sep. 28;—Am. 1953, p. 293, Act 206, Imd. Eff. Jun. 10;—Am. 1957, p. 22, Act 19, Eff. Sep. 27;—Am. 1959, p. 213, Act 151, Imd. Eff. Jul. 16;—Am. 1964, p. 13, Act 7, Imd. Eff. Mar. 20.

257.698a Vehicular traffic hazard; front and rear warning lamps.

Sec. 698a. Any vehicle may be equipped with lamps which may be used for the purpose of warning the operators of other vehicles of the presence of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking or passing, and when so equipped may display such warning in addition to any other warning signals required by this act. The lamps used to display such warning to the front shall be mounted at the same level and as widely spaced laterally as practicable, and shall display simultaneously flashing white or amber lights, or any shade of color between white and amber. The lamps used to display such warning to the rear shall be mounted at the same level and as widely spaced laterally as practicable, and shall show simultaneously flashing amber or red lights, or any shade of color between amber and red. These warning lights shall be visible from a distance of not less than 500 feet under normal atmospheric conditions at night.

HISTORY: Add. 1962, p. 179, Act 166, Eff. Mar. 28, 1963.

257.699 Multiple-beam road lighting equipment; color, intensity, indicator.

Sec. 699. Except as hereinafter provided, the head lamps, or the auxiliary driving lamps, or combinations thereof, on motor vehicles shall be so arranged that selection may be made between distributions of light projected to different elevations, subject to the following requirements and limitations:

(a) Head lamps shall in all cases emit a white light, auxiliary lamps may emit either a white or amber light.

(b) There shall be an uppermost distribution of light, or composite beam, so aimed and of such intensity as to reveal persons and vehicles at a distance of at least 350 feet ahead for all conditions of loading.

(c) There shall be a lowermost distribution of light, or composite beam, so aimed and of sufficient intensity to reveal persons and vehicles at a distance of at least 100 feet ahead; and under any condition of loading none of the high-intensity portion of the beam shall be directed to strike the eyes of an approaching driver.

(d) Every new motor vehicle except motorcycles and motor driven cycles registered in this state after the effective date of this act which has multiple-beam road-lighting equipment shall be equipped with a beam indicator, which shall be lighted whenever the uppermost distribution of light from the headlamps is in use and shall not otherwise be lighted. Said indicator shall be so designed and located that when lighted it will be readily visible without glare to the driver of the vehicle so equipped.

HISTORY: New 1949, p. 577, Act 300, Eff. Sep. 23;—Am. 1954, p. 125, Act 101, Eff. Aug. 13.

257.700 Multiple-beam road lighting equipment; oncoming traffic; intensity.

Sec. 700. (a) Whenever a motor vehicle is being operated on a highway or shoulder adjacent thereto during the times specified in section 684, the driver shall use a distribution of light, or composite beam, directed high enough and of sufficient intensity to reveal persons and vehicles at a safe distance in advance of the vehicle, subject to the following requirements and limitations:

(b) Whenever the driver of a vehicle approaches an oncoming vehicle within 500

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feet, such driver shall use a distribution of light or composite beam so aimed that the glaring rays are not projected into the eyes of the oncoming driver.

The lowermost distribution of light, specified in section 699 paragraph (c), shall be deemed to avoid glare at all times regardless of road contour and loading.

HISTORY: New 1949, p. 578, Act 300, Eff. Sep. 23;—Am. 1954, P. 125, Act 101, Eff. Aug. 13.

257.701 Single-beam road-lighting equipment; intensity.

Sec. 701. Head lamps arranged to provide a single distribution of light not supplemented by auxiliary driving lamps shall be permitted on motor vehicles manufactured and sold prior to the effective date of this act in lieu of multiple-beam road-lighting equipment herein specified if the single distribution of light complies with the following requirements and limitations:

1. The head lamps shall be so aimed that when the vehicle is not loaded none of the high-intensity portion of the light shall at a distance of 25 feet ahead project higher than a level of 5 inches below the level of the center of the lamp from which it comes, and in no case higher than 42 inches above the level on which the vehicle stands at a distance of 75 feet ahead.

2. The intensity shall be sufficient to reveal persons and vehicles at a distance of at least 200 feet.

HISTORY: New 1949, p. 578, Act 300, Eff. Sep. 23.

257.702 Motor driven cycle; head lights.

Sec. 702. The head lamp or head lamps upon every motor driven cycle may be of the single beam or multiple beam type, but in either event shall comply with the requirements and limitations as follows:

1. Every said head lamp or head lamps on a motor driven cycle shall be of sufficient intensity to reveal a person or a vehicle at a distance of not less than 100 feet when the motor driven cycle is operated at any speed less than 25 miles per hour and at a distance of not less than 200 feet when the motor driven cycle is operated at a speed of 25 or more miles per hour, and any such motor driven cycle shall be subject to the speed restriction in section 630.

2. In the event the motor driven cycle is equipped with a multiple beam head lamp or head lamps, the upper beam shall meet the minimum requirements set forth above and shall not exceed the limitations set forth in section 699 (b) and the lowermost beam shall meet the requirements applicable to a lowermost distribution of light, as set forth in section 699 (c) of this chapter.

3. In the event the motor driven cycle is equipped with a single beam lamp or lamps, said lamp or lamps shall be so aimed that when the vehicle is loaded none of the high-intensity portion of light, at a distance of 25 feet ahead, shall project higher than the level of the center of the lamp from which it comes.

HISTORY: New 1949, p. 578, Act 300, Eff. Sep. 23.

257.703 Slow-moving vehicles; reduced lighting power.

Sec. 703. Any motor vehicle may be operated under the conditions specified in section 684 when equipped with 2 lighted lamps upon the front thereof capable of revealing persons and objects 75 feet ahead in lieu of lamps required in section 699 or section 701: Provided, however, That at no time shall it be operated at a speed in excess of 20 miles per hour.

HISTORY: New 1949, p. 579, Act 300, Eff. Sep. 23.

257.704 Special restriction as to direction of certain lights.

Sec. 704. Any lighted lamp or illuminating device upon a motor vehicle other than head lamps, spot lamps, auxiliary lamps, or flashing front direction signals which projects a beam of light of an intensity greater than 300 candlepower shall be so directed

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that no part of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than 75 feet from the vehicle.

HISTORY: New 1949, p. 579, Act 300, Eff. Sep. 23.

257.705 Brakes.

Sec. 705. (a) Brake equipment required as follows:

(1) Every motor vehicle, other than a motorcycle, or motor driven cycle when operated upon a highway shall be equipped with brakes adequate to control the movement of and to stop and hold such vehicle, including 2 separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least 2 wheels. If these 2 separate means of applying the brakes are connected in any way, they shall be so constructed that failure of any one part of the operating mechanism shall not leave the motor vehicle without brakes on at least 2 wheels.

(2) Every motorcycle or motor driven cycle, when operated upon a highway shall be equipped with at least 2 brakes, 1 on the front wheel and 1 on the rear wheel, which may be operated by hand or foot.

(3) Every trailer or semitrailer of a gross weight of 3,000 pounds or more when operated upon a highway shall be equipped with brakes adequate to control the movement of and to stop and to hold such vehicle and so designed as to be applied by the driver of the towing motor vehicle from its cab.

(4) Every new motor vehicle, trailer or semitrailer hereafter sold in this state and operated upon the highways shall be equipped with service brakes upon all wheels of every such vehicle, except any motorcycle or motor driven cycle, and except that any semitrailer of less than 1,500 pounds gross weight need not be equipped with brakes. The provisions of this subparagraph shall not apply to a trailer or semitrailer owned by a farmer and used exclusively in connection with the farming operations of such farmer and not used for hire.

(5) In any combination of motor driven vehicles, means shall be provided for applying the rearmost trailer brakes, for any trailer equipped with brakes, in approximate synchronism with the brakes on the towing vehicle and developing the required braking effort on the rearmost wheels at the fastest rate; or means shall be provided for applying braking effort first on the rearmost trailer equipped with brakes; or both of the above means capable of being used alternatively may be employed.

(6) Every motor vehicle and combination of vehicles, except pole trailers, motorcycles and motor driven cycles, shall be equipped with parking brakes adequate to hold the vehicle on any grade on which it is operated, under all conditions of loading on a surface free from snow, ice or loose material. The parking brakes shall be capable of being applied in conformance with the foregoing requirements by the driver's muscular effort or by spring action or by equivalent means. Their operation may be assisted by the service brakes or other source of power if failure of the service brake actuation system or other power assisting mechanism will not prevent the parking brakes from being applied in conformance with the foregoing requirements. The parking brakes shall be so designed that when once applied they shall remain applied with the required effectiveness despite exhaustion of any source of energy or leakage of any kind. The same brake drums, brake shoes and lining assemblies, brake shoe anchors and mechanical brake shoe actuation mechanism normally associated with the wheel brake assemblies may be used for both the service brakes and the parking brakes. If the means of applying the parking brakes and the service brakes are connected in any way, they shall be so constructed that failure of any one part shall not leave the vehicle without operative brakes.

(7) The brake shoes operating within or upon the drums of the vehicle wheels of any motor vehicle may be used for both service and hand operation.

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(b) Every motor vehicle or combination of motor-drawn vehicles shall be capable at all times and under all conditions of loading, of being stopped on a dry, smooth, level road free from loose material within the distances specified below, or shall be capable of being decelerated at a sustained rate corresponding to these distances upon initial application of the service (foot) brake.

	Feet to stop from 20 miles per hour	Deceleration in feet per second per second
Vehicles or combination of vehicles having brakes on all wheels	30	14
Vehicles or combination of vehicles not having brakes on all wheels ..	40	10.7

(c) All brakes shall be maintained in good working order and shall be so adjusted as to operate as equally as practicable with respect to the wheels on opposite side of the vehicle.

HISTORY: New 1949, p. 579, Act 300, Eff. Sep. 23;—Am. 1964, p. 34, Act 29, Imd. Eff. May 1;—Am. 1969, p. 278, Act 134, Imd. Eff. Jun. 1, 1970.

257.705a Brake fluid specifications.

Sec. 705a. On and after January 1, 1961, no person shall have for sale, or sell or offer for sale, for use in motor vehicle brake systems in this state, any hydraulic brake fluid which does not meet the minimum specifications of the society of automotive engineers for heavy duty brake fluid, as prescribed March 1, 1960.

HISTORY: Add. 1960, p. 48, Act 60, Eff. Aug. 17.

257.706 Horns, bells, whistles, sirens and theft alarm signal devices.

Sec. 706. (a) Every motor vehicle, including every motorcycle or motor driven cycle, when operated upon a highway shall be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than 200 feet but no horn or other warning device shall emit an unreasonable loud or harsh sound or a whistle. The driver of a motor vehicle shall when reasonably necessary to insure safe operation give audible warning with his horn but shall not otherwise use such horn when upon a highway.

(b) No vehicle shall be equipped with nor shall any person use upon a vehicle any siren, whistle or bell, except as otherwise permitted in this section.

(c) It is permissible but not required that any commercial vehicle be equipped with a theft alarm signal device which is so arranged that it cannot be used by the driver as an ordinary warning signal.

(d) Any authorized emergency vehicle may be equipped with a siren, whistle or bell capable of emitting sound audible under normal conditions from a distance of not less than 500 feet, but such siren shall not be used except when such vehicle is operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the law, in which said latter events the driver of such vehicle shall sound said siren when necessary to warn pedestrians and other drivers of the approach thereof.

HISTORY: New 1949, p. 580, Act 300, Eff. Sep. 23;—Am. 1969, p. 279, Act 134, Imd. Eff. Jun. 1, 1970.

257.707 Mufflers; excessive fumes and smoke.

Sec. 707. (a) Every motor vehicle, including every motorcycle or motor driven cycle, shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke, and no person shall remove, destroy or damage any or all of the baffles contained in such muffler, nor shall

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any person use a muffler cutout, bypass or similar device upon a motorcycle or motor driven cycle on any highway or street.

(b) The engine and power mechanism of every motor vehicle shall be so equipped and adjusted as to prevent the escape of excessive fumes or smoke.

Effective date; existing licenses; waiver of examination.

Section 2. This act shall become effective June 1, 1970, except that any licensee whose operator's or chauffeur's license was issued prior to June 1, 1970, shall be authorized to operate a motorcycle without having been issued an indorsement on his operator's or chauffeur's license until the license expires.

Upon the renewal of any operator's or chauffeur's license issued prior to June 1, 1970, the licensee shall be subject to the provisions of this act requiring an indorsement on his operator's or chauffeur's license, except that the department may waive the requirement for the motorcycle examination upon receipt of adequate evidence of experience in operating a motorcycle, under such rules and regulations as it may deem necessary.

Any applicant who so desires may voluntarily apply at any time after June 1, 1970, for the issuance of an indorsement on his unexpired operator's or chauffeur's license.

HISTORY: New 1949, p. 580, Act 300, Eff. Sep. 23;—Am. 1969, p. 279, Act 134, Imd. Eff. Jun. 1, 1970.

257.708 View to rear; mirrors; motorcycle; commercial vehicle.

Sec. 708. No person shall drive a motor vehicle on a highway which motor vehicle is so constructed or loaded as to prevent the driver from obtaining a view of the highway to the rear by looking backward from the driver's position, unless such vehicle is equipped with a mirror so located as to reflect to the driver a view of the highway to the rear of such vehicle. In addition all motor vehicles shall be equipped with an outside rearview mirror on the driver's side which shall be positioned to give the driver a rearviewing angle from the driver's side of the vehicle. Rear view mirrors may be positioned on the helmet or visor worn by the operator of a motorcycle if the helmet is securely attached to the head of the operator. Every commercial vehicle of ½ ton capacity or more, operating upon the public highways of this state, shall be equipped with 2 mirrors, 1 on each side, so adjusted that the operator shall have a clear view of the highway behind such commercial vehicle. The outside mirrors shall not be deemed to be a part of the vehicle for the purpose of determining the maximum width under section 717.

HISTORY: New 1949, p. 580, Act 300, Eff. Sep. 23;—Am. 1967, p. 110, Act 90, Eff. Jan. 1, 1968;—Am. 1970, p. 271, Act 94, Imd. Eff. Jul. 20.

257.708a Windshields; exceptions; cyclists, goggles or face shield.

Sec. 708a. A motor vehicle shall not be operated on the public highways of this state unless it is equipped with a windshield of sufficient dimensions to protect the driver and occupants from insects, other airborne objects, and highway surface water and debris, when such motor vehicle is moving forward. A farm tractor, other implement of husbandry and historic vehicles as defined in section 803a are exempt from this section. When a motorcycle or a motor driven cycle operated on the public highways of this state in excess of 35 miles per hour is not equipped with a windshield, the operator shall wear goggles with transparent lenses or a transparent face shield or eye glasses, which goggles, eye glasses or face shield shall be of shatter resistant material and of sufficient size to protect his eyes against insects, other airborne material, and highway surface water and debris.

HISTORY: Add. 1968, p. 202, Act 142, Eff. Sep. 1.

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257.709 Windshields; obstruction of view, wipers; defrosters on commercial vehicles; washers.

Sec. 709. (a) No person shall drive any motor vehicle with any sign, poster or other nontransparent material upon the front windshield, sidewings or side or rear windows of such vehicle which obstructs the driver's clear view of the highway or any intersecting highway, or with any dangling ornament or other suspended object except as authorized by law which in any way obstructs the vision of the driver of the vehicle.

(b) The windshield on every motor vehicle shall be equipped with a device for cleaning rain, snow or other moisture from the windshield, which device shall be so constructed as to be controlled or operated by the driver of the vehicle.

(c) Every windshield wiper upon a motor vehicle shall be maintained in good working order.

(d) On and after October 1, 1955, no commercial vehicle licensed as such shall be operated on the highways at any time between December 15 and March 15, both dates inclusive, unless it is equipped with a hot air windshield defroster or an electrically heated windshield or such other scientific method that may be devised so long as same is heated and maintained in operable condition at all times.

(e) No motor vehicle licensed as such, and manufactured after January 1, 1956, shall be operated on the highways unless it is equipped with a windshield washer maintained in operable condition at all times and capable of cleaning the windshield in such a fashion as to leave the driver with a clear view of the highway or any intersecting highway.

HISTORY: New 1949, p. 580, Act 300, Eff. Sep. 23;—Am. 1951, p. 174, Act 142, Eff. Sep. 28;—Am. 1954, p. 395, Act 167, Eff. Aug. 13;—Am. 1955, p. 286, Act 174, Eff. Oct. 14;—Am. 1958, p. 25, Act 23, Eff. Sep. 13.

257.710 Tires; restrictions; ice grips, seasonal use; notice.

Sec. 710. (a) No vehicle nor special mobile equipment shall be operated on the public highways of this state on metal or plastic track or on tires which are equipped with metal that comes in contact with the surface of the road or which have a partial contact of metal or plastic with the surface of the road, except as provided in subsections (c) and (d).

(b) No tire on a vehicle moved on a highway shall have on its periphery any block, stud, flange, cleat or spike or any other protuberances of any material other than rubber which projects beyond the tread of the traction surface of the tire, except that it shall be permissible to use farm machinery with tires having protuberances which will not injure the highways, and except that it shall be permissible to use tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice or other conditions tending to cause a vehicle to skid, and except also as provided in subsections (c) and (d).

(c) A pneumatic tire may have embedded in it wire not to exceed .075 inches in diameter if so constructed that under no conditions shall the percent of metal in contact with the highway exceed 5% of the total tire area in contact with the roadway, except that during the first 1,000 miles of use or operation of any such tire the metal in contact with the highway shall not exceed 20% of such area.

(d) Pneumatic tires may have inserted ice grips or tire studs of wear-resisting plastic or metal material, installed in such manner as to provide resiliency upon contact with the road, with projections not to exceed 3/32 of an inch beyond the tread of the traction surface of the tire, and constructed to prevent any appreciable damage to the road surface. Pneumatic tires so equipped may be used on motor vehicles between November 1 of each year and May 1 of the following year. Copies of this subsection shall be posted in all places at which tires are sold.

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(e) A printed or written warning on the time limitation for the use of such studded tires shall be furnished each buyer, purchaser or user by the seller of such studded tires.

HISTORY: New 1949, p. 581, Act 300, Eff. Sep. 23;—Am. 1962, p. 35, Act 41, Eff. Mar. 28, 1963;—Am. 1966, p. 319, Act 237, Eff. Mar. 10, 1967;—Am. 1967, p. 157, Act 127, Imd. Eff. Jun. 27.

257.710a Safety belts and restraining devices; standards, rules and regulations.

Sec. 710a. No person shall sell, offer or keep for sale, or install for use in any motor vehicle to be operated on the highways of this state, any safety belt, safety restraining device, or attachments thereto as referred to in this section, unless of a type conforming to standards and specifications established by rules and regulations which have been established by the commissioner of the Michigan state police.

The rules and regulations established pursuant to the authorization given in this section shall be promulgated in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82, inclusive, of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110, inclusive, of the Compiled Laws of 1948.

HISTORY: Add. 1955, 1st Ex. Ses., p. 815, Act 2, Eff. Feb. 3, 1956.

257.710b Passenger safety belts; specifications, exceptions.

Sec. 710b. No private passenger vehicle manufactured after January 1, 1965 shall be offered for sale in this state unless the vehicle is equipped with safety belts for the use of the driver and 1 other front seat passenger. All safety belts and bolts and brackets used in the installation of the safety belts shall meet the minimum specifications of the society of automotive engineers as prescribed on April 1, 1963. This section shall not apply to trucks, buses, hearses, motorcycles or motor driven cycles.

HISTORY: Add. 1961, p. 236, Act 163, Eff. Sep. 8;—Am. 1963, P. 307, Act 212, Eff. Sep. 6.

257.711 Safety glass; requirements, definitions.

Sec. 711. (a) On and after the effective date of this act no person shall sell any new motor vehicle nor shall any new motor vehicle be registered thereafter which is designed or used for the purpose of transporting passengers for compensation or as a school bus unless such vehicle is equipped with safety glass wherever glass is used in doors, windows, and windshields.

(b) On and after the effective date of this act no person shall sell any new motor vehicle nor shall any new motor vehicle be registered thereafter unless such vehicle is equipped with safety glass wherever glass is used in the windshield, doors and windows; nor shall any glass be replaced in the windshield, doors and windows of any motor vehicle unless such glass is safety glass as herein defined.

(c) The term "safety glass" shall mean any product composed of glass, so manufactured, fabricated, or treated as substantially to prevent shattering and flying of the glass when struck or broken.

(d) In addition to the penalties imposed by this act, the permit issued by the Michigan public service commission to any such person engaged in the passenger carrying business shall be subject to revocation or suspension in the discretion of the Michigan public service commission.

HISTORY: New 1949, p. 581, Act 300, Eff. Sep. 23.

257.711a School bus gasoline tank; location, spillage rate.

Sec. 711a. No part of any gasoline tank or container or intake pipe shall be located within or above the passenger-carrying portion of a school bus unless securely sealed off from such portion by means of a substantial metal cover. The gasoline container, including intake pipe, cap and vent on a school bus manufactured subsequent to De-

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cember 31, 1964, shall be so designed that, in the event of overturn, the gasoline will not be spilled at a rate in excess of 1 ounce per minute.

HISTORY: Add. 1964, p. 45, Act 40, Eff. Aug. 28;—Am. 1968, p. 676, Act 350, Eff. Nov. 15.

257.712 Flares and other warning equipment for trucks; truck tractors, school buses, and buses.

Sec. 712. (a) No person shall operate any motor truck, of a gross weight of more than 10,000 pounds, truck tractor, bus or school bus upon any highway outside the corporate limits of municipalities at any time from a half hour after sunset to a half hour before sunrise unless there shall be carried in such vehicle the following equipment except as provided in paragraph (b):

1. At least 3 flares or 3 red electric lanterns each of which shall be capable of being seen and distinguished at a distance of 500 feet under normal atmospheric conditions at nighttime.

Each flare (liquid-burning pot torch) shall be capable of burning for not less than 12 hours in 5 miles per hour wind velocity and capable of burning in any air velocity from zero to 40 miles per hour. Every such flare shall be substantially constructed so as to withstand reasonable shocks without leaking. Every such flare shall be carried in the vehicle in a metal rack or box. Every such red electric lantern shall be capable of operating continuously for not less than 12 hours and shall be substantially constructed so as to withstand reasonable shock without breakage.

2. At least 3 red-burning fusees unless red electric lanterns are carried. Every fusee shall be made in accordance with specifications of the Bureau of Explosives, New York, and so marked and shall be capable of burning at least 15 minutes.

3. At least 2 red cloth flags, not less than 12 inches square, with standards to support same.

(b) No person shall operate at the time and under the conditions stated in paragraph (a) any motor vehicle used in the transportation of inflammable liquids in bulk, or transporting compressed inflammable gases unless there shall be carried in such vehicle 3 red electric lanterns meeting the requirements above stated and there shall not be carried in any said vehicle any flares, fusees, or signal produced by a flame.

(c) In the alternative it shall be deemed a compliance with this section in the event the person operating any motor vehicle described in this section shall carry in such vehicle 3 portable reflector units on standards of type approved by the commissioner. No portable reflector unit shall be approved unless it is so designed and constructed that it will reflect red light clearly visible for a distance of at least 300 feet under normal atmospheric conditions at nighttime when directly in front of lawful upper beams of head lamps.

HISTORY: New 1949, p. 581, Act 300, Eff. Sep. 23;—Am. 1964, p. 88, Act 89, Eff. Aug. 28.

257.713 Flares and other warning equipment; display on disabled vehicle.

Sec. 713. (a) Whenever any motor truck of a gross weight in excess of 10,000 pounds, truck tractor, trailer, semi-trailer, pole-trailer, bus or school bus is disabled upon the traveled portion of any highway or the shoulder thereof outside of any municipality at any time when lighted lamps are required on vehicles the driver of such vehicle shall display the following warning devices upon the highway during the time the vehicle is so disabled on the highway except as provided in paragraph (b).

1. A lighted fusee shall be immediately placed on the roadway at the traffic side of the motor vehicle unless electric lanterns are displayed.

2. Within the burning period of the fusee and as promptly as possible 3 lighted flares (pot torches) or 3 electric lanterns shall be placed on the roadway as follows:

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One at a distance of approximately 100 feet in advance of the vehicle, 1 at a distance of approximately 100 feet to the rear of the vehicle each in the center of the lane of traffic occupied by the disabled vehicle, and 1 at the traffic side of the vehicle approximately 10 feet rearward or forward thereof.

(b) Whenever any vehicle used in the transportation of inflammable liquids in bulk, or transporting compressed inflammable gases is disabled upon a highway at any time or place mentioned in paragraph (a) of this section, the driver of such vehicle shall display upon the roadway the following lighted warning devices:

1. One red electric lantern shall be immediately placed on the roadway at the traffic side of the vehicle and 2 other red electric lanterns shall be placed to the front and rear of the vehicle in the same manner prescribed in paragraph (a) above for flares.

When a vehicle of a type specified in this subparagraph is disabled the use of flares, fusees, or any signal produced by flame as warning signals is prohibited.

(c) Whenever any vehicle of a type referred to in this section is disabled upon the traveled portion of a highway or the shoulder thereof, outside of any municipality at any time when the display of fusees, flares, or electric lanterns is not required, the driver of such vehicle shall display 2 red flags upon the roadway in the lane of traffic occupied by the disabled vehicle, 1 at a distance of approximately 100 feet in advance of the vehicle, and 1 at a distance of approximately 100 feet to the rear of the vehicle.

(d) In the alternative it shall be deemed a compliance with this section in the event 3 portable reflector units on standards of a type approved by the commissioner are displayed at the times and under the conditions specified in this section either during the daytime or at nighttime and such portable reflector units shall be placed on the roadway in the locations as described with reference to the placing of electric lanterns and lighted flares.

(e) The flares, fusees, lanterns, and flags to be displayed as required in this section shall conform with the requirements of section 712 applicable thereto.

HISTORY: New 1949, p. 582, Act 300, Eff. Sep. 23;—Am. 1964, p. 89, Act 89, Eff. Aug. 28.

257.714 Explosives; special regulations for transportation.

Sec. 714. Any person operating any vehicle transporting any explosive as a cargo or part of a cargo upon a highway shall at all times comply with the provisions of this section.

(a) Said vehicle shall be marked or placarded on each side and the rear with the word "Explosive" in letters not less than 8 inches high, or there shall be displayed on the rear of such vehicle a red flag not less than 24 inches square marked with the word "Danger" in white letters 6 inches high.

(b) Every said vehicle shall be equipped with not less than 2 fire extinguishers of the type and capacity prescribed by the commissioner filled and ready for immediate use and carried in a place on the vehicle which is most certain to be conveniently accessible under emergency conditions.

(c) The commissioner is hereby authorized to promulgate such additional regulations governing the transportation of explosives and other dangerous substances and articles including poisonous or explosive gas and corrosives by vehicles upon the highways as he shall deem advisable for the protection of the public.

HISTORY: New 1949, p. 583, Act 300, Eff. Sep. 23.

257.714a Commercial vehicles and combinations; antisplash devices.

Sec. 714a. On and after January 1, 1955, every commercial vehicle, except truck tractors traversing between terminals at a speed not to exceed 25 miles per hour, and every combination of a commercial vehicle and trailer or semi-trailer when used on a highway shall be so constructed or equipped, or so operated, as to bar water or other

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road surface substances thrown from the rear wheels of such vehicle or combination at tangents exceeding 22 ½ degrees measured from the road surface. If flap type device is used, it shall not have attached any type of lamp, reflective material or reflecting buttons; nor can device extend beyond the 96 inch maximum width of vehicle.

HISTORY: Add. 1954, p. 396, Act 168, Eff. Aug. 13;—Am. 1959, p. 91, Act 83, Eff. Mar. 19, 1960.

INSPECTION OF VEHICLES

257.715 Inspection of vehicles and equipment; state police check lanes; local unit check lanes.

Sec. 715. (a) Equipment on motor vehicles as required under this act shall be maintained as herein provided, and any uniformed police officer shall be authorized on reasonable grounds shown to stop any motor vehicle to inspect the same, and if any defects in equipment are found, to arrest the driver in the manner prescribed in section 727 and to order the driver to have the same repaired forthwith. In case of accident any police officer may make inspection of the cars involved.

(b) The director of the department of state police shall cause inspection to be made of motor vehicles operating on the public highways to detect defective equipment or other violations of law governing the use of public highways by motor vehicles, operators and chauffeurs. For such purpose he may establish temporary vehicle check lanes at appropriate locations throughout the state for checking such inadequacies and violations. A county, city, village or township police department may also operate such a temporary check lane within its limits with the express authorization of the director and under the direct supervision of a designated representative of the director.

HISTORY: New 1949, p. 583, Act 300, Eff. Sep. 23;—Am. 1966, p. 241, Act 214, Eff. Mar. 10, 1967.

SIZE, WEIGHT AND LOAD

257.716 Size, weight, and load restrictions.

Sec. 716. (a) It is a misdemeanor for any person to drive or move or for the owner to cause or permit to be driven or moved on any highway any vehicle or vehicles of a size or weight exceeding the limitations stated in this chapter or otherwise in violation of this chapter, and the maximum size and weight herein specified shall be lawful throughout this state, and local authorities shall have no power or authority to alter said limitations except as express authority may be granted in this chapter.

(b) The provisions of this chapter governing size, weight, and load shall not apply to fire apparatus, or to implements of husbandry incidentally moved upon a highway, or to a vehicle operated under the terms of a special permit issued as herein provided.

HISTORY: New 1949, p. 583, Act 300, Eff. Sep. 23;—Am. 1970, p. 532, Act 177, Imd. Eff. Aug. 3.

257.717 Maximum width of vehicles; exceptions; operation of certain buses.

Sec. 717. (a) The total outside width of any vehicle or the load thereon shall not exceed 96 inches except as otherwise provided in this section.

(b) The total outside width of a farm tractor or any farm implement or machinery shall not exceed 186 inches. Any agricultural implement wider than 108 inches shall not be moved on the highway between the hours of sunset and sunrise.

(c) The total outside width of the load of any vehicle hauling concrete pipe or unprocessed logs, pulpwood or wood bolts shall not exceed 104 inches.

(d) Whenever pneumatic tires, in substitution for the same type or other type of tires, have been heretofore or are hereafter placed upon a vehicle in operation upon the effective date of this chapter, the maximum width from the outside of 1 wheel and tire to the outside of the opposite wheel and tire shall not exceed 102 inches, but in such event the outside width of the body of such vehicle or the load thereon shall not exceed 96 inches.

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(e) Incorporated cities and municipalities may by ordinance permit the operation within their respective jurisdiction of any trackless trolley, coach, gas or diesel, with a maximum outside width of not to exceed 102 inches; and the Michigan public service commission may permit the operation of motor buses in suburban service, within a radius of 30 miles from the corporate limits of any such city or village, with a maximum outside width of not to exceed 102 inches on highways and streets the width of which is 20 feet or more.

(f) Notwithstanding any other provision of this act, no vehicle or farm tractor, farm implement or machinery shall extend beyond the center line of any state trunk line highway except when legally authorized by law. If the width of the farm implement or machinery would make it impossible to stay away from the center line, a permit shall be obtained under section 725.

HISTORY: New 1949, p. 583, Act 300, Eff. Sep. 23;—Am. 1951, p. 86, Act 66, Eff. Sep. 28;—Am. 1952, p. 75, Act 69, Imd. Eff. Apr. 8;—Am. 1953, p. 294, Act 206, Imd. Eff. Jun. 10;—Am. 1954, p. 109, Act 92, Eff. Aug. 13;—Am. 1964, p. 297, Act 222, Eff. Aug. 28;—Am. 1966, p. 320, Act 237, Eff. Mar. 10, 1967.

257.718 Passenger-type vehicles; projecting load.

Sec. 718. No passenger-type vehicle shall be operated on any highway with any load carried thereon extending beyond the line of the fenders on the left side of such vehicle nor extending more than 6 inches beyond the line of the fenders on the right side thereof.

HISTORY: New 1949, p. 583, Act 300, Eff. Sep. 23.

257.719 Height of vehicles; liability for damages to bridges.

Sec. 719. (a) No vehicle unloaded or with load shall exceed a height of 13 feet 6 inches. The owner of any vehicle which collides with any lawfully established bridge or viaduct shall be liable for all damage and injury resulting from any collision caused by the height of the vehicle, whether the clearance of the bridge or viaduct is posted or not.

Length; combinations; roads, restrictions.

(b) No vehicle, except a trailer or semitrailer, including load shall exceed a total length of 40 feet. No combination of truck-tractor and trailer or semitrailer including load shall exceed a total length of 55 feet, except that a combination of truck-tractor, semitrailer and trailer or truck and semitrailer or trailer including load may exceed a total length of 55 feet but shall not exceed a total length of 65 feet. Any combination exceeding 55 feet in length, unless designed and used exclusively to transport assembled motor vehicles or bodies, may be operated only on such highways and routes as shall be approved and designated for such operation by the state highway commission and by local authorities with respect to highways under their jurisdictions. No motor truck or tractor or other motor propelled vehicle shall haul more than 1 trailer and 1 semitrailer at any one time except that a farm tractor may haul 2 wagons or trailers or garbage and refuse haulers may, during daylight hours, haul up to 4 trailers for garbage and refuse collection purposes, not exceeding in any combination a total length of 55 feet at a speed of not to exceed 15 miles per hour. Incorporated cities and municipalities may by ordinance permit the operation within their respective jurisdictions of any trackless trolley coach with a maximum overall length, inclusive of front and rear bumpers, of not to exceed 40 feet.

Load projecting beyond front of vehicle.

(c) No train of vehicles or vehicle operated alone shall carry any load extending more than 3 feet beyond the front thereof.

Rear bumpers; distance from roadway.

(d) No motor vehicle, trailer or semitrailer whose frame or body extends more than 60 inches beyond the rear of the rear axle thereof and is more than 42 inches above

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the roadway shall be operated on the highways of this state unless equipped with a fender or bumper on the extreme rear of such frame or body. Such bumper shall extend downward from the rear of such frame or body to within 30 inches of the roadway and be of substantial construction.

Assembled vehicles, bodies, boats; roads, restrictions.

(e) Notwithstanding any other provisions of this section, it shall be lawful to operate a combination of truck-tractor and trailer or semitrailer, designed and used exclusively to transport assembled motor vehicles or bodies or boats which does not exceed a total length of 60 feet. The load on any such combination of vehicles may extend an additional 3 feet beyond the front or rear thereof. It shall be lawful to operate a combination of truck-tractor, semitrailer and trailer or truck and semitrailer or trailer designed and used exclusively to transport assembled motor vehicles or bodies or boats, which does not exceed a total length of 65 feet. The load on any such combination of vehicles may extend an additional 3 feet beyond the front thereof. Any combination exceeding 60 feet in length may be operated only on such highways and routes as shall be approved and designated for such operation by the state highway commission and by local authorities with respect to highways under their jurisdiction.

Maximum axles for combinations.

(f) Notwithstanding any other provision of this act, in no case shall a combination of vehicles have in excess of 11 axles.

Transporting by towbar or saddlemounts; restrictions.

(g) Notwithstanding any other provisions of this section, a number of motor vehicles, wholly or partially assembled, may be transported over the highways of this state in combination, utilizing 1 towbar or 3 saddlemounts with full mount mechanisms and utilizing the motive power of 1 of the vehicles in combination. The combination may not exceed the maximum length of 65 feet for the transportation of assembled motor vehicles, and the vehicles in such combination shall be adequately and securely fastened together in compliance with regulations of the state and of any federal agency having jurisdiction over such transportation. When motor vehicles are towed by means of triple saddlemounts, the towed vehicles shall have brakes acting on all wheels which are in contact with the roadway. Any combination exceeding 55 feet in length may be operated only on such highways and routes as shall be approved and designated for such operation by the state highway commission and by local authorities with respect to highways under their jurisdiction.

Combinations, gross weight, formula.

(h) The total gross weight of any 65-foot combination of vehicles shall not exceed a ratio of 400 pounds per engine net horsepower delivered to clutch or its equivalent specified in the SAE test code.

HISTORY: New 1949, p. 584, Act 300, Eff. Sep. 23;—Am. 1951, p. 44, Act 43, Eff. Sep. 28;—Am. 1954, p. 137, Act 111, Imd. Eff. Apr. 15;—Am. 1955, p. 309, Act 208, Imd. Eff. Jun. 17;—Am. 1956, p. 255, Act 141, Imd. Eff. Apr. 16;—Am. 1957, p. 416, Act 291, Eff. Sep. 27;—Am. 1958, p. 96, Act 88, Imd. Eff. Apr. 11;—Am. 1964, p. 93, Act 94, Eff. Aug. 28;—Am. 1966, p. 103, Act 79, Imd. Eff. Jun. 14;—Am. 1966, p. 82, Act 43, Imd. Eff. May 21;—Am. 1969, p. 108, Act 59, Imd. Eff. Jul. 21;—Am. 1970, p. 161, Act 70, Imd. Eff. Jul. 12.

257.719a Mobile homes; size; permit for oversize; definition.

Sec. 719a. (a) Notwithstanding any other provisions of this act, no person shall operate a towing vehicle, having attached a mobile home having a body length in excess of 45 feet and having a combined length of over 60 feet, a realistic body width of over 100 inches at base rail and a height of over 12 ½ feet on the highways of this state. The jurisdictional authority may issue permits herein required as a prerequisite for the movement of over-length mobile homes to mobile home transport companies, mobile home manufacturers and dealers and in the ordinary course of their business when requested permitting mobile homes to a width of 12 feet plus normal appurtenances not to exceed 6 inches and permitting mobile homes to a realistic body length of 65 feet

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and having a combined length of 85 feet and permitting combinations of prebuilt housing modules having a total length not to exceed 65 feet and having a combined length of 85 feet. Any such permit shall be issued only upon condition that the permittee comply with standard requirements and limitations of law, to insure the operation of any mobile home under permit in a manner which will not impede traffic on the highways and with safety in the movement of any mobile home, and only between sunrise and sunset on the days other than Saturday, Sunday and holidays, and over such roads as are approved by the state highway commissioner. The provisions of this section relating to widths beyond 10 feet 5 inches, including normal appurtenances shall not be applicable to highways which are designated as a part of the national system of interstate and defense highways. The distance between mobile home axle centers shall not be less than 34 inches. This section shall not grant or give authority to the state highway commissioner that did not exist on July 1, 1956, in accordance with the provisions of title 23 United States code, section 127.

(b) The term "mobile home" as used in this section shall be construed to mean a prebuilt housing module or a home which is designed to be transported by any motor vehicle upon a public highway and designed, equipped and used for sleeping, eating and living quarters, or is intended to be so used.

HISTORY: Add. 1954, p. 137, Act 111, Imd. Eff. Apr. 15;—Am. 1963, p. 96, Act 84, Imd. Eff. May 8;—Am. 1969, p. 318, Act 156, Eff. Mar. 20, 1970.

257.720 Spilling load on highway prohibited; logs and tubular products.

Sec. 720. (a) No vehicle shall be driven or moved on any highway unless such vehicle is so constructed or loaded as to prevent its contents from dropping, sifting, leaking or otherwise escaping therefrom.

(b) It shall be unlawful to operate on the highways of this state any motor vehicle carrying logs or tubular products, unless the following conditions are complied with:

(1) In case they are loaded crosswise or at right angles to the side of the vehicle, such logs or tubular products shall be securely fastened to the body or frame of the vehicle with not less than 2 binders, each of sufficient length to completely encircle them.

(2) In case they are loaded lengthwise of the vehicle, obliquely or parallel to the sides, such logs or tubular products shall be securely fastened to the body or frame of the vehicle with not less than 2 toggle binders and 1 wrapping binder of sufficient length to completely encircle them.

(3) The toggle and wrapping binders shall be made of steel chain or a combination of steel chain and wire rope, each shall be not less than 3/8 of an inch in diameter and each shall have a breaking strength of not less than 12,000 pounds.

HISTORY: New 1949, p. 584, Act 300, Eff. Sep. 23;—Am. 1959, p. 318, Act 215, Imd. Eff. Jul. 30.

257.721 Trailers towed by passenger vehicle; attachment.

Sec. 721. (a) No passenger vehicle shall be driven upon any highway drawing or having attached thereto more than 1 vehicle or trailer.

(b) The draw bar or other connection between any 2 vehicles, 1 of which is towing or drawing the other on a highway, shall not exceed 15 feet in length from 1 vehicle to the other. Whenever such connection consists of a chain, rope or cable, there shall be displayed upon such connection a red flag or other signal or cloth not less than 12 inches both in length and width.

(c) Every vehicle or trailer drawn by any motor propelled vehicle must be so attached to such vehicle with such forms of coupling devices as will prevent such vehicle or trailer from being deflected more than 6 inches from the path of the towing vehicle's wheels. Such vehicle or trailer must also be connected to the towing vehicle, by suitable safety chains or devices, 1 on each side of the coupling and at the extreme

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outer edge of the vehicle and each such chain or device and connection so used shall be of sufficient strength to haul the trailer when loaded.

HISTORY: New 1949, p. 584, Act 300, Eff. Sep. 23.

257.722 Wheel and axle loads; restrictions.

Sec. 722. (a) In no case shall the maximum axle load exceed the number of pounds designated in the following provisions which prescribe the distance between axles:

(1) When the axle spacing is 9 feet or over between axles, the maximum axle load shall not exceed 18,000 pounds for vehicles equipped with high pressure pneumatic or balloon tires.

(2) When the axle spacing is less than 9 feet between 2 axles but more than 3 ½ feet, the maximum axle load shall not exceed 13,000 pounds for high pressure pneumatic or balloon tires.

(3) When 2 axles are spaced less than 3 ½ feet apart the combined weight thereof shall not exceed the maximum weights as specified for a single axle when spaced 9 feet or more apart.

(4) The foregoing shall be known as the normal loading maximum.

(b) When such normal loading is in effect the state highway commission and local authorities with respect to highways under their jurisdiction shall have the authority to designate certain highways, or sections thereof where bridges and road surfaces are adequate for heavier loading, which designation may be revised as needed, on which the maximum tandem axle assembly loading shall not exceed 16,000 pounds for any axle of such assembly.

(c) On any legal combination of vehicles, only 1 tandem axle assembly shall be permitted on such designated highways at the gross permissible weight of 16,000 pounds for any such axle and no other tandem axle assembly in such combination of vehicles shall exceed a gross weight of 13,000 pounds for any such axle. When the maximum gross weight of a tractor semitrailer combination of vehicles with load does not exceed 73,280 pounds, 2 tandem axle assemblies shall be permitted on such designated highways at a gross permissible weight of 16,000 pounds for any such axle.

(d) The normal size of tires shall be the rated size as published by the manufacturers and in no case shall the maximum wheel load permissible for any wheel exceed 700 pounds per inch of width of tire.

(e) During the months of March, April and May in each year, the maximum axle load allowable on concrete pavements, or pavements with a concrete base, shall be reduced by 25% from the maximum axle loads as specified heretofore in this chapter and the maximum axle loads allowable on all other types of roads during these months shall be reduced by 35% from the maximum axle loads as herein specified. The maximum wheel load shall not exceed 525 pounds per inch of tire width on concrete and concrete base or 450 pounds per inch of tire width on all other roads during the period the seasonal road restrictions are in effect.

(f) The state highway commission or county road commission, with respect to highways under their jurisdiction, may suspend the restrictions imposed by this section when and where in their discretion conditions of the highways so warrant and may impose the restricted loading requirements of this section on designated highways at any other time that the conditions of the highway may require.

(g) For the purpose of enforcement of this act, the gross vehicle weight of a single vehicle and load or a combination of vehicles and loads, shall be determined by weighing individual axles or groups of axles and the total weight on all the axles shall be the gross vehicle weight.

HISTORY: New 1949, p. 584, Act 300, Eff. Sep. 23;—Am. 1965, p. 51, Act 36, Imd. Eff. May 19;—Am. 1967, p. 541, Act 277, Eff. Nov. 2.

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257.723 Information painted on certain trucks and other vehicles as to owner or lessee.

Sec. 723. (a) All motor trucks, tractors, trailers or semitrailers, except as hereinafter provided in paragraph (b) of this section, of more than 3,500 pounds weight now operating or hereafter placed in operation upon the public highways of this state shall have painted upon them information relative to name and address of registered owner of vehicle, and lessee of vehicle, if vehicle is being operated under lease, in letters of at least 3 inches in height. This information shall be conspicuously placed upon the vehicle.

(b) This section shall not apply to trucks eligible for and equipped with farm commercial license plates.

HISTORY: New 1949, p. 585, Act 300, Eff. Sep. 23;—Am. 1983, p. 273, Act 185, Eff. Sep. 6.

257.724 Stopping vehicles for weighing.

Sec. 724. (a) Any police officer or any duly authorized agent of the state highway department or a county road commission having reason to believe that the weight of a vehicle and load is unlawful may require the driver to stop and submit to a weighing of the same by means of either portable or stationary scales approved and sealed by the state department of agriculture as a legal weighing device and may require that such vehicle be driven to the nearest weighing station of the state highway department for the purpose of allowing said officer or agent of the state highway department or county road commission to determine whether such conveyance is loaded in conformity with the provisions of this chapter.

Overweight vehicle, unloading; bond; impounding.

(b) Whenever the officer or agent upon weighing a vehicle and load determines that the weight is unlawful, the officer or agent may require the driver to stop the vehicle in a suitable place and remain standing until such portion of the load is shifted or removed as may be necessary to reduce the gross axle load weight of such vehicle to the limit permitted under this chapter. All material so unloaded shall be cared for by the owner or operator of such vehicle at the risk of such owner or operator. Any judge or magistrate imposing a fine and costs under this section which are not paid in full immediately or for which a bond is not immediately posted in double the amount of such fine and costs, shall order the driver or owner to move the vehicle at his own risk to a place of safekeeping within the jurisdiction of the judge or magistrate, inform the judge or magistrate in writing of the place of safekeeping, and there keep the vehicle until the fine and costs are paid or sufficient bond furnished or until the judge or magistrate shall be satisfied that the fine and costs will be paid. The officer or agent who has determined, after weighing a vehicle and load, that the weight is unlawful, may require the driver to proceed to a magistrate within the county. If the magistrate is satisfied that the probable fine and costs will be paid by the owner or lessee, he may allow the driver to proceed, after the load has been made legal. If the magistrate is not satisfied that the owner or lessee, after a notice and a right to be heard on the merits is given, will pay the amount of the probable fine and costs, the magistrate may order the vehicle to be impounded until trial on the merits is completed under conditions set forth in this section for the impounding of such vehicles after the fine and costs have been imposed. Removal of the vehicle, and forwarding, care or preservation of the load shall be under the control of and at the risk of the owner or driver. Vehicles impounded shall be subject to a lien, subject to any prior valid bona fide lien of prior record in the amount of such fine and costs and if the same are not paid within 90 days after such seizure, said judge or magistrate shall certify such unpaid judgment to the prosecuting attorney of the county in which the violation occurred, who shall proceed

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to enforce the lien by foreclosure sale in accordance with procedure authorized in the case of chattel mortgage foreclosures.

When such duly authorized agent of the state highway department or county road commission is performing his duties under this chapter he shall have all the powers conferred upon peace officers by the general laws of this state.

Fines for excess weight; discretionary power.

(c) Any owner of any vehicle as defined in this act, or any lessee of the vehicle of an owner-operator, who causes or allows a vehicle to be loaded and driven or moved on any highway, when the weight of that vehicle violates the provisions of section 722 is guilty of a misdemeanor and upon conviction thereof shall be assessed a fine in an amount equal to 2 cents per pound for each pound of excess load over 1,000 pounds when the excess is 2,000 pounds or less; 4 cents per pound of excess load when the excess is over 2,000 pounds but not over 3,000 pounds; 6 cents per pound for each pound of excess load when the excess is over 3,000 pounds but not over 4,000 pounds; 8 cents per pound for each pound of excess load when the excess is over 4,000 pounds but not over 5,000 pounds; 10 cents per pound for each pound of excess load when the excess is over 5,000 pounds. However, the court shall have discretionary power as to the amount of the fine within the aforesaid schedule and may impose the fine or jail sentence provided by law for a misdemeanor where at the time of the violation either the motor vehicle, motor vehicle and semitrailer, or trailer did not exceed the total weight which would be lawful for each such unit by a proper distribution of the load upon the various axles supporting each such unit.

Bypass of scales or weighing station.

(d) Any driver or owner of any vehicle who knowingly fails to stop at or who knowingly bypasses any scales or weighing station is guilty of a misdemeanor.

Marked vehicles of officers.

(e) No agent or authorized representative of the state highway department or a county road commission shall stop any truck or vehicle in movement upon any road or highway within the state for any purpose, unless the agents or authorized representatives are driving a duly marked vehicle, clearly showing and denoting the branch of government they represent.

Failure to stop on request of authorized person.

(f) Any driver or owner of any vehicle who knowingly fails to stop when requested or ordered to do so by any police officer, or any duly authorized agent of the state highway department, or a representative or agent of a county road commission, authorized to require the driver to stop and submit to a weighing of his vehicle and load by means of a portable scale, is guilty of a misdemeanor.

HISTORY: New 1949, p. 585, Act 300, Eff. Sep. 23;—Am. 1951, p. 345, Act 233, Eff. Sep. 28;—Am. 1952, p. 13, Act 13, Imd. Eff. Feb. 28;—Am. 1955, p. 310, Act 209, Imd. Eff. Jun. 17;—Am. 1964, p. 297, Act 222, Eff. Aug. 28;—Am. 1967, p. 542, Act 277, Eff. Nov. 2;—Am. 1968, p. 196, Act 135, Imd. Eff. Jun. 11.

CITED IN OTHER SECTIONS: The above section is cited in § 774.1.

257.725 Special permits for nonconforming vehicles; concrete pipe; telephone, telegraph, and electric poles.

Sec. 725. (a) The state highway department, with respect to highways under its jurisdiction and the county road commissions and local authorities with respect to highways under their jurisdiction, may in their discretion, upon application in writing and good cause being shown therefor, issue a special permit in writing authorizing the applicant to operate or remove a vehicle or combination of vehicles of a size or weight of vehicle or load exceeding the maximum specified in this chapter or otherwise not in conformity with the provisions of this chapter upon any highway under the jurisdiction of said authority granting such permit and for the maintenance of which said authority is responsible.

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(b) The application for any special permit shall be on a form prescribed by said authority and shall specifically describe the vehicle or vehicles and load to be operated or moved and the particular highways upon which permit to operate is requested.

(c) The state highway commissioner, the county road commissions and local authorities, as to highways under their jurisdiction, may in their discretion issue special permits authorizing the operation upon a highway of traction engines or tractors having movable tracks with transverse corrugations upon the periphery of such movable tracks on farm tractors or other farm machinery, the operation of which upon a highway would otherwise be prohibited under this chapter.

(d) Such permit shall specify the trip or trips and date or dates for which it is to be valid and the authority granting such permit may restrict or prescribe conditions of operation of such vehicle or vehicles, when necessary to protect the safety of the public or to insure against undue damage to the road foundations, surfaces, structures or installations and may require a reasonable inspection fee and such other security as may be deemed necessary to compensate for any damages caused by such movement.

(e) It shall be lawful to transport telephone, telegraph and electric poles of a greater length as otherwise authorized over the highways in the construction, maintenance and repair of telephone, telegraph and electric lines, provided a permit is first secured therefor from the state highway commissioner, the county road commissions or local authority having jurisdiction of said highways.

(f) It shall be lawful to transport concrete pipe of a greater width than otherwise authorized over highways, providing a permit for each project is first secured therefor from the state highway commissioner, the county road commissions or local authority having jurisdiction of said highways.

(g) Every such permit shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any police officer or authorized agent of any authority granting such permit, and no person shall violate any of the terms or conditions of such special permit.

HISTORY: New 1949, p. 586, Act 300, Eff. Sep. 23;—Am. 1952, p. 75, Act 69, Imd. Eff. Apr. 8;—Am. 1966, p. 320, Act 237, Eff. Mar. 10, 1967.

257.725a Transportation of farm machinery and implements by dealers; annual permits.

Sec. 725a. Upon application, the state highway department shall issue annual permits authorizing farm implement dealers to transport by truck or trailer upon those portions of state highways which are not a part of the interstate highway system during daylight hours, farm machinery or implements of a greater width or height than authorized by this act.

HISTORY: Add. 1958, p. 147, Act 132, Imd. Eff. Apr. 18;—Am. 1959, p. 383, Act 250, Imd. Eff. Aug. 21.

257.726 Restrictions by local authorities on certain commercial vehicles on posted highways.

Sec. 726. Local authorities and county road commissions with respect to highways under their jurisdiction, except state trunk line highways, may by ordinance or resolution, prohibit the operation of trucks or other commercial vehicles, or may impose limitations as to the weight thereof on designated highways, which prohibitions and limitations shall be designated by appropriate signs placed on such highways.

HISTORY: New 1949, p. 587, Act 300, Eff. Sep. 23.

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257.726a Boundary line highways; authority of peace officer.

Sec. 726a. A peace officer of any county, city or village of this state may exercise authority and powers outside his own county, city or village, when he is enforcing this act on a street or highway which is on the boundary of the county, city or village, the same as if he were in his own county, city or village.

HISTORY: Add. 1968, p. 88, Act 47, Imd. Eff. May 28.

257.727 Arrest without warrant; examination before magistrate or probate court; release from custody.

Sec. 727. Whenever any person is arrested without a warrant for any violation of this act or of a provision of any ordinance substantially corresponding to any provision of this act, punishable as a misdemeanor, the arrested person shall, without unreasonable delay, be taken before a magistrate or probate court within the county in which the offense charged is alleged to have been committed and who has jurisdiction of such offense and is nearest or most accessible with reference to the place where said arrest is made, in any of the following cases:

(1) When the person is arrested upon a charge of negligent homicide.

(2) When the person is arrested under section 625.

(3) When a person is arrested upon a charge of reckless driving, if under the existing circumstances it does not appear that releasing such person pending the issuance of a warrant will constitute a public menace. The arresting officer may proceed in such cases as provided by section 728.

(4) When a person arrested does not have in his immediate possession a valid operator's or chauffeur's license. If the arresting officer otherwise satisfactorily determines the identity of such person and the practicability of subsequent apprehension in the event of failure to voluntarily appear before a designated magistrate or probate court as directed, the officer may release such person from custody with instructions to appear in court, given in writing as prescribed by section 728.

HISTORY: New 1949, p. 587, Act 300, Eff. Sep. 23;—Am. 1951, p. 471, Act 270, Eff. Sep. 28;—Am. 1965, p. 58, Act 41, Imd. Eff. May 25.

CITED IN OTHER SECTIONS: The above section is cited in § 780.587.

257.727a Traffic violations; citation; numbering, form; number and use of copies; modification.

Sec. 727a. As used in the following section a "citation" means a complaint or notice upon which a police officer shall record an occurrence involving 1 or more vehicle law violations by the person cited. Each citation shall be numbered consecutively, be in such form as determined by the secretary of state, the attorney general, the state court administrator and the director of the department of state police and shall consist of the following parts:

(1) The original which shall be a complaint or notice to appear by the officer and filed with the court.

(2) The first copy which shall be the abstract of court record.

(3) The second copy which shall be retained by the local traffic enforcement agency.

(4) The third copy which shall be delivered to the alleged violator.

Such citation may be appropriately modified as to content or number of copies to accommodate law enforcement and local court procedures and practices.

HISTORY: Add. 1966, p. 313, Act 235, Eff. Jul. 1, 1967.

257.727b Issuance of citation books to traffic law enforcement officers; receipt, form.

Sec. 727b. Each police chief, including the state police, and each sheriff shall issue citation books to each police officer of his department whose duties may or will in-

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clude traffic duty or traffic law enforcement. Each police chief shall obtain a receipt from such officer to whom a citation book has been issued upon a form also created by the aforementioned officials.

HISTORY: Add. 1966, p. 313, Act 235, Eff. Jul. 1, 1967.

257.727c Citation; definition; numbering; form; copies; modifications; use for non-moving violations.

Sec. 727c. As used in the following section a "citation" means a complaint or notice upon which a police officer shall record an occurrence involving 1 or more vehicle law violations by the person cited. Each citation shall be numbered consecutively, be in such form as determined by the secretary of state, the attorney general, the state court administrator and the director of the department of state police and shall consist of the following parts:

(1) The original which shall be a complaint or notice to appear by the officer and filed with the court.

(2) The first copy which shall be the abstract of court record.

(3) The second copy which shall be retained by the local traffic enforcement agency.

(4) The third copy which shall be delivered to the alleged violator.

With the prior approval of the aforementioned state officials, such citation may be appropriately modified as to content or number of copies to accommodate law enforcement and local court procedures and practices. Use of this citation for other than moving violations is optional.

HISTORY: Add. 1967, p. 307, Act 212, Eff. Nov. 2.

257.728 Arrest without warrant for misdemeanor violations; duties of arresting officer; appearance before magistrate or probate court in lieu of citation.

Sec. 728. (a) Whenever a person is arrested without a warrant for any violation of this act punishable as a misdemeanor, or of a provision of any ordinance substantially corresponding to any provision of this act, under conditions not referred to in sections 617 and 619 and subdivisions 1, 2 and 3 of section 727, the arresting officer shall prepare, as soon as possible and as completely as possible, an original and 3 copies of a written citation to appear in court containing the name and address of such person, the offense charged, and the time and place when and where such person shall appear in court. The officer shall inform the offender of the violation and shall give the third copy of the citation to the alleged offender. If such arrested person so demands, he shall be taken before a magistrate or probate court as provided in section 727 in lieu of being given such citation.

Time to appear.

(b) The time specified in the citation to appear shall be within a reasonable time after such arrest unless the person arrested shall demand an earlier hearing.

Place of appearance.

(c) The place specified in the citation to appear shall be before a magistrate within the township or county or probate court of the county in which the offense charged is alleged to have been committed and who has jurisdiction of such offense.

Appearance in person, by representation or mail.

(d) Appearance may be made in person, by representation or by mail. When appearance is made by representation or mail, the magistrate may accept the plea of guilty or not guilty for purposes of arraignment, with the same effect as though the person personally appeared before him. The magistrate, by giving 5 days' notice of the date of

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appearance, may require appearance in person at the time and place designated in the citation.

Nonresidents; guaranteed appearance certificate or cash; procedure.

(e) When any person not a resident of this state shall be arrested without warrant for any violation of this act under conditions not referred to in section 727, or of a provision of any ordinance substantially corresponding to any provision of this act, the officer making such arrest shall upon demand of such arrested person forthwith take such person before a magistrate of the vicinity to answer to the complaint made against him. If no magistrate is available or such immediate trial cannot be had, the person so arrested may recognize to such officer for his appearance by leaving with him a guaranteed appearance certificate or a sum of money not to exceed $25.00.

(1) The officer making such arrest shall give a receipt to the person arrested for the guaranteed appearance certificate or the moneys so deposited with him together with a written summons as hereinbefore provided.

(2) If the offender fails to appear as therein required, such guaranteed appearance certificate or deposit shall be forfeited as in other cases of default in bail in addition to any other penalty provided in this chapter.

(3) The officer taking a certificate or deposit shall within 48 hours thereafter deliver the same to the magistrate named in the summons together with a report of the facts relating to such arrest, and failure to make such report and deliver such deposit shall be deemed embezzlement of public money.

(4) "Guaranteed appearance certificate" means any card or certificate containing a printed statement that a surety company authorized to do business in this state guarantees the appearance of the person whose signature appears on the card or certificate, and that such company will, if such person fails to appear in court at the time of trial, pay any fine or forfeiture imposed on such person in an amount not to exceed $200.00.

Fees; magistrate's fee.

(f) Notwithstanding any provision of law to the contrary, any officer making an arrest under this chapter without a warrant, except under paragraphs 1, 2 and 3 of section 727, shall not be entitled to any fees for making such arrest and the magistrate shall be entitled to a fee of $2.00 where no trial on the merits takes place in proceedings under sections 223, 225, 228, 311, 315, 672, 673, 674 and 675.

Violation by officer or magistrates.

(g) Any officer or magistrate violating any of the provisions of this section shall be guilty of misconduct in office and shall be subject to removal from office.

Issuance of citation in accident cases; contents; adjournments.

(h) A police officer may issue a citation to a person who is a driver of a motor vehicle involved in an accident when, based upon personal investigation, the officer has reasonable and probable grounds to believe that the person has committed an offense under the act in connection with the accident. The officer shall prepare an original and 3 copies of the citation, setting forth the name and address of such person, the offense that may be charged against him and the time and place of the appearance of such person in court. The citation shall inform such person of the office, bureau or department to which requests for a change or adjournment of the court date must be made.

Same; content, form; witness fees.

(i) A police officer may issue a citation to any driver of a motor vehicle involved in an accident when, based upon personal investigation, the officer has reasonable grounds to believe that an offense has been committed under the act in connection with the accident. The officer shall prepare an original and 3 copies of the citation,

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setting forth the name and address of such person, the offense that may be charged against the respondent and the time and place of the appearance of such driver in court. The citation shall inform such driver of the office, bureau or department to which requests for a change or adjournment of the court date must be made. This citation shall in printed form, prominently displayed, inform the person that such citation is not a criminal complaint, warrant or ticket of arrest. The driver of the motor vehicle who receives a citation under this subsection shall be paid regular witness fees by the court for each day he appears in court in compliance with such citation.

HISTORY: New 1949, p. 587, Act 300, Eff. Sep. 23;—Am. 1951, p. 472, Act 270, Eff. Sep. 28;—Am. 1955, p. 186, Act 121, Eff. Oct. 14;—Am. 1957, p. 54, Act 47, Eff. Sep. 27;—Am. 1962, p. 162, Act 160, Imd. Eff. May 10;—Am. 1965, p. 59, Act 41, Imd. Eff. May 25;—Am. 1965, p. 467, Act 273, Eff. Mar. 31, 1966;—Am. 1966, p. 313, Act 235, Eff. Jul. 1, 1967.

CITED IN OTHER SECTIONS: The above section is cited in §§ 712A.2b and 780.587.

257.728a Citation; delivery of copies to police chief; deposit of original with court; spoiled, mutilated or void citations.

Sec. 728a. At or before the completion of his tour of duty a police officer to whom a citation book has been issued and who has recorded the occurrence of a vehicle law violation upon a citation shall deliver to his police chief or to the person duly authorized by him all copies of such citation duly signed. The police chief or person authorized by him shall deposit the original of the citation, together with the copy designated for the department of state's motor vehicles record, with the court having jurisdiction over the offense not later than 2 days after the date of the citation, Sundays and legal holidays excepted.

If a police officer arrests any person without a warrant for any vehicle law violation, such arrest shall be noted on the complaint or notice.

If a citation is spoiled, mutilated or voided, it shall be endorsed with a full explanation thereof by the police officer voiding such citation, and shall be duly accounted for to his police chief or authorized designee.

Nothing in this act shall prevent a person other than a police officer from applying for a criminal complaint for a vehicle law violation, and such person need not show that the alleged offender has been issued a citation in connection with such offense.

HISTORY: Add. 1966, p. 315, Act 235, Eff. Jul. 1, 1967.

257.728b Establishment of procedures to insure accountability; maintenance of citation records.

Sec. 728b. The state treasurer shall establish procedures to insure accountability which shall be maintained by all jurisdictions processing traffic violation citations. The record showing the issuance and subsequent disposition shall be maintained complete for at least the most recent 5-year period and such records and notices shall be available for public inspection.

HISTORY: Add. 1966, p. 315, Act 235, Eff. Jul. 1, 1967.

257.728c Audit of citation records.

Sec. 728c. A complete audit of such citation records shall be made at least annually by the appropriate fiscal officer of the governmental agency to which the traffic enforcement agency is responsible; and may be audited by the state treasurer if deemed by him to be necessary.

HISTORY: Add. 1966, p. 315, Act 235, Eff. Jul. 1, 1967.

257.728d Falsification of citation or record of issuance; penalty.

Sec. 728d. Whoever knowingly falsifies a citation or copies thereof or a record of the issuance of same, or disposes of such citation, copy or record, in a manner other

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than as required in this act, or attempts so to falsify or dispose, or attempts to incite or procure another so to falsify or dispose shall be fined not more than $500.00 or imprisoned in the county jail for a term not to exceed 1 year, or both.

HISTORY: Add. 1966, p. 316, Act 235, Eff. Jul. 1, 1967.

257.728e Citations; pleas; sworn complaints; warrants for arrest.

Sec. 728e. When under the provisions of section 728 an officer issues a citation, a magistrate may accept a plea of guilty or not guilty upon the citation, without the necessity of a sworn complaint but the officer shall sign the complaint before the magistrate makes his docket return thereon. If the offender pleads not guilty, no further proceedings may be had until a sworn complaint is filed with the magistrate. A warrant for arrest shall not issue for any offense under this act until a sworn complaint is filed with the magistrate.

HISTORY: Add. 1967, p. 305, Act 211, Eff. Nov. 2.

257.729 Failure to appear; new license not issued during default; fine and cost.

Sec. 729. Upon failure of any person to appear before a magistrate as hereinbefore provided in this chapter, the magistrate shall notify the secretary of state upon forms prescribed by him who shall not issue a new license to such person during his default to appear and answer such charge. In addition to any fine assessed for such charge when found guilty, the magistrate may also add to any fine and costs levied additional costs incurred in compelling the appearance of the accused which additional costs shall be returned to the general fund of the unit of government incurring such costs.

HISTORY: New 1949, p. 588, Act 300, Eff. Sep. 23;—Am. 1951, p. 472, Act 270, Eff. Sep. 28;—Am. 1967, p. 159, Act 129, Eff. Nov. 2.

257.730 Warrant for arrest.

Sec. 730. The foregoing provisions of this chapter shall govern all police officers in making arrests without a warrant for violations of this chapter and nothing herein contained shall be construed as preventing the execution of a warrant for the arrest of such person as in other cases of misdemeanors when the same may be necessary.

HISTORY: New 1949, p. 588, Act 300, Eff. Sep. 23.

257.731 Evidence of conviction for violations pertaining to use of motor vehicles; inadmissible in civil actions.

Sec. 731. No evidence of the conviction of any person for any violation of this chapter or of a local ordinance pertaining to the use of motor vehicles shall be admissible in any court in any civil action.

HISTORY: New 1949, p. 588, Act 300, Eff. Sep. 23;—Am. 1953, p. 56, Act 60, Eff. Oct. 2.

257.732 Motor vehicle act violations; records.

Sec. 732. (a) Every magistrate or judge of a court not of record and every clerk of a court of record shall keep a full record of every case in which a person is charged with any violation of this act or of any other law corresponding thereto regulating the operation of vehicles on highways.

Abstract of record to secretary of state; money paid, reports.

(b) Within 10 days after the conviction or forfeiture of bail of, or entry of probate court findings as to, a person upon a charge of violating any provision of this act or any city or village ordinance corresponding thereto regulating the operation of vehicles on highways every said magistrate of the court or clerk of the court of record in which such conviction was had or bail was forfeited shall prepare and immediately forward to the department an abstract of the record of said court covering the case in which said person was so convicted or forfeited bail or in which probate court findings were made, which abstract must be certified by the person so required to prepare the same

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to be true and correct. Such abstract need not be made of any conviction involving the illegal parking or standing of a vehicle.

Whenever any city or village department, bureau or person is authorized to accept payments of money, as settlements for violations of local ordinances or regulations corresponding to the provisions of this act, such city or village department, bureau or person shall send a full report of every case in which any person pays any amount of money to such city or village department, bureau or person to the department upon forms prescribed by the department.

Form of abstract or report; contents.

(c) Said abstract or report must be made upon a form furnished by the department and shall include the name and address of the party charged, the number, if any, of his operator's and chauffeur's license, the nature of the offense, the date of hearing, the plea, the judgment, or whether bail forfeited and the amount of the fine or forfeiture and probate court findings and such other information as is necessary to the department.

Abstract or report furnished by court of record.

(d) Every court of record shall also forward an abstract of the record of said court to the department upon the conviction of, or probate court findings, any person of any violation of this act, manslaughter, negligent homicide or any felony in the commission of which a vehicle was used.

Failure or refusal to file report, penalty.

(e) The failure, refusal or neglect of any person to comply with any of the requirements of this section shall constitute misconduct in office and shall be ground for removal therefrom.

Abstracts, where kept; public inspection.

(f) The department shall keep all abstracts received hereunder at its main office and the same shall be open to public inspection during reasonable business hours.

Reversal of conviction or probate court finding on appeal; certified copy.

(g) If any conviction or probate court findings shall be reversed upon appeal therefrom the person whose conviction has been so reversed may serve on the secretary of state a certified copy of the order of reversal, whereupon the secretary of state shall enter the same in the proper book or index in connection with the record of such conviction.

Court reporting of convictions, forfeitures and settlements; modifications; form of notice.

(h) The secretary of state is authorized to permit such department, bureau or person or such justice of the peace, police judge or court to modify the foregoing requirement as to the time and manner of reporting convictions, forfeitures and settlements, and probate court findings to the department when such modification will increase the economy and efficiency of collecting and utilizing such records. When the permitted abstract of court record reporting a conviction, forfeiture or settlement originates as a part of the written notice to appear, authorized in subsection (a) of section 728, the form of the written notice and report shall be as prescribed by the secretary of state.

HISTORY: New 1949, p. 588, Act 300, Eff. Sep. 23;—Am. 1951, p. 472, Act 270, Eff. Sep. 28;—Am. 1965, p. 60, Act 41, Imd. Eff. May 25, —Am. 1965, p. 589, Act 309, Eff. Mar. 31, 1966.

CITED IN OTHER SECTIONS: The above section is cited in § 712A.2b.

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CHAPTER VII.
REGISTRATION FEES

257.801 Registration fees.

Sec. 801. The secretary of state shall collect the following specific taxes at the time of registering a vehicle, which shall exempt it from all other taxation, either state or local, except the fees and taxes provided by law to be paid by certain carriers operating motor vehicles and trailers under Act No. 254 of the Public Acts of 1933, as amended, being sections 475.1 to 479.49 of the Compiled Laws of 1948, and except as herein otherwise provided by this act.

Generally; minimum.

(a) For each motor vehicle, except as hereinafter otherwise provided, 55 cents per 100 pounds of empty weight thereof, or $12.00 whichever is greater.

Trailer coaches; habitations not exempt from property tax.

(b) For each trailer coach attached to a motor vehicle 40 cents per 100 pounds of empty weight thereof. Trailer coaches not under the provisions of Act No. 243 of the Public Acts of 1959, as amended, being sections 125.1001 to 125.1097 of the Compiled Laws of 1948, and while located on land otherwise assessable as real property under Act No. 206 of the Public Acts of 1893, as amended, being sections 211.1 to 211.157 of the Compiled Laws of 1948, when such trailer coaches are used as habitations, and whether or not permanently affixed to the soil, shall not be exempt from real property taxes.

Road tractor, truck or truck tractor for farms.

(c) For each road tractor, truck or truck tractor, owned by a farmer and used exclusively in connection with the farming operations of such farmer or used for the transportation of the farmer and his family and not used for hire, 55 cents per 100 pounds of empty weight thereof.

Hearses and ambulances.

(d) For each hearse or ambulance used exclusively by a licensed funeral director in the general conduct of the licensee's business as such, including such hearses or ambulances the owners of which are engaged in the business of leasing or renting the same to others, 90 cents per 100 pounds of the empty weight thereof.

State or municipally owned; municipal franchise operation.

(e) For each motor vehicle owned and operated by the state of Michigan, state institution or municipality thereof, $1.00 per set; and for each motor vehicle operating under municipal franchise, weighing up to 2,500 pounds, 65 cents per 100 pounds of the empty weight thereof, weighing 2,500 to 4,000 pounds, 80 cents per 100 pounds of the empty weight thereof, weighing 4,000 to 6,000 pounds, $1.00 per 100 pounds of the empty weight thereof, and weighing over 6,000 pounds, $1.25 per 100 pounds of the empty weight thereof.

School buses; nonprofit youth organization.

(f) Buses including station wagons, carryalls or similarly constructed vehicles owned and operated by any nonprofit parents' transportation corporation used for school purposes, parochial school or society or church Sunday school or any other grammar school, or by any incorporated nonprofit youth organization, $1.00 per set, if said buses, station wagons, carryalls or similarly constructed vehicles are designated by proper signs showing the organization operating the same.

Charitable corporation, Red Cross, girl or boy scout.

(g) For each truck owned and operated free of any charge by any bona fide ecclesiastical or charitable corporation, or Red Cross, girl scout or boy scout organization, 50 cents per 100 pounds of the empty weight thereof.

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Trucks.

(h) For each truck, weighing 8,000 pounds or less, and not used to tow any vehicle, for each road service vehicle designed and used to tow disabled vehicles, for each privately owned truck used to tow a trailer for recreational purposes only and not involved in any profit making venture, and for each vehicle designed and used to tow a mobile home or a trailer coach, except as hereinbefore provided, according to the following schedule of empty weights:

Empty weights	Per 100 pounds
Up to 2,500 pounds	$0.80
2,501 to 4,000 pounds	1.00
4,001 to 6,000 pounds	1.25
6,001 to 8,000 pounds	1.55
8,001 to 10,000 pounds	1.85
10,001 to 15,000 pounds	2.15
15,001 pounds and over	2.50

Farm trailers or semitrailers.

(i) For each trailer or semitrailer owned by a farmer and used exclusively in connection with the farming operations of such farmer and not used for hire:

Weights	Per 100 pounds
Up to 2,500 pounds	$0.55
Above 2,500 pounds	.90

Farm wagon.

(j) For a farm wagon drawn by a motor vehicle when used in connection with the farming operation of such farmer and not used for hire, $2.20 per wagon regardless of weight.

Trucks, road tractors, truck tractors; leases from owner-operators.

(k) For each truck weighing 8,000 pounds or less towing a trailer or any other combination of vehicles and for each truck weighing 8,001 pounds or more, road tractor or truck tractor, except as hereinbefore provided, according to the following schedule of elected gross weights:

Elected gross weight	Fee
0-24,000 pounds	$ 180.00
24,001-28,000 pounds	205.00
28,001-32,000 pounds	240.00
32,001-36,000 pounds	275.00
36,001-42,000 pounds	325.00
42,001-48,000 pounds	375.00
48,001-54,000 pounds	425.00
54,001-60,000 pounds	475.00
60,001-66,000 pounds	525.00
66,001-72,000 pounds	575.00
72,001-80,000 pounds	625.00
80,001-90,000 pounds	675.00
90,001-100,000 pounds	755.00
100,001-115,000 pounds	840.00
115,001-130,000 pounds	925.00
130,001 pounds and over	1,010.00

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The increase in fees in this subdivision by this amendatory act shall apply to all applications for registration for which plates bearing the year designation 1970 or thereafter are issued. Where a truck or road tractor without trailer is leased from an individual owner-operator, the lessee, whether person, firm or corporation, shall pay to the owner-operator 60% of the fee prescribed in this subdivision for the truck-tractor or road tractor at the rate of 1/12 for each month of the lease or arrangement in addition to the compensation the owner-operator is entitled to for the rental of his equipment.

Poletrailers, semitrailers or trailers.

(l) For each poletrailer, semitrailer or trailer, except as hereinbefore provided, according to the following schedule of rates:

Empty weights	Fee
0- 500 pounds	$ 3.75
501-1,500 pounds	7.50
1,501 pounds and over	15.00

Commercial passenger vehicles.

(m) For each commercial vehicle used for the transportation of passengers for hire, according to the following schedule of empty weights:

Empty weights	Per 100 pounds
Up to 4,000 pounds	$1.00
4,001 to 6,000 pounds	1.25
6,001 to 10,000 pounds	1.55
10,001 pounds and over	1.85

Motorcycles, motor driven cycles.

(n)	For each motorcycle	7.50
	For each motor driven cycle	3.75

Moving vans, carnivals.

(o) For each truck weighing 8,001 pounds or more, road tractor or truck tractor used exclusively as a moving van or part thereof in transporting household furniture and household effects or the equipment of those engaged in conducting carnivals, at the rate of 80% of the schedule of elected gross weights in subsection (k).

Pick-up trucks.

(p) For each pick-up truck weighing not over 4,500 pounds, 55 cents per 100 pounds empty weight or $12.00 whichever is greater.

Computation; weight certificate, structural changes.

(q) The secretary of state shall compute the tax on the basis of 100 pounds or major fraction thereof, except where specific fees are specified, and may accept the manufacturer's shipping weight thereof fully equipped for the use for which the registration

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application is made. If such weight is not correctly stated or is not satisfactory, the secretary of state shall determine the actual weight. Each application for registration of a vehicle under subsections (h), (l) and (m) above, shall have attached thereto a scale weight receipt of said vehicle fully equipped as of the time the application is made. The scale weight receipt is not necessary when there is presented with said application a registration receipt of the previous year which shows on its face the weight of the motor vehicle as registered with the secretary of state and is accompanied by a statement of applicant that there has been no structural change in the motor vehicle which has increased the weight and that the previous registered weight is the true weight.

Nothing herein contained shall exempt manufacturers from paying ad valorem taxes on vehicles in stock or bond, except on the specified number of motor vehicles registered. Dealers shall be exempt from paying ad valorem taxes on vehicles in stock or bond.

Notwithstanding any other provision of this section, the minimum specific tax per vehicle shall be $2.00, except for vehicles described in subdivisions (e) and (f).

HISTORY: New 1949, p. 589, Act 300, Eff. Sep. 23;—Am. 1951, p. 74, Act 55, Eff. Dec. 1;—Am. 1952, p. 190, Act 161, Eff. Sep. 15;—Am. 1953, p. 230, Act 179, Imd. Eff. Jun. 8;—Am. 1954, p. 347, Act 147, Eff. Aug. 13;—Am. 1956, p. 238, Act 130, Eff. Aug. 11;—Am. 1957, p. 95, Act 90, Eff. Sep. 27;—Am. 1960, p. 107, Act 104, Imd. Eff. Apr. 28;—Am. 1962, p. 67, Act 82, Eff. Mar. 28, 1963;—Am. 1963, p. 40, Act 41, Eff. Sep. 6;—Am. 1967, 1st Ex. Ses., p. 735, Act 3, Imd. Eff. Nov. 15;—Am. 1969, p. 594, Act 309, Imd. Eff. Aug. 14;—Am. 1970, p. 356, Act 106, Imd. Eff. Jul. 23.

CITED IN OTHER SECTIONS: Sections 257.801 to 257.810 are cited in §§ 247.660 and 257.972.

257.801a Registration fees; portable feed mills or mixers.

Sec. 801a. In computing the tax imposed by section 801 on portable feed mills or mixers used to grind or mix grain at the farm for use on the farm and not for resale, the secretary of state shall use the weight of the cab and chassis only.

HISTORY: Add. 1958, p. 5, Act 3, Imd. Eff. Feb. 27.

257.801b Registration fees; duplicate payments, refund procedure.

Sec. 801b. Whenever any person, through error either on his own part or that of the secretary of state, pays the specific tax required by sections 801 or 802 of this act more than once on the same equipment, the secretary of state, upon application and satisfactory proof, shall refund the amount paid in error. Said claim must be filed within 1 year from date of payment in duplicate, duly verified, and approved by the administrative board before any refund is made. Whenever an application for a dealer license provided for in section 248 is withdrawn before issuance by either the applicant or his heir or heirs fees that accompanied such application under sections 803, 803a and 807 may be refunded by the secretary of state upon application and satisfactory proof.

HISTORY: Add. 1959, p. 63, Act 64, Imd. Eff. Jun. 5.

257.802 Special plates; part year, fees.

Sec. 802. (a) For special plates or stickers issued as provided for in section 226, paragraph (c) of chapter 2 of this act there shall be paid 1/2 the tax imposed under section 801 of this chapter and in addition thereto a fee of $2.00, said fee to be credited to the general fund and used to defray the expenses of such special plates or stickers.

Commercial vehicles; exceptions.

(b) For all commercial vehicles registered after the last day in August for the period expiring the last day of February or other vehicles registered after the last day of September for the period expiring the last day of March, a tax of 1/2 the rate otherwise imposed by this act shall be collected. The provisions of this section are not applicable

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to vehicles registered by manufacturers or dealers under the provisions of sections 244 to 247 of this act.

Nonresidents; fee.

(c) For each special registration as provided for in section 226, paragraph (e) of chapter 2 of this act, a fee of $5.00 shall be collected, said fee to be credited to the general fund and used to defray the expenses of such special registrations.

Temporary registrations, fee.

(d) For temporary registration plates or markers as provided for in section 226a of this act, a fee of $5.00 for each group of 5 such temporary registration plates or markers shall be collected. The fee shall be credited to the motor vehicle highway fund and used to defray the expenses of such temporary registration plates or markers.

Mobile homes, special registration, fee.

(e) For each special registration as provided for in section 226b of this act, a fee of $2.00 shall be collected, the fee to be credited to the motor vehicle highway fund and used to defray the expenses of such special registrations.

Repossessors, repairmen, servicemen, auctioneers.

(f) For registration plates as provided for in subsections (e), (f) and (g) of section 226a of this act, a fee of $30.00 for 2 sets and $15.00 for each additional set of plates shall be collected. The fee shall be credited to the motor vehicle highway fund and used to defray the expenses of such temporary plates or markers.

Special mobile equipment.

(g) For special registrations issued for special mobile equipment as provided in section 216 (4) of this act, a fee of $15.00 each for the first 3 special registrations, and $5.00 for each special registration issued in excess of the first 3 shall be collected. The fee shall be credited to the motor vehicle highway fund and used to defray the expenses of such plates or markers.

Logging equipment.

(h) Beginning February 1, May 1, August 1 and November 1 of each year the secretary of state shall upon request, issue special license plates, tabs or stickers for vehicles used in the logging industry to expire May 14, August 14, November 14 and February 14 following when the full registration fee exceeds $50.00, on the payment of 1/4 the full registration fee and in addition thereto a service charge of $2.00, the service charge to be credited to the general fund of the state and used to defray the expense of such license plates, tabs or stickers.

HISTORY: New 1949, p. 590, Act 300, Eff. Sep. 23;—Am. 1951, p. 473, Act 270, Eff. Sep. 28;—Am. 1953, p. 232, Act 179, Imd. Eff. Jun. 8;—Am. 1957, p. 40, Act 33, Eff. Sep. 27;—Am. 1958, p. 60, Act 55, Eff. Jul. 1;—Am. 1959, p. 217, Act 155, Eff. Mar. 19, 1960;—Am. 1962, p. 179, Act 166, Eff. Mar. 28, 1963;—Am. 1968, p. 479, Act 278, Imd. Eff. Jul. 1;—Am. 1969, p. 596, Act 309, Imd. Eff. Aug. 14.

CITED IN OTHER SECTIONS: The above section is cited in §§ 205.54a and 205.94.

257.802a Temporary permits; fees.

Sec. 802a. For temporary permits, as provided for in section 243 of this act, a fee of $20.00 shall be collected. The fee shall be credited to the motor vehicle highway fund and used to defray the expenses of such temporary permits.

HISTORY: Add. 1960, p. 100, Act 98, Imd. Eff. Apr. 26.

257.803 Special plates for manufacturers, transporters or dealers; fees.

Sec. 803. The fee for special plates as provided for in section 244 shall be determined as follows: If they operate not more than 2 such vehicles on the public highway they shall pay $30.00 for 2 plates and $15.00 for the third plate and $8.00 each for so many additional plates in excess of the first 3 as the secretary of state may deem such manufacturer, transporter or dealer reasonably needs in his business.

HISTORY: New 1949, p. 590, Act 300, Eff. Sep. 23;—Am. 1966, p. 244, Act 216, Eff. Mar. 10, 1967;—Am. 1967, Ex. Ses., p. 738, Act 3, Imd. Eff. Nov. 15.

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257.803a Historic motor vehicle; definition, use, license, fee, registration, transfer, revocation.

Sec. 803a. Historic vehicles shall be licensed under the provisions of this section. The term "historic vehicle" means any vehicle which is over 25 years old, and which is owned solely as a collector's item and for participation in club activities, exhibitions, tours, parades, and similar uses, but in no event used for general transportation. The owner of such a vehicle applying for license plates under this act shall pay a fee of $6.00 and shall execute an affidavit that the vehicle for which plates are requested is owned and operated solely for the purposes enumerated above, and also setting forth in the affidavit that the vehicle has been inspected and found safe to operate on the highways in the state. The registration certificate need not specify the weight of such antique vehicle, and the plates issued shall bear no date but shall bear the inscription "historical vehicle—Michigan", and the registration number which shall be shown thereon, and they shall be valid without renewal as long as the vehicle is in existence. The plates are issued for the applicant's use only for such vehicle, and in the event of a transfer of title the transferor must surrender the plates for said transfer. The secretary of state shall have the power to revoke said license plates issued under this section, for cause shown and after hearing, for failure of the applicant to comply with this section.

HISTORY: Add. 1951, p. 176, Act 144, Eff. Sep. 28;—Am. 1961, p. 289, Act 186, Eff. Sep. 8.

257.804 Duplicate and replacement license plates.

Sec. 804. The following fees shall be paid with each application for a duplicate or replacement license plate provided for in section 229 of chapter 2 of this act:

(a) Dealers, transporters or manufacturer's plates ..... $2.50 each

(b) All other plates ..... 1.00 each

HISTORY: New 1949, p. 591, Act 300, Eff. Sep. 23.

257.805 Repealed. 1951, p. 62, Act 51, Eff. Jun. 1.

Section provided for disposition of registration, special and duplicate plate fees.

CERTIFICATE OF TITLE, DEALER'S LICENSE AND LIENS

257.806 Application for certificates of title; duplicates, special numbers, fees.

Sec. 806. (a) A fee of $2.00 shall accompany each application for a certificate of title as required by the provisions of this act or for a duplicate thereof.

(b) A fee of $2.00 shall accompany an application for a special identifying number as provided in section 230.

HISTORY: New 1949, p. 594, Act 300, Eff. Sep. 23;—Am. 1969, p. 183, Act 93, Imd. Eff. Jul. 24.

257.807 Dealer's license.

Sec. 807. Every person making an application for a license under the provisions of section 248 of chapter 2 of this act shall accompany said application with the following fees:

Full year's license	$10.00
Half year's license (after June 30th)	5.00

HISTORY: New 1949, p. 594, Act 300, Eff. Sep. 23;—Am. 1951, p. 473, Act 270, Eff. Sep. 28.

257.808 Liens on motor vehicles; fees.

Sec. 808. Any application for the placement or discharge of a lien on a motor vehicle as provided for in section 238 of this act shall be accompanied by a fee of $1.00.

HISTORY: New 1949, p. 594, Act 300, Eff. Sep. 23;—Am. 1962, p. 137, Act 143, Eff. Mar. 28, 1963.

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257.809 Transfer of registration; fee; transfer of plates to new vehicle, additional weight tax.

Sec. 809. Applications for transfer of registration from a vehicle subject to subsection (a) of section 801 of this act to another vehicle subject to subsection (a) of section 801 of this act shall be accompanied by a fee of $2.00. This fee shall be deemed to include all fees or charges imposed by this act for the transfer of registration, except those which may be assessed by section 234 of this act.

All other applications for a transfer of registration shall be accompanied by a fee of $1.00. In addition to the fee of $1.00 if the registration plates are transferred to another vehicle as provided in section 233 of this act and the plate fee for the vehicle to which the registration is transferred is greater than the plate fee paid upon registration of the vehicle from which the plates were removed, then the difference shall be paid to the division by the applicant for new registration. If the fee is less than that paid for registration of the vehicle from which the plates were removed, the difference shall not be refunded by the division.

HISTORY: New 1949, p. 594, Act 300, Eff. Sep. 23;—Am. 1957, p. 97, Act 90, Eff. Sep. 27;—Am. 1962, p. 180, Act 166, Eff. Mar. 28, 1963.

257.810 Disposition of fees.

Sec. 810. All fees received and money collected under sections 801 to 809, inclusive, shall be deposited in the state treasury and shall be credited to the motor vehicle highway fund.

HISTORY: New 1949, p. 595, Act 300, Eff. Sep. 23;—Am. 1951, p. 75, Act 55, Eff. Dec. 1.

LICENSES

257.811 Operator's and chauffeur's license; fees.

Sec. 811. (a) Every application for an operator's or chauffeur's license as provided in sections 307 and 312 of chapter 3 and every application for a minor's restricted license as provided in section 312 of chapter 3 of this act shall be accompanied by the following fees:

Original license	$ 5.50
Operator's license	4.00
Original chauffeur's license	3.50
Chauffeur's 3-year license	10.50
Minor's restricted license	2.50

Examining officer fee; driver education and training fund.

(b) All sums of money received and collected under paragraph (a) of this section shall be deposited by the division in the state treasury to the credit of the general fund. The division shall refund out of the fees collected to each county or municipality, acting as an examining officer or examining bureau, $2.50 for each applicant examined for an original license and $1.00 for every other applicant examined, whose application is not denied, on the condition, however, that such money refunded shall be paid to the county or local treasurer and is appropriated to the county, municipality or officer or bureau receiving the same for the purpose of carrying out the provisions of this act. The sum of $3.00 for each applicant examined for an original license, $2.50 for each applicant examined for a renewal of operator's license, and $4.00 for a chauffeur's license shall be deposited by the state treasurer in a driver education fund. Moneys in such fund shall be used by the department of education for administration of a driver education program, and for distribution to local school districts to be sued for driver education programs.

Driver education and training; apportionment from fund.

(c) From the moneys credited to the driver education fund, the legislature shall annually appropriate the sum of $100,000.00 to the state department of education, for

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state administration of the program. In addition there shall be distributed to local public school districts from the driver education fund the amount of $30.00 per student, but not to exceed the actual cost, for each student completing an approved driver education course. Such courses shall be conducted by the local public school district, and enrollment in driver education courses shall be open to children enrolled in the high school grades of public, parochial and private schools as well as resident out-of-school youth. Reimbursement to local school districts shall be made on the basis of an application made by the local school district superintendent to the state department of education.

Driver education course, content.

(d) Driver education courses, as used for the purposes of this act, shall include classroom instruction plus behind the wheel instruction and observation in an automobile, and shall be under the supervision of a qualified teacher.

Rules.

(e) The department of education is authorized to determine rules and regulations, including instructional standards, teacher qualifications, reimbursement procedures, and other requirements which will further implement this legislation.

Persons under 18 years of age; restricted licenses.

(f) Notwithstanding the provisions of sections 301, 303, 306 and 308, no operator's license shall be issued to any person under 18 years of age unless such person shall have successfully passed a driver education course and examination given by the public schools or nonpublic schools offering a course approved by the department of education as equivalent thereto. Any person who has been a holder of a motor vehicle operator's license issued to him by any other state, territory or possession of the United States or any other sovereignty for 1 year immediately prior to application for an operator's license under this act, shall not be required to comply with the provisions of this subsection. Restricted licenses may be issued pursuant to section 312 without compliance with this subsection. A driver education course shall be made available for any person under 18 years of age within such time as will enable such person to qualify for a license prior to the time such person is permitted by law to have a license.

No enrollment fee.

(g) No charge or enrollment fee for a driver education course shall be required to be paid by any student desiring to take said course as a duly enrolled student for said course in any school of the public school system.

HISTORY: New 1949, p. 595, Act 300, Eff. Sep. 23;—Am. 1953, p. 326, Act 215, Eff. Oct. 2;—Am. 1955, 1st Ex. Ses., p. 813, Act 1, Imd. Eff. Nov. 10;—Am. 1957, p. 294, Act 235, Imd. Eff. Jun. 6;—Am. 1958, p. 299, Act 217, Eff. Sep. 13;—Am. 1959, p. 404, Act 260, Eff. Mar. 19, 1960;—Am. 1966, p. 589, Act 327, Eff. Jan. 1, 1967;—Am. 1967, p. 643, Act 302, Eff. Sep. 1;—Am. 1970, p. 385, Act 124, Imd. Eff. Jul. 23.

257.812 Duplicate licenses; disposition of fees.

Sec. 812. For each duplicate license as provided in section 313 of chapter 3 of this act the fee therefor shall be $1.00 which shall accompany said application and shall be deposited to the credit of the general fund.

HISTORY: New 1949, p. 595, Act 300, Eff. Sep. 23.

MISCELLANEOUS

257.813 Certified copies of records.

Sec. 813. For each page of a certified copy of a record as provided in section 207, paragraph (b) of chapter 2 of this act, $1.00. All money collected under this section shall be deposited to the credit of the general fund.

HISTORY: New 1949, p. 595, Act 300, Eff. Sep. 23.

257.814 Use tax; collection.

Sec. 814. (a) Whenever it shall appear that the motor vehicle was purchased by the applicant in any state other than Michigan, unless the applicant produces a certificate

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of title duly issued to him under the laws of such state, or certificate of registration or registered bill of sale under the provisions of the laws of such states showing applicant for Michigan certificate of title to have been resident of the state which has issued such certificate of title, registration, or registered bill of sale, it shall be the duty of the secretary of state to conduct an investigation of said purchase and sale and of the title to said motor vehicle. The secretary of state, if satisfied that the applicant is the owner of such motor vehicle, or otherwise entitled to have the same registered in his name, shall thereupon issue to the applicant an appropriate certificate of title in accordance with section 217 of this act. Before the secretary of state shall issue such a certificate of title, the applicant shall attach to his application a statement showing the amount of use tax due upon the motor vehicle described in the application on a form prescribed by the state board of tax administration, together with the amount of the use tax due upon such motor vehicle, under the provisions of Act No. 94 of the Public Acts of 1937, except that when such motor vehicle is exempt by law from the payment of use tax, no such tax shall be paid.

Same; disposition.

(b) It shall be the duty of the secretary of state to forthwith transmit such statement and the funds covering the payment of the use tax to the state board of tax administration. The secretary of state shall not issue a certificate of title on any such motor vehicles until the provisions hereof with respect to the payment of the use tax have been complied with. All owners of motor vehicles purchased without the state of Michigan who shall have paid the use tax to the secretary of state, as herein provided, shall not be required to comply with sections 6, 7 and 8 of Act No. 94 of the Public Acts of 1937 of the state of Michigan.

Same; collection upon registration of nonresident vehicle in this state.

(c) Any person owning a motor vehicle purchased from a Michigan dealer without application of sales tax by reason of the exercise of any of the provisions of subsection (j) of section 4a of Act No. 167 of the Public Acts of 1933, as amended, being sections 205.51 to 205.78 of the Compiled Laws of 1948, who later by reason of storage or use is required to register such vehicle in Michigan shall pay a use tax at time of registration, except when such vehicle is exempt by law, computed on the retail dollar value of a like vehicle. The secretary of state shall use as his guide the retail dollar value as is shown in the current issue of any nationally recognized used vehicle guide for financial institution appraisal purposes in Michigan.

HISTORY: New 1949, p. 595, Act 300, Eff. Sep. 23;—Am. 1962, p. 65, Act 80, Imd. Eff. Apr. 24.

257.815 Sales tax; collection, disposition.

Sec. 815. (a) Every application for registration, or for a transfer of the license, of said motor vehicles shall also be accompanied by a statement showing the amount of the sales tax due upon the sale of such motor vehicles, on a form prescribed by the department of revenue, together with the amount of the sales tax due upon such sale under the provisions of Act No. 167 of the Public Acts of 1933, as amended, and the statement herein required shall be in triplicate, 1 copy to be retained by the dealer and 1 copy to be delivered to the purchaser, except that when the sale of any such motor vehicle is exempt by law from the payment of the sales tax no such tax shall be paid: Provided, That when the sale of any such motor vehicle is exempt by law from the payment of the sales tax, an affidavit, in such form as the secretary of state shall prescribe, shall accompany the application for registration, signed under oath by the purchaser stating that such motor vehicle is exempt by law from the payment of the sales tax by virtue of the fact that same was an isolated transaction, as provided in Act No. 167 of the Public Acts of 1933, as amended.

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(b) It shall be the duty of the secretary of state to forthwith transmit such statement and the funds covering the payment of the sales tax to the department of revenue. The secretary of state shall not issue a title, license plates or transfers thereof on any motor vehicles sold by such dealers until the provisions hereof with respect to the payment of the sales tax have been complied with. All dealers of new and/or second hand vehicles selling motor vehicles at retail paying the sales tax to the secretary of state as herein provided shall not be required to include the sale of such motor vehicles on their reports to the department of revenue nor pay the tax thereon to that board as required by Act No. 167 of the Public Acts of 1933, as amended.

(c) The department of revenue shall determine and pay to the secretary of state reasonable compensation for the collection of the sales tax as provided in this section.

HISTORY: New 1949, p. 596, Act 300, Eff. Sep. 23.

CHAPTER VIII.

PENALTIES

257.901 Violation of act; misdemeanor, penalty.

Sec. 901. (a) It shall be a misdemeanor for any person to violate any of the provisions of this act unless such violation is by this act or other law of this state declared to be a felony.

(b) Unless another penalty is in this act or by the laws of this state provided, every person convicted of a misdemeanor for the violation of any provision of this act shall be punished by a fine of not more than $100.00 or by imprisonment in the county jail of the county where the offense is committed or in the Detroit house of correction for not more than 90 days, or by both such fine and imprisonment.

(c) Any person who violates the provisions of section 305 or who causes or directs a person to violate the provisions of these sections is guilty of a misdemeanor.

HISTORY: New 1949, p. 596, Act 300, Eff. Sep. 23;—Am. 1969, p. 466, Act 240, Eff. Mar. 20, 1970.

257.902 Violation of act; felony, penalty.

Sec. 902. Any person who is convicted of a violation of any of the provisions of this act declared to constitute a felony, unless a different penalty is expressly provided herein, shall be punished by imprisonment for not less than 1 year nor more than 5 years, or by a fine of not less than $500.00 nor more than $5,000.00, or by both such fine and imprisonment.

HISTORY: New 1949, p. 596, Act 300, Eff. Sep. 23.

257.903 False affidavit; perjury, penalty.

Sec. 903. Any person who shall make any false affidavit, or shall knowingly swear or affirm falsely to any matter or thing required by the terms of this act to be sworn to or affirmed, shall be guilty of perjury and upon conviction shall be punishable by fine or imprisonment as other persons committing perjury are punishable.

HISTORY: New 1949, p. 597, Act 300, Eff. Sep. 23.

257.904 Operator's or chauffeur's license or registration; suspension, revocation or denial; penalty for operation of vehicle; subsequent offenses; confiscation of plates; status and record of persons.

Sec. 904. (a) Any person whose operator's or chauffeur's license or registration certificate has been suspended or revoked or whose application for license has been denied, as provided in this act, or who has never applied for a license, and who shall drive any motor vehicle upon the highways of this state or who shall knowingly permit any motor vehicle owned by such person to be operated by another upon any highway, except as permitted under this act, while such license or registration certificate is suspended or revoked, or whose application for license has been denied as provided in

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this act shall be guilty of a misdemeanor, and upon conviction shall be punished by imprisonment in the county or municipal jail or Detroit house of correction, for a period not less than 3 days nor more than 90 days and there may be imposed in addition thereto a fine of not more than $100.00. Unless the vehicle was stolen or used with the permission of one who did not knowingly permit an unlicensed driver to operate the vehicle, the registration plates of the vehicle shall be confiscated.

(b) Any person convicted of a second or subsequent violation of this section shall be guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the county or municipal jail or in the Detroit house of correction for not less than 5 days nor more than 1 year, and there may be imposed in addition thereto a fine of not more than $500.00. Unless the vehicle was stolen, the registration plates of the vehicle shall be confiscated.

(c) The department, upon receiving a record of the conviction of any person upon a charge of unlawful operation of a motor vehicle while the license of such person is suspended, revoked or denied, or of the conviction of any person for a violation of the motor vehicle laws of this state while the license of such person is suspended, revoked or denied, shall immediately extend the period of such first suspension or revocation for an additional like period, or if no period has been determined, then for at least 30 days but not more than 1 year.

(d) Before the plea of the person shall be accepted under this section, the arresting officer shall check with the department to determine the record and status of the person according to the department files and so inform the court.

HISTORY: New 1949, p. 597, Act 300, Eff. Sep. 23;—Am. 1951, p. 473, Act 270, Eff. Sep. 28;—Am. 1967, p. 77, Act 61, Eff. Nov. 2.
CITED IN OTHER SECTIONS: The above section is cited in § 600.8391.

257.904a Operation of motor vehicle by unlicensed person; penalty; second offense.

Sec. 904a. Any person, not exempt from license under this act, who shall operate a motor vehicle upon the highways of this state and who is unable to show that he has been issued a license to operate a motor vehicle by any state or foreign country valid within the three years preceding is guilty of a misdemeanor, and upon conviction shall be punished by imprisonment in the county or municipal jail or Detroit house of correction, for a period of not more than 90 days, or by a fine of not less than $50.00 nor more than $100.00, or both. Any person convicted of a second offense under this section shall be punished by imprisonment in the county or municipal jail or Detroit house of correction, for a period of not less than 2 nor more than 90 days, or by a fine of $100.00 or both.

HISTORY: Add. 1965, p. 442, Act 264, Eff. Mar. 31, 1966.

257.904b Impounding vehicles; circumstances; order, contents; liability, redemption, failure.

Sec. 904b. When a person is convicted of an offense specified in subsections (a) or (b) of section 904, a motor vehicle owned in whole or in part by him shall be ordered impounded for not less than 30 nor more than 120 days from the date of judgment. The order of impoundment shall be valid throughout the state and any peace officer is authorized to execute the impoundment order. The order shall include the implied consent of the owner of the vehicle to the storage for insurance coverage purposes. The owner is liable for expenses incurred in the removal and storage of the vehicle whether or not the vehicle is returned to him. The vehicle shall be returned to him only upon payment of such expenses. If redemption is not made or the vehicle is not returned, as provided in this section, within 30 days after the time set for return of the vehicle in the impounding order, the vehicle shall be deemed an abandoned vehicle and disposed of as provided in section 252. Nothing in this section affects the rights of

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a conditional vendor, chattel mortgagee or lessor of a motor vehicle registered in the name of another as owner who becomes subject to the provisions of this act.

HISTORY: Add. 1968, p. 294, Act 197, Eff. Nov. 15;—Am. 1969, p. 165, Act 83, Eff. Mar. 20, 1970.

257.905 Violation of financial responsibility chapter; penalty.

Sec. 905. Any person who shall forge, or without authority, sign any evidence of ability to respond in damages as required by the secretary of state in the administration of chapter 5 and any person who shall violate any provisions of chapter 5 for which no penalty is otherwise provided, shall be guilty of a misdemeanor and upon conviction shall be fined not less than $100.00 nor more than $1,000.00, or imprisoned not more than 90 days or both. Any person whose operator's or chauffeur's license or registration card or other privilege to operate a motor vehicle has been suspended or revoked and restoration thereof or issuance of a new license or registration is contingent upon the furnishing of proof of financial responsibility and who during such suspension or revocation or in the absence of full authorization from the secretary of state drives any motor vehicle upon any highway or knowingly permits any motor vehicle owned by such person to be operated by another person upon any highway except as permitted hereunder shall be punished by a fine of not more than $500.00 and by imprisonment for a period of not less than 2 days nor more than 1 year or by both such fine and imprisonment.

HISTORY: New 1949, p. 597, Act 300, Eff. Sep. 23;—Am. 1951, p. 474, Act 270, Eff. Sep. 28.

CHAPTER IX.

MISCELLANEOUS

257.921 Repeal.

Sec. 921. Act No. 302 of the Public Acts of 1915, as amended, being sections 256.1 to 256.38, inclusive, of the Compiled Laws of 1948; Act No. 46 of the Public Acts of 1921, as amended, being sections 256.101 to 256.119, inclusive, of the Compiled Laws of 1948; Act No. 91 of the Public Acts of 1931, as amended, being sections 256.201 to 256.234, inclusive, of the Compiled Laws of 1948; Act No. 203 of the Public Acts of 1933, as amended, being sections 256.251 to 256.269, inclusive, of the Compiled Laws of 1948; Act No. 318 of the Public Acts of 1927, as amended, being sections 256.301 to 256.360, inclusive, of the Compiled Laws of 1948; Act No. 321 of the Public Acts of 1923, as amended, being sections 256.421 to 256.437, inclusive, of the Compiled Laws of 1948; Act No. 236 of the Public Acts of 1919, being sections 256.511 and 256.512 of the Compiled Laws of 1948; Act No. 80 of the Public Acts of 1929, as amended, being sections 256.521 to 256.523, inclusive, of the Compiled Laws of 1948; Act No. 186 of the Public Acts of 1937, being sections 247.301 to 247.306, inclusive, of the Compiled Laws of 1948; section 11 of chapter 21 of Act No. 283 of the Public Acts of 1909, being section 241.11 of the Compiled Laws of 1948; sections 498a, 499 and 500 of Act No. 328 of the Public Acts of 1931, as amended, being sections 750.498a, 750.499 and 750.500 of the Compiled Laws of 1948; and Act No. 94 of the Public Acts of 1943, being sections 752.501 to 752.503, inclusive, of the Compiled Laws of 1948; are hereby repealed.

HISTORY: New 1949, p. 597, Act 300, Eff. Sep. 23.

257.922 Saving clause.

Sec. 922. No action or proceeding commenced before this code takes effect, and no right accrued, is affected by the provisions of this code, but all procedure thereafter taken therein shall conform to the provisions of this code so far as possible.

HISTORY: New 1949, p. 598, Act 300, Eff. Sep. 23.

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257.923 Short title.

Sec. 923. This act shall be known as the "Michigan vehicle code."

HISTORY: New 1949, p. 598, Act 300, Eff. Sep. 23.

Act 235, 1969, p. 447; Imd. Eff. Aug. 11.

AN ACT authorizing local units of government to regulate and control traffic in parking lots of shopping centers; and to provide a penalty for violations thereof.

The People of the State of Michigan enact:

257.941 Shopping centers and traffic; definitions.

Sec. 1. As used in this act:

(a) "Parking area" means an area near or contiguous to a shopping center and used by the public as the means of access to and egress from the stores and business establishments at the shopping center and for the free parking of motor vehicles of patrons of the shopping center.

(b) "Shopping center" means a minimum area of 3 acres of land on which there is located 1 or more stores or business establishments and when there is provided a parking area.

HISTORY: New 1969, p. 447, Act 235, Imd. Eff. Aug. 11.

257.942 Parking lots; power of local units to regulate traffic.

Sec. 2. The governing body of any city or village, or the board of any township, may, upon the request of either the owner or the person in charge of the general operation and control of the parking area, by local ordinance:

(a) Order stop signs, yield signs or other traffic control devices erected at specified entrance or exit locations to a shopping center or at any intersection in the parking area.

(b) Regulate traffic in the parking area, including regulation by means of traffic control signals.

(c) Prohibit or regulate the turning of vehicles or specified types of vehicles at intersections or other designated locations in the parking area.

(d) Regulate the crossing of any roadway in the parking area by pedestrians.

(e) Designate any separate roadway, drive or lane in the parking area for one-way traffic.

(f) Prohibit, regulate, restrict or limit the stopping, standing or parking of vehicles in specified areas of the parking area.

(g) Designate safety zones, loading zones and other restricted area in the shopping center.

(h) Provide for the removal and storage of vehicles parked or abandoned in the parking area during snowstorms, floods, fires or other public emergencies, or found unattended in the parking area, where they constitute an obstruction to traffic or where stopping, standing or parking is prohibited, and for the payment of reasonable charges for such removal and storage by the owner or operator of any such vehicle.

(i) Adopt such additional reasonable rules with respect to traffic and parking in a parking area as local conditions may require for the safety and convenience of the public or of the users of the shopping center.

HISTORY: New 1969, p. 447, Act 235, Imd. Eff. Aug. 11.

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257.943 Violation of act; penalty.

Sec. 3. Any person violating any ordinance promulgated by authority of this act is guilty of a misdemeanor.

HISTORY: New 1969, p. 448, Act 235, Imd. Eff. Aug. 11.

Act 62, 1956, p. 145; Eff. Aug. 11.

AN ACT to authorize the commissioner of the state police to promulgate a uniform traffic code; to authorize any city, township or village to adopt such uniform traffic code by reference without publication in full.

The People of the State of Michigan enact:

257.951 Uniform traffic code for cities, townships and villages; promulgation by state police commissioner.

Sec. 1. Any city, township or village is hereby authorized to adopt by reference any code or ordinance for the regulation of traffic within cities, townships and villages which has been promulgated by the commissioner of the state police. The commissioner of the state police is hereby authorized to promulgate a uniform traffic code subject to the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82, inclusive, of the Compiled Laws of 1948.

HISTORY: New 1956, p. 145, Act 62, Eff. Aug. 11.

CITED IN OTHER SECTIONS: Sections 257.951 to 257.954 are cited in § 390.891.

257.952 Adopting ordinance; publication.

Sec. 2. The code or ordinance, so passed, shall clearly identify the code so adopted by reference. Such code need not be published in full: Provided, however, That publication of the code or ordinance shall be supplemented by a notice of the purpose of such code and of the fact that complete copies of the code are available at the office of the city, township or village clerk for inspection by and distribution to the public at all times.

HISTORY: New 1956, p. 145, Act 62, Eff. Aug. 11.

257.953 Amendment of code; adoption.

Sec. 3. If the commissioner of the state police shall thereafter amend such code, any city, township or village which has adopted such code by reference may adopt such amendment by reference by the same procedure as required for the adoption of the original code, or such amendment may be adopted by enacting an ordinance setting forth the entire text of such amendment.

HISTORY: New 1956, p. 145, Act 62, Eff. Aug. 11.

257.954 Copies of code for public inspection and distribution.

Sec. 4. Upon adoption of any such code by reference, the city, township or village clerk shall maintain in his office a supply of copies of the code for inspection by and distribution to the public without charge.

HISTORY: New 1956, p. 145, Act 62, Eff. Aug. 11.

Act 175, 1958, p. 199; Imd. Eff. Apr. 18.

AN ACT to authorize municipalities to adopt ordinances governing the operation, parking without fees and the speed of motor vehicles upon properties of boards of education, school districts or community college districts lying within such municipalities; to require the boards of education, school districts or community college districts to request such ordinances; and to impose penalties for the violation thereof. Am. 1967, p. 66, Act 47, Eff. Nov. 2.

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The People of the State of Michigan enact:

257.961 School property; municipal regulation of operation, parking and speed of vehicles.

Sec. 1. Every municipal legislative authority wherein the properties of any board of education, school district or community college district is situated shall have the authority to adopt ordinances governing the operation, parking without fees and the speed of motor vehicles upon the property of such board of education, school district or community college district, for the purpose of enforcement and the imposing of penalties for the violation thereof in the same manner as other ordinances of the municipal legislative authority are enforced. No municipal legislative authority shall adopt such ordinances without first receiving a resolution from the board of education, school district or board of trustees of the community college district over whose property the ordinances shall apply requesting the adoption of such ordinances.

HISTORY: New 1958, p. 199, Act 175, Imd. Eff. Apr. 18;—Am. 1967, p. 66, Act 47, Eff. Nov. 2.

Act 2, 1960, p. 3; Imd. Eff. Feb. 27.

AN ACT to levy a specific tax in lieu of weight taxes for public transportation vehicles and city and suburban buses; and to provide for the expiration of this act.

The People of the State of Michigan enact:

257.971 Public transportation vehicles and city and suburban bus operators; definitions.

Sec. 1. (a) For the purposes of this act, public transportation vehicles mean vehicles having a passenger capacity of 9 or more operating as part of a public transportation system within and not more than 10 miles from the boundaries of a municipality when such vehicles are operated by a private person, firm or corporation.

(b) For the purposes of this act, "city and suburban bus operator" means any person, firm or corporation operating a motor bus or buses in this state having a seating capacity of 10 passengers or more under a franchise from a municipality, or under a license granted by a municipality, or pursuant to an agreement entered into between such person, firm or corporation and a municipality of this state, or a certificate of public convenience and necessity issued by the Michigan public service commission under the provisions of section 5 of article 2 of Act No. 254 of the Public Acts of 1933, as amended, being section 476.5 of the Compiled Laws of 1948, and which is engaged in the transportation of passengers in and between 1 or more contiguous cities or villages or engaged in the transportation of passengers over regularly scheduled routes under a certificate of public convenience and necessity and operating in a radius of not more than 25 miles from its home terminal.

HISTORY: New 1960, p. 3, Act 2, Imd. Eff. Feb. 27.

257.972 City and suburban bus operators; specific tax in lieu of weight tax.

Sec. 2. From and after January 1, 1960, in lieu of the specific weight taxes authorized by section 801 of Act No. 300 of the Public Acts of 1949, as amended, being section 257.801 of the Compiled Laws of 1948, and section 3 of Act No. 87 of the Public Acts of 1955, as amended, being section 207.253 of the Compiled Laws of 1948, city and suburban bus operators and public transportation operators shall pay the sum of

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$25.00 per vehicle for each such vehicle operated as specified in section 1 of this act, which shall exempt it from all other taxation except the fees and taxes required by Act No. 254 of the Public Acts of 1933, as amended, being sections 475.1 to 479.20 of the Compiled Laws of 1948.

HISTORY: New 1960, p. 4, Act 2, Imd. Eff. Feb. 27.

257.973 Repealed. 1965, p. 7, Act 3, Imd. Eff. Feb. 19.

Section provided that bus tax moratorium act should expire February 28, 1965.

Act 105, 1963, p. 131; Imd. Eff. May 10.

AN ACT to enact the vehicle equipment safety compact; to provide the terms of the compact; to prescribe the powers and duties of the governor and other state departments, agencies and officers; to create the office of vehicle equipment safety commissioner; and to prescribe his powers and duties.

The People of the State of Michigan enact:

257.1001 Vehicle equipment safety compact.

Sec. 1. The vehicle equipment safety compact is hereby enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

VEHICLE EQUIPMENT SAFETY COMPACT

ARTICLE I

Findings and Purposes

(a) The party states find that:

(1) Accidents and deaths on their streets and highways present a very serious human and economic problem with a major deleterious effect on the public welfare.

(2) There is a vital need for the development of greater interjurisdictional cooperation to achieve the necessary uniformity in the laws, rules, regulations and codes relating to vehicle equipment, and to accomplish this by such means as will minimize the time between the development of demonstrably and scientifically sound safety features and their incorporation into vehicles.

(b) The purposes of this compact are to:

(1) Promote uniformity in regulation of and standards for equipment.

(2) Secure uniformity of law and administrative practice in vehicular regulation and related safety standards to permit incorporation of desirable equipment changes in vehicles in the interest of greater traffic safety.

(3) To provide means for the encouragement and utilization of research which will facilitate the achievement of the foregoing purposes, with due regard for the findings set forth in subdivision (a) of this Article.

(c) It is the intent of this compact to emphasize performance requirements and not to determine the specific detail of engineering in the manufacture of vehicles or equipment except to the extent necessary for the meeting of such performance requirements.

ARTICLE II

Definitions

As used in this compact:

(a) "Vehicle" means every device in, upon or by which any person or property is or

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may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

(b) "State" means a state, territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(c) "Equipment" means any part of a vehicle or any accessory for use thereon which affects the safety of operation of such vehicle or the safety of the occupants.

ARTICLE III

The Commission

(a) There is hereby created an agency of the party states to be known as the "Vehicle Equipment Safety Commission" hereinafter called the Commission. The Commission shall be composed of one commissioner from each party state who shall be appointed, serve and be subject to removal in accordance with the laws of the state which he represents. If authorized by the laws of his party state, a commissioner may provide for the discharge of his duties and the performance of his functions on the Commission, either for the duration of his membership or for any lesser period of time, by an alternate. No such alternate shall be entitled to serve unless notification of his identity and appointment shall have been given to the Commission in such form as the Commission may require. Each commissioner, and each alternate, when serving in the place and stead of a commissioner, shall be entitled to be reimbursed by the Commission for expenses actually incurred in attending Commission meetings or while engaged in the business of the Commission.

(b) The commissioners shall be entitled to one vote each on the Commission. No action of the Commission shall be binding unless taken at a meeting at which a majority of the total number of votes on the Commission are cast in favor thereof. Action of the Commission shall be only at a meeting at which a majority of the commissioners, or their alternates, are present.

(c) The Commission shall have a seal.

(d) The Commission shall elect annually, from among its members, a Chairman, a Vice Chairman and a Treasurer. The Commission may appoint an Executive Director and fix his duties and compensation. Such Executive Director shall serve at the pleasure of the Commission, and together with the Treasurer shall be bonded in such amount as the Commission shall determine. The Executive Director also shall serve as Secretary. If there be no Executive Director, the Commission shall elect a Secretary in addition to the other officers provided by this subdivision.

(e) Irrespective of the civil service, personnel or other merit system laws of any of the party states, the Executive Director with the approval of the Commission, or the Commission if there be no Executive Director, shall appoint, remove or discharge such personnel as may be necessary for the performance of the Commission's functions, and shall fix the duties and compensation of such personnel.

(f) The Commission may establish and maintain independently or in conjunction with any one or more of the party states, a suitable retirement system for its full time employees. Employees of the Commission shall be eligible for social security coverage in respect of old age and survivor's insurance provided that the Commission takes such steps as may be necessary pursuant to the laws of the United States, to participate in such program of insurance as a governmental agency or unit. The Commission may establish and maintain or participate in such additional programs of employee benefits as may be appropriate.

(g) The Commission may borrow, accept or contract for the services of personnel from any party state, the United States, or any subdivision or agency of the aforemen-

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tioned governments, or from any agency of two or more of the party states or their subdivisions.

(h) The Commission may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any state, the United States, or any other governmental agency and may receive, utilize and dispose of the same.

(i) The Commission may establish and maintain such facilities as may be necessary for the transacting of its business. The Commission may acquire, hold, and convey real and personal property and any interest therein.

(j) The Commission shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind these bylaws. The Commission shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the party states. The bylaws shall provide for appropriate notice to the commissioners of all Commission meetings and hearings and the business to be transacted at such meetings or hearings. Such notice shall also be given to such agencies or officers of each party state as the laws of such party state may provide.

(k) The Commission annually shall make to the governor and legislature of each party state a report covering the activities of the Commission for the preceding year, and embodying such recommendations as may have been issued by the Commission. The Commission may make such additional reports as it may deem desirable.

ARTICLE IV

Research and Testing

The Commission shall have power to:

(a) Collect, correlate, analyze and evaluate information resulting or derivable from research and testing activities in equipment and related fields.

(b) Recommend and encourage the undertaking of research and testing in any aspect of equipment or related matters when, in its judgment, appropriate or sufficient research or testing has not been undertaken.

(c) Contract for such equipment research and testing as one or more governmental agencies may agree to have contracted for by the Commission, provided that such governmental agency or agencies shall make available the funds necessary for such research and testing.

(d) Recommend to the party states changes in law or policy with emphasis on uniformity of laws and administrative rules, regulations or codes which would promote effective governmental action or coordination in the prevention of equipment-related highway accidents or the mitigation of equipment-related highway safety problems.

ARTICLE V

Vehicular Equipment

(a) In the interest of vehicular and public safety, the Commission may study the need for or desirability of the establishment of or changes in performance requirements or restrictions for any item of equipment. As a result of such study, the Commission may publish a report relating to any item or items of equipment, and the issuance of such a report shall be a condition precedent to any proceedings or other action provided or authorized by this Article. No less than sixty days after the publication of a report containing the results of such study, the Commission upon due notice shall hold a hearing or hearings at such place or places as it may determine.

(b) Following the hearing or hearings provided for in subdivision (a) of this Article, and with due regard for standards recommended by appropriate professional and technical associations and agencies, the Commission may issue rules, regulations or

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codes embodying performance requirements or restrictions for any item or items of equipment covered in the report, which in the opinion of the Commission will be fair and equitable and effectuate the purposes of this compact.

(c) Each party state obligates itself to give due consideration to any and all rules, regulations and codes issued by the Commission and hereby declares its policy and intent to be the promotion of uniformity in the laws of the several party states relating to equipment.

(d) The Commission shall send prompt notice of its action in issuing any rule, regulation or code pursuant to this Article to the appropriate motor vehicle agency of each party state and such notice shall contain the complete text of the rule, regulation or code.

(e) If the constitution of a party state requires, or if its statutes provide, the approval of the legislature by appropriate resolution or act may be made a condition precedent to the taking effect in such party state of any rule, regulation or code. In such event, the commissioner of such party state shall submit any Commission rule, regulation or code to the legislature as promptly as may be in lieu of administrative acceptance or rejection thereof by the party state.

(f) Except as otherwise specifically provided in or pursuant to subdivisions (e) and (g) of this Article, the appropriate motor vehicle agency of a party state shall in accordance with its constitution or procedural laws adopt the rule, regulation or code within six months of the sending of the notice, and, upon such adoption, the rule, regulation or code shall have the force and effect of law therein.

(g) The appropriate motor vehicle agency of a party state may decline to adopt a rule, regulation or code issued by the Commission pursuant to this Article if such agency specifically finds, after public hearing on due notice, that a variation from the Commission's rule, regulation or code is necessary to the public safety, and incorporates in such finding the reasons upon which it is based. Any such finding shall be subject to review by such procedure for review of administrative determination as may be applicable pursuant to the laws of the party state. Upon request, the Commission shall be furnished with a copy of the transcript of any hearings held pursuant to this subdivision.

ARTICLE VI

Finance

(a) The Commission shall submit to the executive head or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that party state for presentation to the legislature thereof.

(b) Each of the Commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. The total amount of appropriations under any such budget shall be apportioned among the party states as follows: one-third in equal shares; and the remainder in proportion to the number of motor vehicles registered in each party state. In determining the number of such registrations, the Commission may employ such source or sources of information as, in its judgment present the most equitable and accurate comparisons among the party states. Each of the Commission's budgets of estimated expenditures and requests for appropriations shall indicate the source or sources used in obtaining information concerning vehicular registrations.

(c) The Commission shall not pledge the credit of any party state. The Commission may meet any of its obligations in whole or in part with funds available to it under Article III (h) of this compact, provided that the Commission takes specific action setting aside such funds prior to incurring any obligation to be met in whole or in part in such manner. Except where the Commission makes use of funds available to it under Arti-

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cle III (h) hereof, the Commission shall not incur any obligation prior to the allotments of funds by the party state adequate to meet the same.

(d) The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its rules. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a qualified public accountant and the report of the audit shall be included in and become part of the annual reports of the Commission.

(e) The accounts of the Commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the Commission.

(f) Nothing contained herein shall be construed to prevent Commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the Commission.

ARTICLE VII

Conflict of Interest

(a) The Commission shall adopt rules and regulations with respect to conflict of interest for the commissioners of the party states, and their alternates, if any, and for the staff of the Commission and contractors with the Commission to the end that no member or employee or contractor shall have a pecuniary or other incompatible interest in the manufacture, sale or distribution of motor vehicles or vehicular equipment or in any facility or enterprise employed by the Commission or on its behalf for testing, conduct of investigations or research. In addition to any penalty for violation of such rules and regulations as may be applicable under the laws of the violator's jurisdiction of residence, employment or business, any violation of a Commission rule or regulation adopted pursuant to this Article shall require the immediate discharge of any violating employee and the immediate vacating of membership, or relinquishing of status as a member on the Commission by any commissioner or alternate. In the case of a contractor, any violation of any such rule or regulation shall make any contract of the violator with the Commission subject to cancellation by the Commission.

(b) Nothing contained in this Article shall be deemed to prevent a contractor for the Commission from using any facilities subject to his control in the performance of the contract even though such facilities are not devoted solely to work of or done on behalf of the Commission; nor to prevent such a contractor from receiving remuneration or profit from the use of such facilities.

ARTICLE VIII

Advisory and Technical Committees

The Commission may establish such advisory and technical committees as it may deem necessary, membership on which may include private citizens and public officials, and may cooperate with and use the services of any such committees and the organizations which the members represent in furthering any of its activities.

ARTICLE IX

Entry Into Force and Withdrawal

(a) This compact shall enter into force when enacted into law by any six or more states. Thereafter, this compact shall become effective as to any other state upon its enactment thereof.

(b) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the executive head of the withdrawing state has given notice in writing of the withdrawal to the ex-

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ecutive heads of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

ARTICLE X

Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the Constitution of any state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the Constitution of any state participating herein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

HISTORY: New 1963, p. 131, Act 105, Imd. Eff. May 10.

257.1002 Rule, regulation or code; approval by legislature.

Sec. 2. Pursuant to Article V (e) of the vehicle equipment safety compact, it is the intention of this state and it is hereby provided that no rule, regulation or code issued by the vehicle equipment safety commission in accordance with Article V of the compact shall take effect until approved by the legislature.

HISTORY: New 1963, p. 136, Act 105, Imd. Eff. May 10.

257.1003 Commissioner of vehicle equipment safety; appointment, alternate.

Sec. 3. The commissioner of this state on the vehicle equipment safety commission shall be appointed by the governor and serve at his pleasure. If the commissioner also holds another office or employment in state government, he may designate an alternate from among the officers and employees of his agency to serve in his place and stead on the vehicle equipment safety commission. Subject to the provisions of the compact and bylaws of the vehicle equipment safety commission, the authority and responsibilities of such alternate shall be as determined by the commissioner designating such alternate.

HISTORY: New 1963, p. 136, Act 105, Imd. Eff. May 10.

257.1004 State employees retirement system; coverage of commission's employees.

Sec. 4. The state employees retirement system may make an agreement with the vehicle equipment safety commission for the coverage of the commission's employees pursuant to Article III (f) of the compact. Any such agreement, as nearly as may be, shall provide for arrangements similar to those available to the employees of this state and shall be subject to amendment or termination in accordance with its terms.

HISTORY: New 1963, p. 136, Act 105, Imd. Eff. May 10.

257.1005 Cooperation between commission and governmental units.

Sec. 5. Within appropriations available therefor, the departments, agencies and officers of the government of this state may cooperate with and assist the vehicle equipment safety commission within the scope contemplated by Article III (h) of the compact. The departments, agencies and officers of the government of this state are authorized generally to cooperate with the commission.

HISTORY: New 1963, p. 136, Act 105, Imd. Eff. May 10.

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257.1006 Documents; filing with secretary of state.

Sec. 6. Filing of documents as required by Article III (j) of the compact shall be with the secretary of state.

HISTORY: New 1963, p. 136, Act 105, Imd. Eff. May 10.

257.1007 Budget; submission to department of administration; appropriations.

Sec. 7. Pursuant to Article VI (a) of the compact, the vehicle equipment safety commission shall submit its budgets to the department of administration for such period and in such form as shall be required by the department. Neither the compact nor this act shall be construed to commit or authorize the expenditure of any funds of this state except pursuant to appropriations hereafter made by the legislature.

HISTORY: New 1963, p. 136, Act 105, Imd. Eff. May 10.

257.1008 Auditor general; inspection of commissioner's accounts.

Sec. 8. Pursuant to Article VI (e) of the compact, the auditor general is hereby empowered and authorized to inspect the accounts of the vehicle equipment safety commission.

HISTORY: New 1963, p. 136, Act 105, Imd. Eff. May 10.

257.1009 Executive head; definition.

Sec. 9. The term "Executive Head" as used in Article IX (b) of the compact, with reference to this state, means the governor.

HISTORY: New 1963, p. 137, Act 105, Imd. Eff. May 10.

257.1010 Copies of act; distribution.

Sec. 10. The secretary of state shall transmit duly authenticated copies of this act, upon its approval, to the governor of each state, the attorney general and secretary of state of the United States, and the council of state governments.

HISTORY: New 1963, p. 137, Act 105, Imd Eff. May 10.

Act 198, 1965, p. 336; Eff. Nov. 1.

AN ACT providing for the establishment, maintenance and administration of a motor vehicle accident claims fund for the payment of damages for injury to or death of certain persons or property damage arising out of the ownership, maintenance or use of motor vehicles in the state in certain cases; and to provide penalties for violation of this act. Am. 1967, p. 532, Act 274, Imd. Eff. Jul. 20.

The People of the State of Michigan enact:

257.1101 Motor vehicle accident claims act; short title.

Sec. 1. This act shall be known and may be cited as the "motor vehicle accident claims act".

HISTORY: New 1965, p. 336, Act 198, Eff. Nov. 1.

CITED IN OTHER SECTIONS: Sections 257.1101 to 257.1131 are cited in § 257.503c.

257.1102 Motor vehicle accident claims act; definitions.

Sec. 2. As used in this act:

(a) "Secretary" means the secretary of state acting as director of the fund.

(b) "Treasurer" means the state treasurer acting as the custodian of the fund.

(c) "Fund" means the motor vehicle accident claims fund.

(d) "Uninsured motor vehicle" means a motor vehicle as to which there is not in force a liability policy meeting the requirements of the motor vehicle responsibility law of this state, established pursuant to the provisions of chapter 5 of Act No. 300 of

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the Public Acts of 1949, as amended, being sections 257.501 to 257.532 of the Compiled Laws of 1948, and which is not owned by a holder of self-insurance under the law.

(e) "Person" includes natural persons, firms, copartnerships, associations and corporations, except the state or any agency or political subdivision thereof. The word "person" shall not include any municipal corporation or any corporation owned or operated by the state or any political subdivision thereof.

HISTORY: New 1965, p. 336, Act 198, Eff. Nov. 1;—Am. 1967, p. 532, Act 274, Imd. Eff. Jul. 20.

257.1103 Motor vehicle accident claims fund; establishment; annual statement and audit; investment; reversion.

Sec. 3. (1) There shall be a fund to be known as the motor vehicle accident claims fund into which shall be paid the fees prescribed under this section. A detailed financial statement of the condition of the fund shall be published by the secretary of state annually. This fund shall be subject to a financial audit by the auditor general. The treasurer shall deposit or invest any unappropriated portion of the fund, in the same manner and subject to all provisions of law with respect to the deposit or investment of state funds by the state treasurer, and all interest earned by such portions of the fund as may be deposited or invested by the treasurer shall be collected by him and placed to the credit of the fund. All unexpended moneys appropriated from the fund shall revert to the fund at the end of each fiscal year.

Commissioner of insurance; powers.

(1a) The commissioner of insurance shall have the power of visitation and examination of the affairs of the fund as though the fund were an insurer and shall report to the governor and the legislature on its financial position, actuarial soundness, and general condition. A copy of the report shall be filed with the auditor general for his use in auditing the fund. The fund shall also file an annual statement relating to business and affairs on such form as the commissioner shall prescribe.

Fee, uninsured vehicle; transfer of registration.

(2) Every person registering an uninsured motor vehicle in this state shall pay annually at the time of registering, in addition to any other fee prescribed by law, a fee of $35.00. Such fee shall not be paid in connection with a transfer of registration plates.

Fee, insured vehicle; transfer of registration.

(3) Every person registering any other motor vehicle in this state shall pay annually at the time of registering, in addition to any other fee prescribed by law, a fee of $1.00. Such fee shall not be paid in connection with a transfer of registration plates.

False evidence of insurance; penalties.

(4) Any person who furnishes false evidence of insurance upon the issuance or transfer of registration under this section is guilty of a misdemeanor. In addition his operator's or chauffeur's license or motor vehicle registration, or both, may be suspended by the secretary for a period of not more than 1 year.

Lapse or cancellation of insurance, fee; failure, penalty.

(5) Upon the cancellation or lapse of a motor vehicle liability insurance policy, or if the person's insurance shall terminate by reason of the company with whom he is insured becoming insolvent or in bankruptcy or receivership, the owner of such automobile shall pay the uninsured motor vehicle fee established in subsection (2) or obtain insurance before operating or permitting the operation of the vehicle upon the highways of this state. Any owner who operates or permits the operation of an uninsured motor vehicle upon the highways of this state without having paid the uninsured motor vehicle fee is guilty of a misdemeanor and shall pay the uninsured motor vehicle fee upon demand of the secretary. The secretary may cancel, revoke or suspend the

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owner's registration or registrations upon failure of the owner to pay the fee upon demand.

Illegal use of information.

(6) It shall be unlawful for any person to use any records or information produced as a result of the administration of any provisions of this act for the purpose of soliciting the sale or purchase of motor vehicle liability insurance. A conviction of a violation of this subsection shall be punished by imprisonment in the county jail for not more than 1 year or by a fine of not more than $1,000.00, or both such fine and imprisonment.

HISTORY: New 1965, p. 336, Act 198, Eff. Nov. 1;—Am. 1965, p. 784, Act 389, Imd. Eff. Oct. 25;—Am. 1967, p. 532, Act 274, Imd. Eff. Jul. 20;—Am. 1968, p. 320, Act 223, Eff. Jul. 1.

257.1104 Evidence of insurance or payment of fee; exhibition; violation; foreign state operators.

Sec. 4. (1) The owner or operator of a motor vehicle who operates or permits its operation upon the highways of this state shall produce, in accordance with the provisions of subsection (3) of this section, upon the request of any peace officer, evidence that the vehicle is an insured motor vehicle, or that the uninsured motor vehicle fee has been paid.

(2) The secretary shall issue to the owner of an uninsured motor vehicle a document that may be produced as evidence that the uninsured motor vehicle fee has been paid.

(3) Every owner or operator of a motor vehicle who fails to produce evidence when requested to do so or within 72 hours thereafter is guilty of a misdemeanor. A certificate of insurance issued by an insurance company stating that there is in force a liability policy meeting the requirements of the motor vehicle responsibility law of this state, shall be accepted as prima facie evidence of insurance being in force until the expiration date shown on the certificate.

(4) Every owner or operator of a motor vehicle who knowingly produces false evidence under this section is guilty of a misdemeanor. In addition, his operator's or chauffeur's license or motor vehicle registration, or both, may be suspended by the secretary for a period of not more than 1 year.

(5) Where the owner or operator of a motor vehicle is convicted under this section and he has not paid the uninsured motor vehicle fee for the current year in respect to the motor vehicle, the license plates and vehicle registration shall be forwarded by the court to the department of state for cancellation unless he produces evidence that there was in force a liability policy meeting the minimum requirements of the motor vehicle responsibility laws of this state with respect to the operation of the motor vehicle at the time the offense was committed.

(6) The provisions of this section do not apply to the owner or operator of a motor vehicle that is registered in a country, state or province other than this state.

HISTORY: New 1965, p. 337, Act 198, Eff. Nov. 1;—Am. 1967, p. 533, Act 274, Imd. Eff. Jul. 20.

257.1105 Service of process on secretary of state; failure to serve, effect; intervention.

Sec. 5. The secretary is deemed to be an agent of the owner or operator of every uninsured motor vehicle for service of process in an action in this state arising out of the use or operation in this state of the uninsured motor vehicle. Where such an action is commenced, summons and complaint shall be served on the secretary by certified or registered mail or by leaving a copy thereof with or at the office of the secretary who shall forward a copy of the summons and complaint forthwith by certified mail to the defendant at his last address as recorded with the secretary. In any action to recover damages arising out of the use or operation of an uninsured motor vehicle, failure to serve summons and complaint upon the secretary shall constitute a bar to recovery from the fund. In all actions where summons and complaint have been served upon

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the secretary, the secretary shall have the right to intervene in the action as a party defendant.

HISTORY: New 1965, p. 337, Act 198, Eff. Nov. 1;—Am. 1967, p. 534, Act 274, Imd. Eff. Jul. 20.

257.1106 Death or injury by uninsured motorist; application for payment from fund; disputing liability.

Sec. 6. (1) Where the death of or personal injury or property damage to any person or property is occasioned in this state by an uninsured motor vehicle, any person who would have a cause of action against the owner or driver of the uninsured motor vehicle in respect to the death or personal injury, or property damage except a person entitled to make an application under section 7, may make application, in a form prescribed by the secretary, for payment out of the fund subject to the limitations provided in this act for all damages in respect to the death or personal injury and for damages in excess of $200.00 in respect to property damage.

Uninsured motorist, notice of claim; denial of liability.

(2) Upon receipt of application under this section, the secretary shall forward, by certified mail, notice of the application to the owner and driver of the uninsured motor vehicle against whom liability for damages is alleged, to their last addresses as recorded with the secretary. If any person to whom a notice is sent replies in writing within 20 days of the date upon which the notice was sent, disputing his liability, the provisions of subsection (5) shall be suspended as to such person, until such person executes a written consent to such payment or the secretary obtains a judgment for such payment against such person in a court of law.

Secretary of state; payment from fund.

(3) In respect to the application, the secretary may make payment out of the fund, subject to section 23, of an amount that he deems proper if the applicant executes a written release of all claims arising out of the accident to be paid from the fund.

Subrogation.

(4) Where an amount is paid out of the fund under this section, the secretary is subrogated to the rights of the person to whom the amount is paid and may maintain an action in his own name or in the name of the person against the person responsible for the use or operation of the uninsured motor vehicle.

Suspension of uninsured motorist; reinstatement.

(5) Where payment is made under this section, the operator's or chauffeur's license and owner's registration or registrations of the persons to whom the notice was forwarded under this section shall be forthwith suspended by the secretary and shall not be reinstated until such person or persons have:

(a) Repaid in full to the fund the amount paid out; or

(b) Commenced installment repayments in accordance with an agreement made with the secretary, and filed proof of financial responsibility until the amount paid out in settlement of the claim by the motor vehicle accident claims fund has been repaid in full.

Default in payments.

(6) Where a person who has commenced repayment of an amount paid out of the fund is in default in any payment for a period of 10 days, or fails to maintain proof of financial responsibility as required by this act, the secretary shall forthwith suspend the operator's or chauffeur's license and vehicle registration or registrations of the person.

HISTORY: New 1965, p. 338, Act 198, Eff. Nov. 1;—Am. 1965, p. 785, Act 389, Imd. Eff. Oct. 25;—Am. 1967, p. 534, Act 274, Imd. Eff. Jul. 20;—Am. 1968, p. 321, Act 223, Eff. Jul. 1.

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257.1107 Judgment for damages caused by uninsured motorist; application for payment, property damage payment.

Sec. 7. (1) Subject to section 8, where a person recovers in any court in this state a judgment for damages on account of injury to or the death of any person or property damage occasioned in this state by an uninsured motor vehicle owned or operated by the judgment debtor within this state, upon the determination of all proceedings, including appeals, he may make application, in the form prescribed by the secretary and the secretary shall pay the amount of the judgment or of the unsatisfied portion thereof, subject to the limitations provided in this act with respect to death or personal injury and the amount of the judgment or of the unsatisfied portion thereof, in excess of $200.00, with respect to property damage out of the fund.

Same; notice to applicant of objection to payment.

(2) Where an application is made under this section, the secretary, at any time within 30 days of the receipt of the application, may give written notice to the applicant of any objection to payment of such judgment or any part of it. Where the secretary gives the notice the applicant may apply to the court entering judgment for a finding or determination in respect of any matter in connection with the application for payment out of the fund.

Same; action to be against all defendants.

(3) The secretary shall not pay out of the fund any amount in respect of a judgment unless the judgment was given in an action brought against all persons against whom the applicant might reasonably be considered as having a cause of action in respect of the damages in question and prosecuted against every such person to judgment or dismissal.

HISTORY: New 1965, p. 339, Act 198, Eff. Nov. 1;—Am. 1965, p. 786, Act 389, Imd. Eff. Oct. 25.

257.1108 Default judgment; notice to secretary of state; reopening; settlements.

Sec. 8. (1) Section 7 does not apply in the case of a judgment entered in an action in which the defendant did not enter an appearance, did not file an answer, or did not appear in person or by counsel at the trial, or judgment was entered upon the consent or with the agreement of the defendant, unless the secretary has been given notice in writing of the failure, consent or agreement and has been afforded an opportunity to take such action as he may deem advisable under subsection (2).

(2) Where the secretary is served with notice in writing under this section, he may enter an appearance within 30 days, file an answer, make payment into court, appear by counsel at the trial or take such other action as he may deem appropriate on behalf and in the name of the defendant, and thereupon, on behalf and in the name of the defendant, may conduct his defense, and may consent to judgment in such amount as he may deem proper in all the circumstances, and all acts done in accordance therewith shall be deemed to be the acts of the defendants.

(3) Where pleadings have been closed, the secretary, upon giving notice to the court and to all proper parties to the action that he intends to defend the action on behalf and in the name of the defendant, may reopen the pleadings upon praecipe.

(4) In any action to recover damages arising out of the use or operation of an uninsured motor vehicle any settlement made between the plaintiff and defendant shall not be binding upon the secretary or the fund unless the secretary consents thereto.

HISTORY: New 1965, p. 339, Act 198, Eff. Nov. 1;—Am. 1968, p. 322, Act 223, Eff. Jul. 1.

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257.1109 Assignment of judgment.

Sec. 9. The secretary shall not pay out of the fund any sum under section 7 until the judgment creditor assigns the judgment to him.

HISTORY: New 1965, p. 339, Act 198, Eff. Nov. 1.

257.1110 Suspension of licenses; reinstatement, conditions.

Sec. 10. Where the secretary pays out of the fund any amount in satisfaction of a judgment, the operator's or chauffeur's license and vehicle registration or registrations of the judgment debtor on whose behalf the payment is made shall be forthwith suspended by the secretary and shall remain suspended until he has:

(a) Repaid in full to the fund the amount paid out; or

(b) Commenced installment repayments in accordance with an agreement entered into with the secretary, and filed proof of his financial responsibility until the amount paid out to satisfy the judgment by the motor vehicle accident claims fund has been repaid in full.

HISTORY: New 1965, p. 339, Act 198, Eff. Nov. 1;—Am. 1967, p. 535, Act 274, Imd. Eff. Jul. 20.

257.1111 Default in installment payment; suspension of licenses.

Sec. 11. When a person is in default of any installment payment for a period of 10 days, or fails to maintain proof of financial responsibility as required by this act, the secretary shall forthwith suspend the operator's or chauffeur's license and vehicle registration of the person.

HISTORY: New 1965, p. 340, Act 198, Eff. Nov. 1;—Am. 1967, p. 535, Act 274, Imd. Eff. Jul. 20.

257.1112 Death or injury by unidentified vehicle or driver; action against fund; condition precedent.

Sec. 12. Where the death of or personal injury to any person is occasioned in this state by a motor vehicle but the identity of the motor vehicle and of the driver and owner thereof cannot be established, any person who would have a cause of action against the owner or driver in respect to the death or personal injury may bring an action against the secretary, either alone or as a codefendant with others alleged to be responsible for the death or personal injury. In any action commenced under this section, physical contact by the unidentified vehicle with the plaintiff or with a vehicle occupied by the plaintiff, is a condition precedent to such action.

HISTORY: New 1965, p. 340, Act 198, Eff. Nov. 1;—Am. 1965, p. 786, Act 389, Imd. Eff. Oct. 25;—Am. 1968, p. 323, Act 223, Eff. Jul. 1.

257.1113 Death or injury by unidentified vehicle or driver; adding secretary as defendant; condition.

Sec. 13. Where an action has been commenced in respect of the death of or injury to any person occasioned in this state by a motor vehicle and it is alleged that the death or injury was caused or contributed to by another motor vehicle, the identity of which and the owner and the driver thereof cannot be established, the secretary may be added as a defendant on the application of any party and shall be added as a defendant on his own application. The secretary may not be added as a defendant under this section unless physical contact by the unidentified motor vehicle with the plaintiff or with the vehicle occupied by the plaintiff or with such other vehicle which was involved in the accident has been established.

HISTORY: New 1965, p. 340, Act 198, Eff. Nov. 1;—Am. 1965, p. 786, Act 389, Imd. Eff. Oct. 25;—Am. 1968, p. 323, Act 223, Eff. Jul. 1.

257.1114 Repealed. 1967, p. 535, Act 274, Imd. Eff. Jul. 20.

Section related to motor vehicle accident claims act trial when secretary of state is defendant.

257.1115 Death or injury by stolen vehicle; action against secretary of state.

Sec. 15. When the death of or personal injury or property damage to any person or property is occasioned in this state by a motor vehicle at a time when the motor vehi-

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cle was without the owner's consent in the possession of some person other than the owner and the identity of the person in possession of the motor vehicle cannot be established, any person who would have a cause of action against the person in possession of the motor vehicle in respect of the death or injury or property damage may bring an action against the secretary.

HISTORY: New 1965, p. 340, Act 198, Eff. Nov. 1.

257.1116 Death or injury by stolen vehicle; general denial by secretary of state.

Sec. 16. In an action against the secretary, he may deny generally the allegations in respect to the unidentified motor vehicle and unidentified owner and driver thereof and shall not be required to set forth the facts upon which he relies.

HISTORY: New 1965, p. 340, Act 198, Eff. Nov. 1.

257.1117 Death or injury by stolen vehicle; judgment against secretary of state, prerequisites.

Sec. 17. In an action against the secretary, a judgment against him shall not be granted unless the court in which the action is brought is satisfied that all reasonable efforts have been made by the parties, other than the secretary, to ascertain the identity of the motor vehicle and of the owner and driver thereof, and that:

(a) In the case of actions under section 12, the identity of the motor vehicle and of the owner and driver thereof cannot be established; or

(b) In the case of actions under section 15, the identity of the driver of the motor vehicle that caused the death or injury or property damage cannot be established.

HISTORY: New 1965, p. 340, Act 198, Eff. Nov. 1.

257.1118 Recovery against fund; limitation of action; notice.

Sec. 18. In all actions in which recovery is to be sought against the fund, said action must be commenced within 3 years from the time the cause of action accrues. Recovery from the fund shall not be allowed in any event unless notice of intent to claim against the fund is served upon the secretary, on a form prescribed by him, within 6 months of the date that the cause of action shall accrue.

HISTORY: New 1965, p. 341, Act 198, Eff. Nov. 1;—Am. 1968, p. 323, Act 223, Eff. Jul. 1.

257.1119 Judgment against secretary of state; payment; property damage payment.

Sec. 19. Where judgment is obtained against the secretary upon the determination of all proceedings, including appeals, the secretary, subject to the limitations provided in this act, shall pay out of the fund to the plaintiff in the action, the entire amount of the judgment with respect to death or personal injury, and that part of the judgment in excess of $200.00, in respect to property damage.

HISTORY: New 1965, p. 341, Act 198, Eff. Nov. 1;—Am. 1965, p. 786, Act 389, Eff. Oct. 25.

257.1120 Judgment against secretary of state; application for order identifying owner or driver of motor vehicle; order, effect.

Sec. 20. Where judgment has been obtained against the secretary, he may apply at any time thereafter to the court where judgment has been obtained for an order declaring that any person was, at the time of the accident, the owner or driver of the motor vehicle that occasioned the death or injury or property damage in respect of which the judgment was obtained. Upon the making of an order declaring that any person was the owner or driver of a motor vehicle:

(a) The person, for the purpose of this act, shall be deemed to be the defendant in the action in which judgment was given against the secretary, and the judgment against the secretary shall be deemed to be a judgment against the person; and

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(b) The secretary shall be deemed to have a judgment against the person for the amount of all moneys paid out of the fund in respect of the judgment and accordingly has all the rights of a judgment creditor, including the right to recover any moneys that would have been payable in respect of the death or injury or property damage under any policy of insurance that was in force at the time of the accident.

HISTORY: New 1965, p. 341, Act 198, Eff. Nov. 1.

257.1121 Judgment against secretary of state; secretary not personally liable to satisfy judgment.

Sec. 21. In an action brought against the secretary, he is not personally liable to satisfy a judgment obtained in the action.

HISTORY: New 1965, p. 341, Act 198, Eff. Nov. 1.

257.1122 Payment from fund; prohibited when damages paid or payable from insurance.

Sec. 22. (1) No payment shall be made out of the fund for payment of damages arising out of motor vehicle accidents occurring in this state prior to January 1, 1966.

(2) No payment shall be made out of the fund in respect to a claim or judgment for damages or in respect to a judgment against the secretary, of any amount paid or payable by an insurer by reason of the existence of a policy of insurance or of any amount paid or payable by any other person by reason of the existence of any policy, contract, agreement or arrangement, providing for the payment of compensation, indemnity or other benefits.

(3) No amount sought to be paid out of the fund shall be sought in lieu of making a claim or receiving a payment that is payable by reason of the existence of a policy of insurance, or in lieu of making a claim or receiving a payment that is payable by reason of the existence of any policy, contract, agreement or arrangement, providing for the payment of compensation, indemnity or other benefits, to which the claimant would be entitled in the absence of this act.

(4) In determining the amount which is payable from the fund under subsections (2) and (3) of this section and section 23, of this act, no consideration shall be given to any amount received or receivable by or paid or payable to or for the benefit of any person, under a policy of life insurance or under any policy, contract or agreement, providing for the payment of any hospital or medical expenses.

(5) No amount sought to be paid out of the fund shall be sought, directly or indirectly, for payment to or on behalf of any insurer or other person to reimburse or indemnify the insurer or such other person for any amount paid or payable by the insurer or such other person, by reason of the existence of any policy of insurance or any contract, agreement or arrangement, providing for the payment of any compensation, indemnity or other benefits.

HISTORY: New 1965, p. 341, Act 198, Eff. Nov. 1;—Am. 1965, p. 787, Act 389, Imd. Eff. Oct. 25.

257.1123 Payment from fund; limitation on damages payable from fund; interest, costs.

Sec. 23. (1) In respect to applications under this act for payment of damages arising out of motor vehicle accidents occurring in this state on or after January 1, 1966, the secretary shall not pay out of the fund, (a) more than $10,000.00, exclusive of costs, on account of injury to or the death of one person, and, subject to such limit for any one person so injured or killed, not more than $20,000.00, exclusive of costs, on account of injury to or the death of 2 or more persons in any one accident; and (b) more than $5,000.00, exclusive of costs, for loss of or damage to property resulting from any one accident.

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(2) Where any amount is recovered from any other source in partial discharge of the claim or judgment, or where a claim or judgment for damages is reduced by an amount paid or payable by an insurer or any other person, as provided in section 22(2) or (3) of this act, then the limitations set forth in subsection 1 of this section shall be applicable to the excess of the claim or judgment over the amount by which the claim or judgment is partially satisfied or is reduced under section 22(2) or (3). Any amount paid out of the fund in excess of the amount authorized by this section may be recovered by action brought by the secretary.

HISTORY: New 1965, p. 341, Act 198, Eff. Nov. 1;—Am. 1965, p. 787, Act 389, Imd. Eff. Oct. 25.

257.1124 Residence; date of determination.

Sec. 24. In this act, residence shall be determined as of the date of the motor vehicle accident as a result of which the damages are claimed.

HISTORY: New 1965, p. 342, Act 198, Eff. Nov. 1.

257.1125 Nonresident; payment from fund prohibited, exception.

Sec. 25. The secretary shall not pay out of the fund any amount in favor of a person who resides outside of this state unless the person resides in a jurisdiction in which recourse of a substantially similar character to that provided by this act is afforded to residents of this state, but no payment shall include an amount that would not be payable by the law of the jurisdiction in which the person resides.

HISTORY: New 1965, p. 342, Act 198, Eff. Nov. 1.

257.1126 Administration of act by secretary of state; employment of assistants; use of staff of attorney general; wages and professional fees, payment.

Sec. 26. The secretary may employ such office, clerical and professional help and claims investigators as is necessary to carry out the provisions of this act. The attorney general shall assign members of his staff to assist the secretary and may contract with such private attorneys as are necessary to defend actions against the fund. All wages and professional fees for services hereunder shall be charged to and payable from the fund.

HISTORY: New 1965, p. 342, Act 198, Eff. Nov. 1.

257.1127 Administration of act; costs, payment; appropriation.

Sec. 27. All costs incurred by the secretary in the administration of this act shall be charged to and paid from the fund. There is appropriated from the motor vehicle accident claims fund sufficient amounts to make all payments for claims or judgments for damages which are proper and in accordance with the law governing such payments upon approval and audit of the department of state.

HISTORY: New 1965, p. 342, Act 198, Eff. Nov. 1;—Am. 1968, p. 323, Act 223, Eff. Jul. 1.

257.1128 Claims or actions against fund; limitation.

Sec. 28. All claims or actions under which any person seeks to recover from the fund shall be filed or commenced within 3 years from the date of accident.

HISTORY: New 1965, p. 342, Act 198, Eff. Nov. 1.

257.1129 Coverage by workmen's compensation law; recovery from fund; exception.

Sec. 29. Any person covered with respect to such injury or death by workmen's compensation law or the personal representative of such person shall not be permitted to recover from the fund except for property damage.

HISTORY: New 1965, p. 342, Act 198, Eff. Nov. 1;—Am. 1969, p. 190, Act 103, Eff. Mar. 20, 1970.

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257.1130 Practice and procedure in courts where application made; appeals.

Sec. 30. The practice and procedure of the supreme court or the court in which the application or action is brought, including the right of appeal and the practice and procedure relating to appeals, apply to an application or action brought under this act.

HISTORY: New 1965, p. 342, Act 198, Eff. Nov. 1.

257.1131 Effective date of act.

Sec. 31. This act shall become effective November 1, 1965.

HISTORY: New 1965, p. 342, Act 198, Eff. Nov. 1.

257.1132 Total loss of vehicle; surrender of title, junking.

Sec. 32. When payment is made for property damage to a vehicle which payment represents the total value of the vehicle less the $200.00 deductible the secretary may require that the certificate of title of the vehicle be surrendered for cancellation as a junk vehicle. When the certificate of title is surrendered under this section the secretary shall issue a memorandum of title which will enable the owner of the vehicle to dispose of it as junk or salvage.

HISTORY: Add. 1969, p. 484, Act 252, Imd. Eff. Aug. 11.

Act 258, 1968, p. 445; Eff. Jul. 1, 1969.

AN ACT to regulate the licensing and operation of ambulances; to provide for renewal of licenses; to regulate the licensing and qualifications of drivers and attendants; to regulate the operation of ambulances; and to authorize counties, cities, villages, charter townships and townships to contract for ambulance and inhalator services. Am. 1969, p. 491, Act 260, Imd. Eff. Aug. 11.

The People of the State of Michigan enact:

257.1201 Ambulance and inhalator services; definitions.

Sec. 1. As used in this act:

(a) "Ambulance" means any privately or publicly owned motor vehicle for highway use that is specially designed or constructed and equipped, and is intended to be used for and is maintained or operated for the transportation of patients, including dual purpose police patrol cars and funeral coaches or hearses which otherwise comply with the provisions of this act.

(b) "Attendant" means a trained or qualified individual responsible for the operation of an ambulance and the care of the patients whether or not the attendant also serves as driver.

(c) "Attendant-driver" means an individual who is qualified as an attendant and as a driver.

(d) "Driver" means an individual who drives an ambulance and meets the qualifications of this act.

(e) "Dual purpose police patrol car" means a vehicle, operated by a police department, which is equipped as an ambulance, even though it is also used for patrol or other police purposes.

(f) "Health officer" or "director" means the director of the state department of public health.

(g) "Patient" means an individual who is sick, injured, wounded, or otherwise incapacitated or helpless.

HISTORY: New 1968, p. 445, Act 258, Eff. Jul. 1, 1969.

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257.1202 Rules; promulgation by director of health.

Sec. 2. The director of the department of public health shall promulgate such rules as are necessary for the purposes of this act in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: New 1968, p. 445, Act 258, Eff. Jul. 1, 1969.

257.1203 License required; exception.

Sec. 3. No person shall furnish, operate, conduct, maintain, advertise, or otherwise be engaged in or profess to be engaged in the business or service of the transportation of patients upon the highways, streets, alleys or any public way in this state except in an ambulance licensed under the provisions of this act. An ambulance operated by an agency of the United States shall not be required to be licensed under the provisions of this act.

HISTORY: New 1968, p. 445, Act 258, Eff. Jul. 1, 1969.

257.1204 Qualified attendant required; exceptions.

Sec. 4. (1) No ambulance shall be operated, and no individual shall drive, attend or permit it to be operated on any highway, street, alley or public way while transporting a patient or patients unless it shall be under the immediate supervision and direction of a person who meets the qualifications required by this act for an attendant or attendant-driver.

(2) The provisions of this act shall not apply to an ambulance from another state nor to the driver, attendant or attendant-driver of an ambulance from another state which:

(a) Is rendering assistance to licensed ambulances in the case of a major catastrophe or emergency for which the licensed ambulances of this state are insufficient or unable to cope; or

(b) Is operated from a location or headquarters outside of this state in order to transport patients across state lines, but no such outside ambulance shall be used to pick up patients within this state for transportation to locations within this state without meeting the provisions of this act.

(3) This act shall not be construed to supersede, limit or otherwise affect the provisions of the state civil defense act and the interstate civil defense and disaster compact dealing with licenses for professional, mechanical or other skills for persons performing civil defense, emergency or disaster functions.

HISTORY: New 1968, p. 445, Act 258, Eff. Jul. 1, 1969.

257.1205 Ambulance licenses; application, contents; fee; insurance.

Sec. 5. Applications for ambulance licenses hereunder shall be made upon such forms as may be prepared or prescribed by the director and shall contain:

(a) The name and address of the registered owner of the ambulance.

(b) The trade or other fictitious name, if any, under which the registered owner of the ambulance does business or proposes to do business.

(c) A description of each ambulance, including the make, model, year of manufacture, motor and chassis number; current state license number; the length of time the ambulance has been in use; and the color scheme, insignia, name, monogram or other distinguishing characteristics used to designate the ambulance.

(d) The location and descriptions of the place or places from which it is intended to operate.

(e) Such other information as the director deems reasonably necessary to a fair determination of compliance with this act.

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(f) An accompanying fee of $25.00 per ambulance or $10.00 per ambulance for nonprofit volunteer ambulance services. All local units of government shall be exempt from paying the fees required by this subsection.

(g) Any change of ownership of a licensed ambulance shall terminate the license and shall require a new application and a new license and conformance with all the requirements of this act as upon original licensing.

(h) A certificate of insurance in the amount and coverage as required by rules promulgated by the director.

HISTORY: New 1968, p. 446, Act 258, Eff. Jul. 1, 1969.

257.1206 Licenses; annual renewal.

Sec. 6. Licenses shall be good for 1 year and shall be renewed annually upon such application as required by rules promulgated by the director and payment of the fees prescribed in section 5.

HISTORY: New 1968, p. 446, Act 258, Eff. Jul. 1, 1969.

257.1207 Ambulance licenses; minimum requirements.

Sec. 7. No ambulance shall be licensed under the provisions of this act unless it shall meet the following minimum requirements:

(a) Be at least a rear door opening station wagon.

(b) Be equipped with a flashing, oscillating or rotating red or blue light placed in such position on the ambulance as to be visible throughout an arc of 360 degrees.

(c) Be equipped with a siren capable of emitting sound audible under normal conditions from a distance of not less than 500 feet.

(d) Be equipped with sufficient equipment for administering oxygen to patients in the ambulance.

(e) Be equipped with minimum first aid equipment meeting standards as set forth in rules promulgated by the director.

HISTORY: New 1968, p. 446, Act 258, Eff. Jul. 1, 1969.

257.1208 Ambulances; traffic regulations, privileges.

Sec. 8. (1) The driver of an ambulance, when responding to an emergency call or while transporting a patient, may exercise the privileges set forth in this section, but subject to the conditions herein stated, and only when such driver has reasonable grounds to believe that an emergency in fact exists requiring the exercise of such privileges. Subject to the provisions of this subsection the driver of an ambulance may:

(a) Park or stand, irrespective of the otherwise applicable provisions of law, ordinance or regulation.

(b) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation.

(c) Exceed the maximum speed limits permitted by law, ordinance or regulation so long as he does not endanger life or property.

(d) Disregard laws, ordinances or regulations governing direction or movement or turning in specified directions.

(2) The exemptions granted in this section shall apply only when such ambulance is making use of audible and visual signals meeting the requirements of law, ordinance or regulation.

(3) The provisions of this section shall not relieve the driver of an ambulance from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others.

HISTORY: New 1968, p. 446, Act 258, Eff. Jul. 1, 1969.

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257.1209 Ambulances; attendant, attendant-driver; license, application, fee.

Sec. 9. Each attendant or attendant-driver shall be licensed under the provisions of this act. Application shall be made upon such forms as may be prepared or furnished by the director and shall contain:

(a) The applicant's full name, current address and length of time he has resided in this state.

(b) The applicant's age, marital status, height, color of eyes and hair.

(c) Whether the applicant has ever been convicted of a felony or misdemeanor, and if so, when and where and for what cause.

(d) The applicant's training and experience in the transportation and care of patients, and whether he has previously been licensed as a driver, chauffeur, attendant or attendant-driver, and if so, when and where, and whether his license has ever been revoked or suspended in any jurisdiction and if so for what cause.

(e) Such other information as the director shall deem necessary to assure compliance with this act.

(f) An accompanying license fee of $5.00 or $1.00 for nonprofit volunteer ambulance attendant or attendant-drivers and public police officers or firemen engaged as ambulance attendants or attendant-drivers.

HISTORY: New 1968, p. 447, Act 258, Eff. Jul. 1, 1969;—Am. 1969, p. 491, Act 260, Imd. Eff. Aug. 11.

257.1210 Licenses; term, renewal.

Sec. 10. Licenses shall be good for 1 year and shall be renewed annually upon such application as required by rules promulgated by the director and payment of the fees prescribed in section 9.

HISTORY: New 1968, p. 447, Act 258, Eff. Jul. 1, 1969.

257.1211 License applicants; investigation; qualifications; drivers exempt.

Sec. 11. (1) The director or his designated representative, within a reasonable time after receipt of an application, shall make such investigation as he deems necessary of the applicant for driver's, attendant's or attendant-driver's license.

(2) The director shall issue a license to an attendant or attendant-driver, valid for a period of 1 year, unless earlier suspended, revoked or terminated, when he finds that:

(a) The applicant is not addicted to the use of intoxicating liquors or narcotics.

(b) The applicant is able to speak, read and write the English language.

(c) The applicant has been found by a duly licensed physician, upon examination attested to on a form provided by the health officer, to be of sound physique, possessing eyesight corrected to at least 20/40 in the better eye, and free of physical defects or diseases which might impair the ability to drive or attend an ambulance.

(d) For each applicant for attendant or attendant-driver's license, that the applicant has a currently valid certificate evidencing successful completion of a course of training equivalent to the advanced course in first aid given by the American Red Cross or the United States bureau of mines.

(3) The driver of an ambulance shall not be required to be licensed under the provisions of this act if he has a currently valid driver's or chauffeur's license and is accompanied in the ambulance by a licensed attendant or attendant-driver, or if in an emergency he drives an ambulance which is provided by an employer for the sole use and protection of employees of such employer in an emergency.

HISTORY: New 1968, p. 447, Act 258, Eff. Jul. 1, 1969;—Am. 1969, p. 491, Act 260, Imd. Eff. Aug. 11.

257.1212 Repealed. 1969, p. 492, Act 260, Imd. Eff. Aug. 11.

Section provided that local government police officer or fireman was not required to qualify as ambulance driver.

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257.1213 Local units; contract for services.

Sec. 13. Any city, township, charter township, village or county may contract with a private person to furnish ambulance and inhalator service for the use and benefit of its residents and may pay for the entire cost or any part thereof from general funds.

HISTORY: New 1968, p. 448, Act 258, Eff. Jul. 1, 1969;—Am. 1969, p. 492, Act 280, Imd. Eff. Aug. 11.

257.1214 Local ordinances.

Sec. 14. Any city, township, village or county may establish ordinances regulating ambulances, attendants, drivers and attendant-drivers meeting not less than the minimum requirements of this act and the rules of the director promulgated hereunder.

HISTORY: New 1968, p. 448, Act 258, Eff. Jul. 1, 1969.

257.1215 Licenses; suspension, revocation, procedure.

Sec. 15. (1) The director or his designated representative may suspend or revoke a license for failure of a licensee to comply and to maintain compliance with, or for violation of, any applicable provisions, standards or requirements of this act, or the rules, or any other applicable laws or ordinances or regulations promulgated thereunder, but only after warning and such reasonable time for compliance as may be set by the director. Within 10 days after a suspension, the licensee shall be afforded a hearing after reasonable notice. The director or his designated representative, within 10 days after conclusion of such hearing, shall issue a written decision which shall include written findings as to the suspension of said license, subject to Act No. 197 of the Public Acts of 1952, as amended. The written decision shall be promptly transmitted to the licensee.

(2) The initial, semiannual, or other ambulance, equipment and premise inspection reports of the director shall be prima facie evidence of compliance or noncompliance with, or violation of the provisions, standards and requirements for the licensing of ambulances.

(3) Upon suspension, revocation or termination of an ambulance license, operations as such shall cease with such ambulance and no person shall permit continued operation with such ambulance. Upon suspension, revocation or termination of a driver's, attendant's or attendant-driver's license, such driver, attendant or attendant-driver shall cease to drive or attend an ambulance, and no person shall employ or permit such individual to drive or attend an ambulance.

HISTORY: New 1968, p. 448, Act 258, Eff. Jul. 1, 1969.

257.1216 Violation of act; misdemeanor; exemption.

Sec. 16. Any person who violates the provisions of this act is guilty of a misdemeanor. The misdemeanor provision does not pertain to rules or regulations promulgated by the director.

HISTORY: New 1968, p. 448, Act 258, Eff. Jul. 1, 1969.

257.1217 Effective date of act.

Sec. 17. This act shall become effective July 1, 1969.

HISTORY: New 1968, p. 448, Act 258, Eff. Jul. 1, 1969.

Act 74, 1968, p. 120; Eff. Sep. 1.

AN ACT to register and regulate snowmobiles.

The People of the State of Michigan enact:

257.1501 Snowmobiles; definitions.

Sec. 1. As used in this act:

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(a) "Operator" means any person who operates or is in actual physical control of a snowmobile.

(b) "Owner" means any person, other than a lienholder, having the property in or title to a snowmobile entitled to the use or possession thereof.

(c) "Operate" means to ride in or on and to control the operation of a snowmobile.

(d) "Person" means an individual, partnership, corporation, the state and any of its agencies or subdivisions, and any body of persons whether incorporated or not.

(e) "Snowmobile" means any motorized vehicle designed for travel primarily on snow or ice steered by wheels, skis or runners.

(f) "Snowmobile dealer" means any person engaged in the sale of snowmobiles.

(g) "Highway or street" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

(h) "Roadway" means that portion of a highway improved, designated, or ordinarily used for vehicular travel. If a highway includes 2 or more separate roadways the term roadway refers to any such roadway separately, but not to all such roadways collectively.

HISTORY: New 1968, p. 120, Act 74, Eff. Sep. 1.

CITED IN OTHER SECTIONS: Sections 257.1501 to 257.1518 are cited in § 600.8511.

257.1502 Vehicle tax and fee exemptions.

Sec. 2. Snowmobiles are exempt from all taxes and fees imposed on vehicles under the provisions of Act No. 300 of the Public Acts of 1949, as amended, being sections 257.1 to 257.923 of the Compiled Laws of 1948.

HISTORY: New 1968, p. 120, Act 74, Eff. Sep. 1.

257.1503 Registration required; exemption.

Sec. 3. Except as otherwise provided, no snowmobile shall be operated within this state unless registered by the owner as provided in this act. No registration is required for a snowmobile operated exclusively on lands owned or under the control of the snowmobile owner.

HISTORY: New 1968, p. 120, Act 74, Eff. Sep. 1.

257.1503a Special events; registration.

Sec. 3a. No registration is required for a snowmobile which is exclusively operated in a special snowmobile event of limited duration which is conducted according to a prearranged schedule under a permit from the governmental unit having jurisdiction.

HISTORY: Add. 1969, p. 521, Act 281, Eff. Mar. 20, 1970.

257.1504 Triennial registration; application; fee; certificate.

Sec. 4. Beginning January 1, 1969 and each 3 years thereafter, the owner of each snowmobile requiring registration by this state shall file an application for registration with the secretary of state on forms provided by him. The application shall be signed by the owner of the snowmobile and shall be accompanied by a fee of $5.00 if submitted in the first year of the 3-year registration period; $3.00 if submitted in the second year, and $2.00 if submitted in the third year. Upon receipt of the application in approved form, the secretary of state shall enter it upon the records of his office and issue to the applicant a certificate of registration containing the number awarded to the snowmobile, the name and address of the owner and such other information as the secretary of state deems necessary. The certificate of registration shall be pocket size and shall accompany the vehicle and be made available for inspection upon demand by any peace officer.

HISTORY: New 1968, p. 121, Act 74, Eff. Sep. 1.

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257.1505 Registration number; attachment; renewal; expiration.

Sec. 5. (1) The owner of any snowmobile having been issued a certificate of registration for the snowmobile shall paint on or attach in a permanent manner to each side of the forward half of the snowmobile the identification number in block characters of good proportion, not less than 3 inches in height, reading from left to right. The numbers shall contrast so as to be distinctly visible and legible. No number other than the number awarded to a snowmobile under this act, or granted reciprocity under this act, shall be painted, attached or otherwise displayed on either side of the forward half of the snowmobile.

(2) There may be issued not earlier than 90 days prior to the expiration date of a certificate a registration renewal decal or other device indicating that the certificate of registration is in full force and effect. Display of the decal or other device shall be as prescribed by rule adopted by the secretary of state.

(3) Initial certificates of registration awarded pursuant to this act shall expire on December 31, 1971, and thereafter certificates of registration and renewals thereof shall expire at the end of each 3-year interval from December 31, 1971, unless sooner canceled.

HISTORY: New 1968, p. 121, Act 74, Eff. Sep. 1.

257.1506 Notice of destruction, abandonment, sale, or change of address; transfer; fee; duplicate, fee.

Sec. 6. (1) The owner of any snowmobile shall notify the secretary of state within 15 days if the snowmobile is destroyed or abandoned, is sold or an interest therein transferred either wholly or in part to another person, or if his address no longer conforms to the address appearing on the certificate of registration. The notice shall consist of a surrender of the certificate of registration on which the proper information shall be noted on a place to be provided. When the surrender of the certificate is by reason of the snowmobile being destroyed or abandoned, the secretary of state shall cancel the certificate and enter such fact in his records and the number may be then reassigned.

(2) If the surrender is by reason of a change of address on the part of the owner, the new address shall be recorded by the secretary of state and upon payment of a fee of $1.00 a certificate of registration bearing such information shall be returned to the owner. The transferee of a snowmobile registered under this act, within 15 days after acquiring it, shall make application to the secretary of state for transfer to him of the certificate of registration issued to the snowmobile, giving his name, address and the number of the snowmobile and pay to the secretary of state a fee of $1.00. Upon receipt of the application and fee the secretary of state shall transfer the certificate of registration issued for the snowmobile to the new owner. Unless the application is made and the fee paid within 15 days, the snowmobile shall be deemed to be without certificate of registration and a person shall not operate the snowmobile until a certificate is issued.

(3) If any certificate of registration is lost, mutilated or illegible, the owner of the snowmobile may obtain a duplicate of the certificate upon application and payment of a fee of $2.00.

HISTORY: New 1968, p. 121, Act 74, Eff. Sep. 1.

257.1507 Manufacturers and dealers; testing and demonstration, certificates; fee.

Sec. 7. A snowmobile dealer or manufacturer, upon application to the secretary of state upon forms provided by him, may obtain certificates of registration for use in the testing or demonstrating of such snowmobile upon payment of $10.00 for each registration. Certificates of registrations so issued may be used by the applicant only in the testing or demonstrating of snowmobiles by temporary placement of the numbers on

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the snowmobile being tested or demonstrated. Any 1 certificate issued pursuant to this section may be used on only 1 snowmobile at any given time. The temporary placement of numbers shall be as prescribed by this act or rules adopted hereunder.

HISTORY: New 1968, p. 122, Act 74, Eff. Sep. 1.

257.1508 Awarding of certificate of number; public record.

Sec. 8. The department of state may award any certificate of number directly or may authorize any person to act as its agent for the awarding thereof. All records of the department of state made or kept pursuant to this act shall be public records except as otherwise provided herein.

HISTORY: New 1968, p. 122, Act 74, Eff. Sep. 1.

257.1509 Dealers; duties; insurance.

Sec. 9. (1) A dealer shall maintain in safe operating condition all snowmobiles, rented, leased or furnished by him. The dealer, his agents or employees shall explain the operation of the snowmobile being rented, leased or furnished and if such dealer, his agent or employee believes the person to whom the snowmobile is to be rented, leased or furnished is not competent to operate such snowmobile with competency to himself and to the safety of others, he shall refuse to rent, lease or furnish the same.

(2) Any dealer renting, leasing or furnishing any snowmobile shall carry a policy of liability insurance subject to limits exclusive of interests and costs, with respect to such snowmobile, as follows: $10,000.00 because of bodily injury to or death of 1 person in any 1 accident and subject to said limit for 1 person, $20,000.00 because of bodily injury to or death of 2 or more persons in any 1 accident, and $5,000.00 because of injury to or destruction of property or others in any 1 accident, or the alternative, demand and be shown proof that the person renting, leasing or being furnished a snowmobile carries liability policy of at least the type and coverage as specified above.

HISTORY: New 1968, p. 122, Act 74, Eff. Sep. 1.

257.1510 Foreign registration; use of vehicle.

Sec. 10. A snowmobile registered in another state or in a province of Canada to a nonresident of this state may be operated within the state under authority of such registration not to exceed 20 days.

HISTORY: New 1968, p. 122, Act 74, Eff. Sep. 1.

257.1511 Revenues; disposition; appropriations.

Sec. 11. The revenue received under this act shall be deposited in the state treasury. The legislature may make annual appropriations to the several state agencies responsible for administration of the provisions of this act to implement its provisions and to the department of conservation for the development and maintenance of snowmobile trails on lands under the control of the department.

HISTORY: New 1968, p. 122, Act 74, Eff. Sep. 1.

257.1512 Operation of snowmobile; prohibition, exception.

Sec. 12. No person shall operate a snowmobile upon the main traveled portion of any roadway, as defined in section 55 of Act No. 300 of the Public Acts of 1949, being section 257.55 of the Compiled Laws of 1948, or on a highway or street within 10 feet of such roadway with the following exceptions:

(a) Properly registered snowmobiles may cross public highways, except limited access highways and freeways as defined in Act No. 300 of the Public Acts of 1949 if such crossing can be made in safety and it does not interfere with the free movement of vehicular traffic approaching from any direction on such highway. The snowmobile operator shall yield the right of way to all vehicular traffic upon any highway.

(b) Snowmobiles may be operated on highways in the county road systems which are not maintained for winter wheel vehicular traffic by removal of snow.

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(c) Snowmobiles may be operated on a street and highway during a period of emergency, when so declared by a police agency having jurisdiction, when travel by conventional automotive equipment is not possible.

(d) Snowmobiles may be operated on the highways within the restrictions set forth herein for the purposes of crossing bridges and culverts.

(e) Snowmobiles may be operated on county highways not having 10 or more feet of traversable right of way outside the traveled portion of the roadway as far off the roadway as possible.

(f) Snowmobiles may be operated on a street or highway for a special snowmobile event of limited duration which is conducted according to a prearranged schedule under permit from the governmental unit having jurisdiction.

(g) Whenever it is impractical to gain immediate access to an area adjacent to a public highway where a snowmobile is to be operated, the vehicle may be operated adjacent and parallel to the highway for the purpose of gaining access to the area of operation. This subsection shall apply to the operation of a snowmobile from the point where the vehicle is unloaded from a motorized conveyance to and from the area where the snowmobile is to be operated when loading and unloading cannot be effected in the immediate vicinity of the area of operation without causing a hazard to vehicular traffic approaching from either direction on the highway. Loading or unloading must be accomplished with due regard to safety at the nearest possible point to the area of operation.

HISTORY: New 1968, p. 122, Act 74, Eff. Sep. 1.

257.1513 Lights and brakes.

Sec. 13. No snowmobile shall be operated in this state unless it has at least 1 headlight, 1 taillight and adequate brakes capable of producing deceleration at 14 feet a second on level ground at a speed of 20 miles an hour.

HISTORY: New 1968, p. 123, Act 74, Eff. Sep. 1.

257.1514 Local ordinances.

Sec. 14. Any city or village may pass an ordinance regulating the operation of snowmobiles if the ordinance meets substantially the minimum requirements of this act.

HISTORY: New 1968, p. 123, Act 74, Eff. Sep. 1.

257.1515 Operation of snowmobile; acts prohibited.

Sec. 15. No person shall operate a snowmobile:

(a) At a rate of speed greater than is reasonable and proper having due regard for conditions then existing.

(b) While under the influence of intoxicating liquor or narcotic drugs, barbital or any derivative of barbital.

(c) During the hours from 1/2 hour after sunset to 1/2 hour before sunrise without displaying a lighted headlight and a lighted taillight.

(d) In any nursery, planting area, or natural area of forest reproduction and when growing stock may be damaged.

(e) Unless it is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke.

(f) While transporting thereon a bow or a firearm unless the same be securely encased.

HISTORY: New 1968, p. 123, Act 74, Eff. Sep. 1.

257.1516 Accidents.

Sec. 16. The operator of a snowmobile involved in an accident resulting in injuries to or death of any person, or property damage in an estimated amount of $100.00 or more, or some person acting for him, or the owner of the snowmobile having knowl-

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edge of the accident, shall immediately by the quickest means of communication notify a state police officer or officers, or the sheriff's office of the county wherein the accident occurred, or to the office of the police department of the municipality wherein the accident occurred.

HISTORY: New 1968, p. 123, Act 74, Eff. Sep. 1.

257.1517 Violation of act; misdemeanor.

Sec. 17. Any person who violates the provisions of this act is guilty of a misdemeanor.

HISTORY: New 1968, p. 123, Act 74, Eff. Sep. 1.

257.1517a Violations; appearance tickets, issuance.

Sec. 17a. A police officer may issue appearance tickets for violations of this act pursuant to sections 9a to 9e of chapter 4 of Act No. 175 of the Public Acts of 1927, as added, being sections 764.9a to 764.9e of the Compiled Laws of 1948.

HISTORY: Add. 1969, p. 521, Act 281, Eff. Mar. 20, 1970.

257.1518 Effective date of act.

Sec. 18. This act shall take effect on September 1, 1968.

HISTORY: New 1968, p. 124, Act 74, Eff. Sep. 1.

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CHAPTER 259. AVIATION

AERONAUTICS CODE

Act 327 of 1945

CHAPTER I

DECLARATION OF INTENT

259.1 Aeronautics code; declaration of intent.

CHAPTER II

DEFINITIONS

259.2 Aeronautics; definition.
259.3 Aeronautical facilities; definition.
259.4 Aircraft; definition.
259.5 Civil aircraft; definition.
259.6 Public aircraft; definition.
259.7 Airman; definition.
259.8 Air navigation; definition.
259.9 Airport; definition.
259.10 Airport manager; definition.
259.11 Navigable airspace; definition.
259.12 Airspace reservations; definition.
259.13 Aviation instructor; definition.
259.14 Aviation school; definition.
259.15 Commission; definition.
259.16 Department; definition.
259.17 Director; definition.
259.18 Flying club; definition.
259.19 Fuel; definition.
259.20 Hazards to air navigation; definition.
259.21 Landing field; definition.
259.21a Landing area; definition.
259.22 Operation of aircraft or operate aircraft; definition.
259.23 Person; definition.
259.24 Political subdivision; definition.
259.25 Rules and regulations; definition.

CHAPTER III

AERONAUTICS DEPARTMENT, CREATION, MEMBERSHIP, FUNDS

259.26 Aeronautics commission and department of aeronautics; creation, membership, appointment, terms.
259.27 Director of aeronautics; appointment; qualifications, duties, compensation and expenses.
259.28 Commissioners of aeronautics; appointment, qualifications.
259.29 Commissioners of aeronautics; salary and expenses.
259.30 Commissioners of aeronautics; removal.
259.31 Aeronautics commission; organization, meetings and reports.
259.32 Aeronautics commission; biennial reports to governor, contents.
259.33 Aeronautics commission; assistants and expenses.
259.34 Aeronautics fund; creation.
259.35 Aeronautics fund; appropriation.
259.36 Transfer of properties from board of aeronautics to department of aeronautics.

CHAPTER IV

GENERAL POWERS AND DUTIES OF AERONAUTICS COMMISSION AND DIRECTOR OF AERONAUTICS

259.51 Aeronautics commission; general supervisory powers; rules and regulations.
Cooperation with public agencies and others; joint hearings.
General public interest.
State airways system.
Enforcement; injunctions.
Investigations.
Same; restrictions on use of reports.
Contracts.
259.52 Director of aeronautics; powers and duties.
259.53 Director of aeronautics; powers delegated.
259.54 Cooperation with federal government; federal moneys; state agent; powers of commission.

CHAPTER V

REGULATION OF AIRCRAFT, AIRMEN, AIRPORTS AND AIR INSTRUCTION

259.76 Registration of aircraft; federal certificate required.
259.77 Registration of aircraft; application; fees.
259.78 Registration of aircraft; transfer.
259.79 Registration of aircraft; display of certificate.
259.80 Airworthiness; certificate.
259.81 Inspection of aircraft.
259.82 Manufacturers and dealers; registration numbers for aircraft.
259.83 Airman; certificate of competency.
259.84 Exemptions; registration and certificate requirements.
259.85 Aviation schools and instructors.
259.86 Airport managers; licensing; facilities, licensing; temporary use; application; inspection.
259.87 Airports and facilities; rejection of application for permission to operate.
259.88 Airports and facilities; annual registration.
259.89 Personal use landing areas.
259.90 Emergency public use; approval; liability.

CHAPTER VI

ACQUISITION AND OPERATION OF STATE AIRPORTS

259.101 State airport and landing fields; authorized by aeronautics commission.
259.102 Aeronautics commission; airport protection privileges.
259.103 Aeronautics commission; joint operations.
259.104 Aeronautics commission; condemnation, right of eminent domain.
259.105 Aeronautics commission; leases and sales; capital city airport and Houghton lake state airport leases.
259.106 Aeronautics commission; charges and rentals, determination.

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259.107 Aeronautics commission; traffic code for state-owned facilities; enforcement, penalty.

CHAPTER VII

ACQUISITION AND OPERATION OF AIRPORTS, LANDING FIELDS AND OTHER AERONAUTICAL FACILITIES BY POLITICAL SUBDIVISIONS OF THIS STATE

259.126 Airports; acquisition and operation by political subdivisions.
259.126a Aeronautical facilities; acquisition and operation by state of Wisconsin; reciprocity.
259.127 Air space rights.
259.128 Encroachments on airport protection privileges declared public nuisance; abatement.
259.129 Prior acquisitions; validation.
259.130 Political subdivisions; appropriation of funds.
259.131 Aeronautical facilities; general obligation bonds; revenue bonds, additional security.
259.131a Aeronautics commission; capital city airport revenue bonds, issuance.
259.132 Declaration of public purpose and necessity.
259.133 Aeronautical facilities; powers of local units.
Administrative agency; Wayne county.
Airport manager; employment.
Management, government, use; rules; guards; penalties.
Public safety rules.
Property; lease, donation, sale; concessions.
Surplus property, disposition.
Charges, rentals, fees; liens.
Incidental powers.
259.134 Joint operation; board, compensation, term; condemnation proceedings; expenditures.
259.135 Federal aid to political subdivisions; aeronautics commission as agent.
259.136 Board of supervisors may vote aid.

CHAPTER VIII

APPROACH PROTECTION FOR AIRPORTS, LANDING FIELDS AND OTHER AERONAUTICAL FACILITIES

259.151 State plan for approach protection areas.
259.152 Determination of hazard; notice to owner.
259.153 Execution of order to abate hazard; failure to comply.
259.154 Execution of order to abate hazard; privately owned airport; failure to comply.
259.155 Hazards surrounding state-owned airports; fields, and facilities.
259.156 Encroachments upon approach protection areas declared public nuisance.

CHAPTER IX

PENAL PROVISIONS—JURISDICTION OF CRIMES, TORTS, CONTRACTS

259.176 Violation of act; misdemeanor, penalty.
259.177 Jurisdiction of crimes and torts.
259.178 Contracts made during flight; effect.
259.179 Unlawful methods of hunting; penalty.
259.180 Reckless operation of aircraft; penalty.
259.180a Civil actions concerning aircraft; liability of owner or operator; guest passenger; definitions.
259.181 Tampering with markings of airports and aeronautical facilities; misdemeanor.
259.182 Allowing domestic animals or fowl on airport facilities; penalty.
259.183 Use of aircraft unlawfully; penalty.
259.184 Trespassing on airports and facilities; misdemeanor.

CHAPTER X

MISCELLANEOUS PROVISIONS

259.201 Aeronautics commission; orders.
259.202 Aeronautics commission; orders, appeal.
259.203 Gasoline privilege tax; imposition, refund.
259.204 Aircraft fuels; storage, dispensing, sale; regulations.
259.205 Repair station operator lien.
259.208 Aeronautics code of the state of Michigan; short title.

AIRPORT DEVELOPMENT
Act 107 of 1969

259.251 Airport loan program; creation, administration, purpose.
259.252 Revolving loan account; appropriation, administration.
259.253 Aeronautics commission; promulgation of rules; loans, security, payment, interest.
259.254 Aeronautics commission; report to legislature, time, contents.
259.255 Supplemental construction of act.

AERONAUTICAL PLANNING FUND
Act 328 of 1945

259.401 Appropriation; purpose.
259.402 Special aeronautical planning fund; expenditure.

AIRPORT ZONING ACT
Act 23 of 1950 (Ex. Ses.)

259.431 Airport zoning act; definitions.
259.432 Airport; publicly owned; definitions.
259.433 Airport hazard; definition.
259.434 Airport hazard area; definition.
259.435 Commission; definition.
259.436 Political subdivision; definition.
259.437 Person; definition.
259.438 State; definition.
259.439 Structure; definition.
259.440 Tree; definition.
259.441 Airport hazard declared nuisance; prevention.
259.442 Airport approach plan; adoption by aeronautics commission, considerations.
259.443 Determination of hazard; zoning regulations.

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259.444 Joint airport zoning board; creation, powers, membership.
259.445 Airport zoning regulations; incorporation into zoning ordinance.
259.446 Airport zoning regulations; amendment.
259.447 Airport hazard; definition and certification by aeronautics commission; joint airport zoning board, appointment, meetings, powers, compensation and expenses, expenditures.
259.448 Airport zoning regulations; conflict, determination by commission.
259.449 Airport zoning regulations; public hearing on adoption or amendment, notice.
259.450 Airport zoning commission; appointment, reports and hearings.
259.451 Airport zoning regulations; reasonableness, considerations.
259.452 Airport zoning regulations; removal or alteration of structures or trees prohibited, exception.
259.453 Airport zoning regulations; construction permits for new structures required.
259.454 Airport zoning regulations; variances, application, allowance.
259.455 Airport zoning regulations; variances, markers and lights required.
259.456 Airport zoning regulations; administration and enforcement.
259.457 Board of appeals; provision, powers.
259.458 Board of appeals; members, appointment, terms, officers, removals, rules, meetings, records, subpoenas.
259.459 Appeals; filing, hearing, notice.
259.460 Appeals; petitions for review by circuit court.
259.461 Board of appeals; certiorari; jurisdiction of court.
259.462 Approach protection; acquisition of property by aeronautics commission.
259.463 Violation of act or regulations; penalty.
259.464 Airport zoning act; short title.

TALL STRUCTURE ACT

Act 259 of 1959

259.481 Tall structure act; definitions.
259.482 Building permits for tall structures; maximum height, proximity to airports.
259.483 Building permits; public utility structures, emergency repair.
259.484 Building permits; 1,000-foot structures.
259.485 Building permits; applicant; specification of location and maximum height.
259.486 Building permits; visual or aural identification, installation.
259.487 Building permits; denial, modification, public hearing.
259.488 Building permits; conduct, controlling statute and rules for conduct of public hearings.
259.489 Building permits; orders of aeronautics department, review by Ingham circuit court.
259.490 Violation of act or rules; injunction.
259.491 Department of aeronautics; rules and regulations, forms.
259.492 Violation of act; penalty.
259.493 Tall structure act; short title.

AVIATION MATCHING FUND

Act 329 of 1945

259.501 Michigan aviation matching fund; creation, purpose.
259.502 Appropriations to department of aeronautics; amounts.
259.503 Appropriations; disposition.
259.504 Aviation matching fund; disbursements by aeronautics board as agent of state.
259.505 Aviation matching fund; expenditure, purposes; conformity with aeronautics code.
259.506 Aviation matching fund; disbursement, procedure.
259.507 Appropriation; allocation to counties and political subdivisions, amounts.
259.507a Appropriation; allocation to local governmental units, amounts; unencumbered funds, allocation.
259.508 Advancement of funds.
259.509 Repealed.

Act 206 of 1951

259.511 Michigan aviation supplemental matching fund; creation, purpose.
259.512 Appropriation to department of aeronautics; amount, disposition.
259.513 Aviation supplemental matching fund; expenditure, purposes.
259.514 Appropriation; allocation to counties and political subdivisions, amounts.
259.515 Advancement of funds.
259.516 Unencumbered funds; allocation, basis.
259.517 Supplemental construction of act; effective date.

Act 206 of 1952

259.521-259.527 Expired.

Act 222 of 1953

259.531-259.537 Expired.

Act 266 of 1955

259.541-259.547 Expired.

Act 204 of 1956

259.551-259.557 Expired.

Act 271 of 1957

259.561-259.566 Expired.

Act 255 of 1959

259.571-259.576 Expired.

Act 130 of 1960

259.581-259.586 Expired.

Act 168 of 1961

259.591-259.596 Expired.

LANSING AIRPORT, LEASE OF LANDS

Act 296 of 1931

259.601 Lease of lands to Lansing for airport; state administrative board authority, term, description of lands.
259.602 Lease of lands to Lansing for airport; conditions.

Act 143 of 1956

259.611-259.617 Repealed.

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COMMUNITY AIRPORTS
Act 206 of 1957

259.621 Community airport authority; formation, issuance of revenue bonds; selection of site, location.
259.622 Airport authority; body corporate, powers.
259.623 Airport authority; resolution designating constituent municipalities, contents; tax limitations.
Subsequent additions; release.
259.624 Airport authority; taxing power of legislative bodies, limitation.
259.625 Airport board; membership, officers, terms, executive and advisory committees; compensation, expenses.
259.626 Airport board; meetings, quorum, records, accounting, bond, rules and regulations, policies.
259.627 Airport board; budget, payments by municipalities, financial report.
259.628 Airport board; revenue bonds, issuance, referendum.
259.629 Airport board; loans for current expenses.
259.630 Airport board; control of property; condemnation proceedings; taxation.
259.631 Community airport; definition.

FEDERAL SURPLUS PROPERTY
Act 17 of 1946 (1st Ex. Ses.)

259.651 Airports and equipment declared surplus by federal government; acceptance by department of aeronautics.

UNIFORM AIRCRAFT FINANCIAL RESPONSIBILITY ACT
Act 257 of 1955

259.671 Uniform aircraft financial responsibility act; definitions.
259.672 Department of aeronautics; administration of act, rules and regulations; hearings; judicial review.
259.673 Accident report; persons who must file; form, contents.
259.674 Security required after accident; suspension of registration and privileges; persons excepted; waiver of suspension; modification of order.
259.675 Security requirements; risks not covered.
259.676 Suspended registration or non-resident's operating privilege; restoration or renewal, conditions.
259.677 Certificate of self-insurance; application, issuance, cancellation.
259.678 Non-resident involved in accident; compliance with act required.
Non-resident's operating privilege; certificate of suspension to state of residence.
Suspension of resident's registration for accident in another state.
259.679 Security by deposit of cash or securities; interest.
Reduction, increase, substitution of security.
259.680 Release of security; conditions.
259.681 Records and proceedings before department of aeronautics and state treasurer; inadmissible in evidence in civil and criminal proceedings.
259.682 Suspended registration; transfer; rights of persons holding security interest.
259.683 Suspended registration; return to department of aeronautics.
259.684 Violations of act; penalties.
259.685 Inapplicability of act to certain aircraft.
259.686 Inapplicability of act to accidents prior to effective date.
259.687 Construction of act as to other legal process.
259.688 Service of process; department of aeronautics deemed agent of non-residents.
Same; manner of making.
Same; proof of service; completion.
259.689 Discharge in bankruptcy.
259.690 Construction of act as to number and gender.
259.691 Construction of act as to uniformity.
259.692 Uniform aircraft financial responsibility act; short title.

Act 223 of 1962

259.751-259.756 Expired.

Act 129 of 1963

259.761-259.766 Expired.

Act 192 of 1964

259.771-259.775 Expired.

MODEL ROCKETS
Act 333 of 1965

259.781 Model rockets; definitions.
259.782 Inapplicability of act to certain activities.
259.783 Model rockets; requirements prior to launch, operation and flight.
259.784 Model rocket engines; standards.
259.785 Model rockets; location of launch site, standards.
259.786 Model rockets; launching, conditions.
259.787 Model rocket engines; ground testing, conditions.
259.788 Model rockets; activities prohibited.
259.789 Scope of act.

AIRPORT AUTHORITIES
Act 73 of 1970

259.801 Airport authority; formation, charter; population specifications.
259.802 Airport authority board; membership, appointment, qualifications.
259.803 Airport authority board; members, term, vacancy.
259.804 Airport authority board; members removal.
259.805 Additional counties joining authority.
259.806 Airport authority board; first meeting; election of officers; seal; executive committee; expenses; quorum; legal majority.
259.807 Airport authority as body corporate; other airports; powers.
259.808 Airport authority board; meetings, notice; records; accounts; audits; treasurer's bond; executive director; adoption of rules; contracts, interest.
259.809 Airport authority; powers, duties and limitations; elections.

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259.810	Budget; contents; adoption; annual report.	259.816	Terminal building; transfer.
259.811	Local units contributions; certification, payment; tax, rate, limitation.	259.817	Terminal building; reservation by state.
259.812	Revenue bonds; purpose.	259.818	Property reserved by state.
259.813	State employees; transfer provisions, rights.	259.819	State's free use of facilities.
259.814	Operative sections.	259.820	Transfer of existing contracts and agreements.
259.815	Capital city airport; transfer.	259.821	Act contingent as to federal funding.
		259.822	Repeal.
		259.823	Referendum.

Act 327, 1945, p. 578; Imd. Eff. May 28.

AN ACT relating to aeronautics in this state; providing for the development and regulation thereof; creating a department of aeronautics consisting of a state aeronautics commission and a director of aeronautics; prescribing their respective powers and duties; providing for the licensing, supervision and control of all airports and landing fields, schools of aviation, flying clubs, aviation instructors and airport managers; providing for rules and regulations pertaining thereto; providing for the registration of aircraft; prescribing a privilege tax for the use of the aeronautical facilities on the lands and waters of this state; providing for the acquisition, development and operation of airports, landing fields and other aeronautical facilities by the state and the political subdivisions of this state; providing jurisdiction of crimes, torts and contracts; providing for civil liability of owners, operators and others; making hunting from aircraft unlawful; providing for repair station operators lien; providing for appeals from any rules, regulations or orders issued by the commission; providing for the transfer from the Michigan board of aeronautics to the department of aeronautics all properties and funds held by said board of aeronautics; providing for a state aeronautics fund and making an appropriation therefor; prescribing penalties; and making uniform the law with reference to state development and regulation of aeronautics. Am. 1958, p. 121, Act 114, Eff. Sep. 13.

The People of the State of Michigan enact:

CHAPTER I.

DECLARATION OF INTENT.

259.1 Aeronautics code; declaration of intent.

Sec. 1. It is hereby declared that the purpose of this act is to further the public interest and aeronautical progress by providing for the protection and promotion of safety in aeronautics; by cooperating in effecting a uniformity of the laws relating to the development and regulation of aeronautics in the several states; by revising existing statutes relative to the development and regulation of aeronautics so as to grant to a state agency such power and impose upon it such duties that the state may properly perform its functions relative to aeronautics and effectively exercise its jurisdiction over persons and property within such jurisdiction, may develop a statewide system of airports, may cooperate with and assist the political subdivisions of this state and others engaged in aeronautics, and may encourage and develop aeronautics; by establishing uniform regulations, consistent with federal regulations and those of other states, in order that those engaged in aeronautics of every character may so engage

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with the least possible restriction, consistent with the safety and the rights of others; and by providing for cooperation with the federal authorities and the authorities of this state to eliminate costly and unnecessary duplication of functions.

HISTORY: CL 1948, 259.1.

COMPILERS' NOTE: The catchlines following the act section numbers were incorporated as part of the act as enacted.

RAILROADS: Operation of air transportation, see Compilers' § 467.251.

CITED IN OTHER SECTIONS: Sections 259.1 to 259.208 are cited in §§ 205.42, 259.488, and 259.630.

CHAPTER II.

DEFINITIONS.

259.2 Aeronautics; definition.

Sec. 2. Aeronautics. Any and all acts or matters which treat or deal with flight in the airspace.

HISTORY: CL 1948, 259.2.

259.3 Aeronautical facilities; definition.

Sec. 3. Aeronautical facilities. Any or all devices, physical or otherwise, objects of nature or man-made, which aid and are used in aeronautics.

HISTORY: CL 1948, 259.3.

259.4 Aircraft; definition.

Sec. 4. Aircraft. Any contrivance now known, or hereafter invented, used, or designed for navigation of or flight in the air.

HISTORY: CL 1948, 259.4. This section re-enacts and merges part of subsection (1) of Sec. 1 of Act 63 of 1931. See Sec. 43 of Act 328 of 1931, being Compilers' § 750.43, for similar provisions.

259.5 Civil aircraft; definition.

Sec. 5. Aircraft, civil. Any aircraft other than a public aircraft.

HISTORY: CL 1948, 259.5.

259.6 Public aircraft; definition.

Sec. 6. Aircraft, public. Any aircraft used exclusively in the service of any government or of any political subdivision thereof, including the government of any state, territory, or possession of the United States, or the District of Columbia, but not including any government-owned aircraft engaged in carrying persons or property for commercial purposes.

HISTORY: CL 1948, 259.6.

259.7 Airman; definition.

Sec. 7. Airman. Any person, including the one in command, and any pilot, mechanic or member of the crew, who engages in the navigation of aircraft while under way, and any person who is in charge of the inspection, overhauling or repair of aircraft, and any individual who serves in the capacity of aircraft dispatcher or air traffic control tower operator.

HISTORY: CL 1948, 259.7. This section re-enacts, with additions, part of subsection 3 of Sec. 1 of Act 177 of 1929, being CL 1929, 4901 — Am. 1931, p. 75, Act 53, Imd. Eff. May 1;—Am. 1939, p. 490, Act 264, Imd. Eff. June 15.

259.8 Air navigation; definition.

Sec. 8. Air navigation. The operation or navigation of aircraft in the airspace over the lands and waters of the state of Michigan.

HISTORY: CL 1948, 259.8.

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259.9 Airport; definition.

Sec. 9. Airport. Any location, either on land or water, which is used for the landing or take-off of aircraft, which provides facilities for the shelter, supply or care of aircraft, or for receiving or discharging passengers or cargo, and all appurtenant areas used or suitable for airport buildings or other airport facilities, and all appurtenant rights of way, whether heretofore or hereafter established.

HISTORY: CL 1948, 259.9. This section supersedes with additions subsection 1 of Sec. 1 of Act 177 of 1929, being CL 1929, 4801;—Am. 1931, p. 75, Act 53, Imd. Eff. May 1;—Am. 1939, p. 490, Act 264, Imd. Eff. June 15.

259.10 Airport manager; definition.

Sec. 10. Airport managers. Any person who is properly appointed and designated by the airport owner as such airport manager, and who is made responsible for the supervision and operation of the airport to the airport owner.

HISTORY: CL 1948, 259.10.

259.11 Navigable airspace; definition.

Sec. 11. Airspace, navigable. Space in the air over the lands and waters of the state of Michigan, above the minimum altitudes of flight prescribed by the laws of this state or by the rules and regulations of the Michigan department of aeronautics.

HISTORY: CL 1948, 259.11.

259.12 Airspace reservations; definition.

Sec. 12. Airspace reservations. Any airspace, identified by an area on the surface of the earth, in which the flight of aircraft is prohibited or restricted.

HISTORY: CL 1948, 259.12.

259.13 Aviation instructor; definition.

Sec. 13. Aviation instructor. Any person giving instruction in aeronautics for hire, either in flying or ground subjects, excepting persons giving such instruction in any public school or university of this state, or any institution of higher learning duly accredited and approved for carrying on collegiate work, while engaged in duties as such instructor.

HISTORY: CL 1948, 259.13. This section supersedes with additions subsection 5 of Sec. 1 of Act 177 of 1929, being CL 1929, 4801;—Am. 1931, p. 75, Act 53, Imd. Eff. May 1;—Am. 1939, p. 490, Act 264, Imd. Eff. June 15.

259.14 Aviation school; definition.

Sec. 14. Aviation school. Any person engaged in giving instruction in aeronautics, either in flying or ground subjects, and advertising or representing himself or itself as such, excepting any public school or university of this state, or any institution of higher learning duly accredited and approved for carrying on collegiate work.

HISTORY: CL 1948, 259.14. This section supersedes with additions subsection 6 of Sec. 1 of Act 177 of 1929, being CL 1929, 4801;—Am. 1931, p. 75, Act 53, Imd. Eff. May 1;—Am. 1939, p. 490, Act 264, Imd. Eff. June 15.

259.15 Commission; definition.

Sec. 15. Commission. Michigan aeronautics commission.

HISTORY: CL 1948, 259.15.

259.16 Department; definition.

Sec. 16. Department. Michigan department of aeronautics.

HISTORY: CL 1948, 259.16.

259.17 Director; definition.

Sec. 17. Director. Director of aeronautics.

HISTORY: CL 1948, 259.17.

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259.18 Flying club; definition.

Sec. 18. Flying club. Any group of persons owning, leasing or operating, 1 or more aircraft, not for profit or reward, and using such aircraft for the purpose of giving flight instructions to its members.

HISTORY: CL 1948, 259.18. This section supersedes subsection 4 of Sec. 1 of Act 177 of 1929, being CL 1929, 4801;—Am. 1931, p. 75, Act 53, Imd. Eff. May 1;—Am. 1939, p. 490, Act 264, Imd. Eff. June 15.

259.19 Fuel; definition.

Sec. 19. Fuel. Any or all gasoline, distillates, benzine, naphtha, benzol and other volatile and inflammable liquids produced, or which may hereafter be invented, produced, compounded and used for propelling aircraft.

HISTORY: CL 1948, 259.19. This section supersedes Sec. 1 of Act 160 of 1931.

259.20 Hazards to air navigation; definition.

Sec. 20. Hazards to air navigation. Any obstruction of whatever character, object of natural growth, or use of land, upon or surrounding or adjacent to an airport, landing field, or other aeronautical facility, which prevents the safe use of such facilities for the take-off or landing of aircraft.

HISTORY: CL 1948, 259.20.

259.21 Landing field; definition.

Sec. 21. Landing field. Any location, either on land or water, which shall be used for the landing or take-off of aircraft with safety, but which is not equipped with facilities for the shelter, supply and repair of aircraft.

HISTORY: CL 1948, 259.21. This section supersedes subsection 2 of Sec. 1 of Act 177 of 1929, being CL 1929, 4801;—Am. 1931, p. 75, Act 53, Imd. Eff. May 1;—Am. 1939, p. 490, Act 264, Imd. Eff. June 15.

259.21a Landing area; definition.

Sec. 21a. "Landing area" means an area of an airport or landing field used or intended for use in landing, taking off or taxiing of aircraft, excluding area and facilities for shelter, servicing or repair of aircraft or for receiving or discharging passengers or cargo.

HISTORY: Add. 1962, p. 425, Act 193, Eff. Mar. 28, 1963.

259.22 Operation of aircraft or operate aircraft; definition.

Sec. 22. Operation of aircraft or operate aircraft. Use of aircraft for the purpose of air navigation, including the navigation or piloting of aircraft. Any person who causes or authorizes the operation of aircraft, whether with or without the right of legal control (in the capacity of owner, lessee, or otherwise) of the aircraft, shall be deemed to be engaged in the operation of aircraft within the meaning of the statutes of this state.

HISTORY: CL 1948, 259.22.

259.23 Person; definition.

Sec. 23. Person. Any individual, firm, partnership, corporation, company, association, joint stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative thereof.

HISTORY: CL 1948, 259.23.

259.24 Political subdivision; definition.

Sec. 24. Political subdivision. Any county, city, village or township of this state, and any other political subdivision, public corporation, authority, or district in this state which is or may be authorized by law to acquire, establish, construct, maintain, improve, and operate airports, landing fields and other aeronautical facilities.

HISTORY: CL 1948, 259.24.

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259.25 Rules and regulations; definition.

Sec. 25. Rules and regulations. Any or all rules and regulations issued under this act by the Michigan department of aeronautics, or which may hereafter be issued under any amendments thereto.

HISTORY: CL 1948, 259.25.

CHAPTER III.

AERONAUTICS DEPARTMENT—CREATION—MEMBERSHIP—FUNDS.

259.26 Aeronautics commission and department of aeronautics; creation, membership, appointment, terms.

Sec. 26. Creation of commission and department of aeronautics. There is hereby created and established an aeronautics commission to be known as the Michigan aeronautics commission and a department of aeronautics to be known as the Michigan department of aeronautics. The commission to consist of the highway commissioner, the commissioner of the Michigan state police, the director of the conservation department, together with 5 other members who shall be appointed by the governor subject to confirmation by the senate and who shall continue in office until their successors are appointed. The Michigan aeronautics commission, together with the director of aeronautics and all employees, shall constitute the Michigan department of aeronautics. The first appointed members of such commission shall be appointed: 2 for a term of 2 years; 2 for a term of 3 years; and 1 for a term of 4 years; and thereafter members shall be appointed for 4 years.

HISTORY: CL 1948, 259.26. This section supersedes Sec. 1a of Act 177 of 1929, Add. 1931, p. 75, Act 53, Imd. Eff. May 1, which superseded Sec. 1 of Act 177 of 1929, being CL 1929, 4801.

CITED IN OTHER SECTIONS: The above section is cited in § 16.333.

259.27 Director of aeronautics; appointment; qualifications, duties, compensation and expenses.

Sec. 27. Director of aeronautics. There is hereby established and created the office of director of aeronautics within the department of aeronautics. The director shall be appointed by the commission, to serve for an indefinite term, during his efficient, honest and businesslike execution of his duties. He shall be appointed with due regard to his fitness and by reason of his aeronautical knowledge and practical experience in the field of aeronautics. He shall devote his entire time to the duties of his office as required and prescribed by this act, and shall not be actively engaged or employed in any other business, vocation, or employment, nor shall he have any pecuniary interest in or any stock in or bonds of any civil aeronautics enterprise. He shall receive such compensation as the commission may determine and shall be reimbursed for all traveling and other expenses incurred by him in the discharge of his official duties.

HISTORY: CL 1948, 259.27.

259.28 Commissioners of aeronautics; appointment, qualifications.

Sec. 28. Qualifications of commissioners. Those of the members of the commission who shall be appointed by the governor shall be selected with due regard to their fitness and by reason of their aeronautical knowledge and practical experience in the field of aeronautics.

HISTORY: CL 1948, 259.28.

259.29 Commissioners of aeronautics; salary and expenses.

Sec. 29. Salary of commissioners. No member of the commission shall receive any salary for his services as a commissioner and each may be reimbursed for actual and necessary expenses incurred by him in performance of his duties as a commissioner.

HISTORY: CL 1948, 259.29. See Sec. 1a of Act 177 of 1929, Add. 1931, p. 75, Act 53, Imd. Eff. May 1, which superseded Sec. 1 of Act 177 of 1929, being CL 1929, 4801.

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259.30 Commissioners of aeronautics; removal.

Sec. 30. Removal of commissioners. The members of the commission may be removed by the governor for inefficiency, neglect of duty, misuse of office, or malfeasance in office, in the manner provided by law for the removal of other public officers for like causes.

HISTORY: CL 1948, 259.30.

259.31 Aeronautics commission; organization, meetings and reports.

Sec. 31. Organization of commission, meetings, reports. The commission shall, immediately upon its appointment, organize, adopt a seal for the department of aeronautics, and make, amend, and revise such rules and regulations for its administration not inconsistent herewith as it may deem expedient. At such organization meeting the commission shall elect from among its members a chairman and a vice-chairman to serve for 1 year and annually thereafter shall elect such officers; each to serve until his successor is appointed and qualified. No action shall be taken by the commission by less than a majority of its members.

HISTORY: CL 1948, 259.31.

259.32 Aeronautics commission; biennial reports to governor, contents.

Sec. 32. On or before January 15 of each odd year the commission shall make to the governor a report covering the operation of the department for the 2 fiscal years ending the preceding June 30. Such report shall contain a summary of the commission's proceedings during the said fiscal years, a statement of all revenues and expenditures made by or in behalf of the commission, such other information as it may deem necessary or useful and any additional information which may be requested by the governor.

HISTORY: CL 1948, 259.32;—Am. 1954, p. 300, Act 120, Eff. Aug. 13;—Am. 1962, p. 425, Act 193, Eff. Mar. 28, 1963.

259.33 Aeronautics commission; assistants and expenses.

Sec. 33. Office and expense—employees of department of aeronautics. The commission is hereby authorized to employ such assistants, clerks, stenographers, and other help, and to make such expenditures as it may deem necessary for the carrying out of the provisions of this act.

HISTORY: CL 1948, 259.33. This section re-enacts except changes word "board" to "commission" Sec. 6 of Act 177 of 1929, being CL 1929, 4806.

259.34 Aeronautics fund; creation.

Sec. 34. Creation of state aeronautics fund. There is hereby created a fund to be known as the "state aeronautics fund." All moneys received from aviation gasoline taxes, licensing of schools of aviation, airports, landing fields, airport managers, registration of aircraft and airmen, and from the operation of state operated airports, landing fields and other aeronautical facilities, shall be paid into the state treasury and credited to this fund.

HISTORY: CL 1948, 259.34. This section supersedes Sec. 3 of Act 160 of 1931;—Am. 1935, p. 309, Act 193, Eff. Sept. 21.

259.35 Aeronautics fund; appropriation.

Sec. 35. Appropriation. There is hereby appropriated all moneys which are now in and currently credited to the "state aeronautics fund," for carrying out the purposes and provisions of this act, and to meet the expenses of the department of aeronautics. The auditor general is hereby authorized to draw his warrant upon the state treasury in payment of such sums and to such persons as the department of aeronautics shall direct, subject to the approval and release by the state administrative board of such

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sums so authorized: Provided, That none of the funds herein appropriated or hereafter made available shall be expended upon any aviation project which is not carried out under the supervision and direction of the department of aeronautics.

HISTORY: CL 1948, 259.35. This section supersedes Sec. 6 of Act 160 of 1931;—Am. 1935, p. 310, Act 193, Eff. Sept. 21.

259.36 Transfer of properties from board of aeronautics to department of aeronautics.

Sec. 36. Transfer from Michigan board of aeronautics to department of aeronautics. All matters which have heretofore come under the jurisdiction of, handled and executed by the board of aeronautics, as well as all physical properties in possession or control of the board of aeronautics, are hereby transferred to the Michigan department of aeronautics.

HISTORY: CL 1948, 259.36.

CHAPTER IV.

GENERAL POWERS AND DUTIES OF AERONAUTICS COMMISSION AND DIRECTOR OF AERONAUTICS.

259.51 Aeronautics commission; general supervisory powers; rules and regulations.

Sec. 51. (a) The commission shall have general supervision over aeronautics within this state. It is empowered and directed to encourage, foster, and participate with the political subdivisions of this state in the development of aeronautics within this state; to establish and encourage the establishment of airports, landing fields, and other aeronautical facilities; it shall make such rules as it may deem necessary and advisable for the public safety governing the designing, laying out, location, building, equipping and operation of all airports and landing fields within this state; it shall not grant any exclusive right for the use of any aeronautical facilities in this state. The commission is also empowered in the interest of the health, welfare and safety of the general public; (1) to register airmen's certificates issued by the civil aeronautics authority or other similar federal authority to resident pilots of the state, and make not to exceed a $5.00 charge therefor; (2) to govern and regulate commercial operations in intrastate commerce within the borders of this state, by the issuance of appropriate and effective rules thereon, and make a reasonable charge therefor. Prior to the issuance of such rules, notice and an opportunity to be heard shall be given to all interested parties.

Cooperation with public agencies and others; joint hearings.

(b) The commission shall cooperate with and assist the federal government, state governments, authorities of political subdivisions of this state, and individuals, engaged in aeronautics or the development of aeronautics, and shall seek to coordinate the aeronautical activities of these bodies. To this end, the commission is empowered to confer with or hold joint hearings with any federal or state governments, their agencies, the authorities of political subdivisions of this state, and individuals, in connection with any matter arising under this act, and to avail itself of the cooperation, services, records, and facilities of such agencies, as may be practicable, in the administration and enforcement of this act. It shall reciprocate by furnishing such governments and their agencies its cooperation, services, records and facilities, insofar as may be practicable.

General public interest.

(c) The commission may perform such acts, issue and amend such orders, and make, promulgate and amend such reasonable general or special rules, regulations and procedures, and establish such minimum standards, consistent with the provisions of this act, as it shall deem necessary to carry out the provisions of this act and to perform its duties hereunder, all commensurate with and for the purpose of protecting and insur-

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ing as may be the general public interest, health, welfare and safety. The commission is empowered to adopt and enforce the provisions of the currently effective federal legislation governing aeronautics, and the commission shall promulgate all rules and regulations in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948 and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948. However, the commission may deviate from such rules or add thereto when deemed necessary for the public safety and for the safety of aircraft and airmen within the state. No rule of the commission shall apply to aeronautical facilities owned by the federal government within this state.

State airways system.

(d) For the safety of aircraft and airmen within this state the commission may designate, establish, or modify, a state airways system. It may publish and distribute such maps, charts, and information relating thereto as it may deem necessary.

Enforcement; injunctions.

(e) It shall be the duty of the commission, its members and employees, the director, and every state, county and municipal officer charged with the enforcement of state and municipal laws to enforce and assist in the enforcement of this act and of all rules issued pursuant thereto, and of all other laws of this state relating to aeronautics, and, in the aid of such enforcement, general police powers are conferred upon the commission, each of its members, the director, and such of the officers and employees of the department as may be designated by the commission to exercise such powers. The commission is further authorized, in the name of this state, to enforce the provisions of this act and rules and regulations issued pursuant thereto by injunction in the courts of this state. It shall be the duty of the prosecuting attorney of the county in which the offense is committed to prosecute offenders against the provisions of this act and other aeronautical laws of this state, or any rule or order prescribed and issued by the commission. Any justice of the peace, police justice or judge of a recorder's court in such county before whom complaint is made shall be authorized to take cognizance, hear, try and determine such matters and pass sentence upon offenders in accordance with law.

Investigations.

(f) The commission, any member thereof, the director, or any employee of the department so designated by the commission shall have the power to hold investigations, inquiries, and hearings concerning matters covered by the provisions of this act, aircraft accidents, or orders, rules and regulations of the commission. Each person so designated shall have power to administer oaths, and affirmations, certify to all official acts, issue subpoenas, and compel the attendance and testimony of witnesses, and the production of papers, books and documents. In case of failure to comply with any subpoena or order issued under authority of this act, the commission, or its authorized representative, may invoke the aid of any court of this state of general jurisdiction. The court may thereupon order the witness to comply with the requirements of the subpoena or order or to give evidence touching the matter in question. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

Same; restrictions on use of reports.

(g) In order to facilitate the making of investigations by the commission and the department, in the interest of public safety and development of aeronautics, the public interest requires, and it is, therefore provided, that the reports of investigations or hearings, or any part thereof, shall not be admitted in evidence or used for any purpose in any suit, action, or proceeding, growing out of any matter referred to in said investigation, hearing, or report thereof, except in case of criminal or other proceed-

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ings instituted in behalf of the commission or department, or this state, under the provisions of this act and any other laws of this state relating to aeronautics, nor shall any commissioner, director, or any officer or employee of the department be required to testify to any facts ascertained in, or information gained by reason of, his official capacity, or be required to testify as an expert witness in any suit, action, or proceeding involving any aircraft. Subject to the foregoing provisions, the commission may in its discretion make available to appropriate federal and state agencies information and material developed in the course of its hearings and investigations.

Contracts.

(h) For the purposes of executing its powers and duties under this act, the commission may upon recommendations to the state administrative board enter into any necessary contracts.

HISTORY: CL 1948, 259.51;—Am. 1962, p. 425, Act 193, Eff. Mar. 28, 1963;—Am. 1969, p. 529, Act 288, Imd. Eff. Aug. 11.

This section supersedes, with additions, Sec. 2 of Act 177 of 1929, being CL 1929, 4902;—Am. 1931, p. 75, Act 53, Imd. Eff. May 1;—Am. 1939, p. 490, Act 264, Imd. Eff. Jun. 15.

259.52 Director of aeronautics; powers and duties.

Sec. 52. Powers and duties of director of aeronautics. The director of aeronautics shall be the executive officer of the commission and department of aeronautics and under the commission's supervision shall administer the provisions of this and all other acts relating to aeronautics within this state.

HISTORY: CL 1948, 259.52.

259.53 Director of aeronautics; powers delegated.

Sec. 53. Delegation of powers to director of aeronautics. The commission may delegate to the director of aeronautics any of the powers or duties vested in or imposed upon it by this act. Such delegated powers and duties may be exercised by such director in the name of the commission.

HISTORY: CL 1948, 259.53.

259.54 Cooperation with federal government; federal moneys; state agent; powers of commission.

Sec. 54. (a) The commission is authorized to cooperate with the government of the United States and any agency or department thereof, in the acquisition, construction, improvement, maintenance and operation of airports, landing fields, and other aeronautical facilities in this state where federal financial aid is received; to comply with the provisions of the laws of the United States and any regulations made thereunder for the expenditure of federal moneys upon such airports, landing fields, and other aeronautical facilities.

(b) The commission is hereby authorized to accept, receive, receipt for, and disburse, federal or other moneys for and in behalf of this state or any political subdivision thereof, for the acquisition, construction, improvement, maintenance and operation of airports, landing fields, and other aeronautical facilities in this state. In each case, the commission shall act as agent of any political subdivision of this state in accepting, receiving, receipting for, and disbursing such moneys in behalf of such political subdivision. The governing body of any political subdivision in this state is hereby authorized to designate the commission as its agent for these purposes, as provided in section 135 of this aeronautics code, as amended.

(c) All moneys accepted for disbursement by the commission pursuant to subdivision "b" of this section shall be deposited in the state treasury and disbursed in accordance with the provisions of the respective grants and the fiscal procedures of the state treasurer.

(d) The commission is further empowered and authorized to assist political subdivisions of this state in the preparation of airport projects under the federal airport act, as

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amended, by the furnishing of engineering or other technical services, the cost for which shall be chargeable to the airport project and reimbursable to the commission in accordance with the provisions of the federal airport act, as amended, as allowable project costs, and deposited to the fund known as the planning and engineering fund, being Act No. 328, P.A. 1945, for use on future projects in accordance with the provisions of such act.

HISTORY: CL 1948, 259.54;—Am. 1948, Ex. Ses., p. 87, Act 32, Imd. Eff. May 10.

NOTE: Act 328, 1945, above referred to, is Compilers' § 259.401 et seq.

CHAPTER V.

REGULATION OF AIRCRAFT, AIRMEN, AIRPORTS AND AIR INSTRUCTION.

259.76 Registration of aircraft; federal certificate required.

Sec. 76. All aircraft operating over the lands and waters of this state shall be registered annually with the department and a registration fee paid as herein provided. No aircraft shall be issued a state registration certificate that does not have an appropriate and effective registration or airworthiness certificate as issued by the United States.

HISTORY: CL 1948, 259.76;—Am. 1962, p. 427, Act 193, Eff. Mar. 28, 1963.

This section supersedes part of Sec. 2 of Act 63 of 1931;—Am. 1933, p. 257, Act 169, Eff. Oct. 17;—Am. 1939, p. 491, Act 265, Eff. Sep. 29

259.77 Registration of aircraft; application; fees.

Sec. 77. Applications for the registration of aircraft shall be accompanied by a sworn statement containing all of the information required by the department for such registration. Registration fees shall be paid at the rate of 1/2 cent per pound of net empty weight of the aircraft. Registration fees shall be in lieu of all property taxes on aircraft, either general or local. Registration fees shall be payable annually on the first day of August, and registration certificates issued after February 1 shall be issued at the rate of 50% of the annual fee.

HISTORY: CL 1948, 259.77;—Am. 1962, p. 427, Act 193, Eff. Mar. 28, 1963.

This section supersedes part of Sec. 2 of Act 63 of 1931;—Am. 1933, p. 257, Act 169, Eff. Oct. 17;—Am. 1939, p. 491, Act 265, Eff. Sep. 29

259.78 Registration of aircraft; transfer.

Sec. 78. Aircraft; transfer of registration. Within 24 hours after the sale of a registered aircraft, the recorded owner shall return to the department the registration certificate of such aircraft, together with the date and place of sale or transfer, and the name and residence of the purchaser, and the purchaser shall within 48 hours apply for the transfer of the registration certificate. The fee for the transfer of the registration certificate shall be $1.00.

HISTORY: CL 1948, 259.78. This section supersedes part of Sec. 2 of Act 63 of 1931;—Am. 1933, p. 257, Act 169, Eff. Oct. 17;—Am. 1939, p. 491, Act 265, Eff. Sept. 29.

259.79 Registration of aircraft; display of certificate.

Sec. 79. The state registration certificate issued by the department shall be carried in a conspicuous place in the aircraft at all times. Each aircraft shall display, while in flight, the number assigned to it by the United States.

HISTORY: CL 1948, 259.79;—Am. 1962, p. 428, Act 193, Eff. Mar. 28, 1963.

This section supersedes part of Sec. 2 of Act 63 of 1931;—Am. 1933, p. 257, Act 169, Eff. Oct. 17;—Am. 1939, p. 491, Act 265, Eff. Sept. 29.

259.80 Airworthiness; certificate.

Sec. 80. No aircraft shall be operated over the lands and waters of this state unless it has an appropriate and effective airworthiness certificate as issued by the United States.

HISTORY: CL 1948, 259.80;—Am. 1962, p. 428, Act 193, Eff. Mar. 28, 1963.

This section supersedes part of Sec. 2 of Act 63 of 1931;—Am. 1933, p. 257, Act 169, Eff. Oct. 17;—Am. 1939, p. 491, Act 265, Eff. Sep. 29

259.81 Inspection of aircraft.

Sec. 81. Aircraft; inspection of. The Michigan department of aeronautics shall have authority to cause any aircraft to be inspected at any time and require that the aircraft

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be maintained in an airworthy condition, for which purpose the owner, operating agency or airman shall give the inspector or officer representing the department free and uninterrupted access to the aircraft and to the shelter or field where the aircraft is located.

HISTORY: CL 1948, 259.81. This section supersedes part of Sec. 3 of Act 63 of 1931.

259.82 Manufacturers and dealers; registration numbers for aircraft.

Sec. 82. Aircraft; of manufacturers and dealers. The department may issue to aircraft manufacturers, aircraft engine manufacturers, and dealers, a general distinctive registration number for all aircraft owned or controlled by them: Provided, That such aircraft are not used in any commercial activity. For the first 3 numbers issued there shall be a charge of $9.00; additional numbers may be issued at $3.00 each. No aircraft owned or operated by an aircraft manufacturer, aircraft engine manufacturer or dealer shall be flown without this general number being carried in the aircraft in a conspicuous place. General registration numbers shall be issued annually under the same conditions as registration certificates.

HISTORY: CL 1948, 259.82. This section re-enacts except changes words "Secretary of State" to "department", part of Sec. 2 of Act 63 of 1931;—Am. 1933, p. 257, Act 169, Eff. Oct. 17;—Am. 1939, p. 491, Act 265, Eff. Sept. 29.

259.83 Airman; certificate of competency.

Sec. 83. It shall be unlawful for any person to operate any civil aircraft over the lands and waters of this state unless such person is the holder of an airman's certificate of competency issued by the United States or foreign government, and when flying an aircraft, an airman shall operate such aircraft only as authorized by his or her certificate. This certificate shall be kept in the airman's personal possession at all times while operating an aircraft, and shall be presented for inspection upon the demand of any passenger or any person in authority in connection with the operation of aircraft in this state.

HISTORY: CL 1948, 259.83;—Am. 1962, p. 428, Act 193, Eff. Mar. 28, 1963.

This section supersedes Sec. 4 of Act 63 of 1931;—Am. 1939, p. 492, Act 265, Eff. Sep. 29.

259.84 Exemptions; registration and certificate requirements.

Sec. 84. Exemptions; registration and certificate requirements. The provisions of this chapter shall not apply to the following: (a) Aircraft and airmen; public aircraft. Any aircraft owned by a state or political subdivision thereof, or any aircraft of the United States government, and its personnel.

(b) Aircraft and airmen; non-resident. Any aircraft of any resident of another state, and airmen operating such aircraft, having complied with the registration requirements of that state, may be operated or operate within this state for a period of not more than 90 days in any 1 year without complying with this chapter: Provided, however, That such aircraft is not engaged in intrastate commercial activity within this state.

(c) Aircraft and airmen; military and foreign. Military aircraft and personnel of the United States government or any aircraft and personnel licensed by a foreign country with which the United States has reciprocal relations: Provided, however, That such aircraft and airmen are not engaged in any commercial activity within this state.

(d) Aircraft and airmen; interstate commerce. Any aircraft or its personnel engaged in commercial flying constituting an act of interstate or foreign commerce, or in that part of such commerce which is intrastate in character.

HISTORY: CL 1948, 259.84. This section supersedes with additions part of Sec. 2 of Act 63 of 1931;—Am. 1933, p. 257, Act 169, Eff. Oct. 17;—Am. 1939, p. 491, Act 265, Eff. Sept. 29.

259.85 Aviation schools and instructors.

Sec. 85. Aviation schools and aviation instructors. It shall be unlawful for any person to operate an aviation school in this state unless such person is the holder of an annual

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license issued by the department of aeronautics. All aviation instructors shall have an appropriate and effective certificate or permit issued by the United States civil aeronautics authority, or other similar federal authority, authorizing him or her to engage in the particular class of aviation instruction in which he is engaged, which certificate or permit shall be registered with the department of aeronautics and be in full force and effect. Public schools and universities of this state or any institution of higher learning duly accredited and approved for carrying on collegiate work and any instructors in such public schools, universities, or institutions of higher learning are exempted from the provisions of this section.

HISTORY: CL 1948, 259.85. See Sec. 2 of Act 177 of 1929, being CL 1929, 4802; Am. 1931, Act 53; Am. 1939, Act 264;—and Sec. 3 of Act 177 of 1929, being CL 1929, 4803; Am. 1931, Act 53.

259.86 Airport managers; licensing; facilities, licensing; temporary use; application; inspection.

Sec. 86. (1) Any person appointed as an airport manager by the owner of an approved airport or landing field, before operating as such, shall be licensed by the department for which the department may make a reasonable charge not to exceed $5.00.

(2) All airports, landing fields and other aeronautical facilities, except those owned or operated by the United States government, before operating as such, shall be approved by the department. The department shall issue a certificate of approval in each case and charge a fee not in excess of $100.00. The fee shall be in lieu of all real property taxes on the landing area and improvements thereto if the landing area is available to the public without charge for noncommercial use at all times for the landing, taking off and taxiing of aircraft.

(3) No commercial operations may be performed on any landing area other than a certificated landing area except that temporary field permits may be issued under the provisions of this section.

(4) When the owner of an aircraft uses, or proposes to use, an area of land or water for temporary commercial operations, he shall apply to the commission for a temporary field permit on forms furnished by the commission.

(5) The application shall be received at least 7 days before the date of requested issuance, and be accompanied by a fee established by the commission.

(6) The area shall be inspected by the commission, and if found to be safe for use by the type of aircraft stated in the application, the commission may issue a temporary field permit for a period not to exceed 15 days.

HISTORY: CL 1948, 259.86;—Am. 1962, p. 428, Act 193, Eff. Mar. 28, 1963;—Am. 1969, p. 531, Act 288, Imd. Eff. Aug. 11.

See Sec. 2 of Act 177 of 1929, being CL 1929, 4802;—Am. 1931, Act 53;—Am. 1939, Act 264;—and Sec. 3 of Act 177 of 1929, being CL 1929, 4803;—Am. 1931, Act 53.

CITED IN OTHER SECTIONS: The above section is cited in § 211.7.

259.87 Airports and facilities; rejection of application for permission to operate.

Sec. 87. Airports, landing fields and other aeronautical facilities; rejection of application. In any case where the department rejects an application for permission to operate an airport, landing field or other aeronautical facility, or in any case where the department shall issue any order requiring certain things to be done, it shall set forth its reasons therefor and shall state the requirements to be met before such approval will be given or such order modified or changed. In any case where the department may deem it necessary, it may order the closing of any airport, landing field, or other aeronautical facility, until compliance is made with the requirements ordered by the department.

HISTORY: CL 1948, 259.87. This section supersedes Sec. 4 of Act 177 of 1929, being CL 1929, 4804; Am. 1931, p. 76, Act 53, Imd. Eff. May 1.

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259.88 Airports and facilities; annual registration.

Sec. 88. Airports, landing fields and other aeronautical facilities; annual registration. Each certificate of approval of an airport, landing field or other aeronautical facility shall be registered annually, and the department is authorized to make a reasonable charge therefor in accordance with the rules and regulations issued.

HISTORY: CL 1948, 259.88. See Sec. 2 of Act 177 of 1929, being CL 1929, 4802; Am. 1931, Act. 53; Am. 1939, Act 264;—and Sec. 3 of Act 177 of 1929, being CL 1929, 4803; Am. 1931, Act 53.

259.89 Personal use landing areas.

Sec. 89. The provisions of sections 86, 87 and 88 shall not apply to landing areas designated and operated for personal use if no commercial operations of any kind are performed on the landing areas. No landing area for personal use shall be established, without commission approval, within 5 miles of a public use facility certified by the commission.

HISTORY: CL 1948, 259.89;—Am. 1969, p. 532, Act 288, Imd. Eff. Aug. 11.

259.90 Emergency public use; approval; liability.

Sec. 90. Substandard, noncommercial landing areas may be approved by the commission for publication as available for emergency public use. No certificate of approval as provided in section 86 shall be issued for such landing areas. The owner of a substandard, noncommercial landing area approved by the commission for publication shall not be subject to civil liability for damage or injury to persons or property which result from the use of the landing area.

HISTORY: Add. 1969, p. 532, Act 288, Imd. Eff. Aug. 11.

CHAPTER VI.

ACQUISITION AND OPERATION OF STATE AIRPORTS.

259.101 State airport and landing fields; authorized by aeronautics commission.

Sec. 101. Authority to establish 1 state airport and landing fields. The commission is authorized and empowered, on behalf of and in the name of this state to acquire by purchase, gift, devise, lease, condemnation proceedings, or otherwise, property real or personal, for the purpose of establishing and constructing an airport at Lansing, landing fields and other aeronautical facilities, and to acquire in like manner, own, control, establish, construct, enlarge, improve, maintain, equip, operate, regulate, and police such airport, landing fields, and other aeronautical facilities, within this state; and to dispose of any such property, in accordance with the laws of this state governing the disposition of other like property of the state.

HISTORY: CL 1948, 259.101. See Sec. 1 of Act 182 of 1927, being CL 1929, 4829; Am. 1939, Act 344;—and Sec. 1 of Act 329 of 1927, being CL 1929, 4836.

259.102 Aeronautics commission; airport protection privileges.

Sec. 102. Airport protection privileges. Where necessary, in order to provide unobstructed air space for the landing and taking off of aircraft utilizing airports and other aeronautical facilities acquired or operated under the provisions of this act, the commission is hereby granted authority to acquire, in the same manner as is provided for the acquisition of property for airport purposes, easements through or other interests in air space over land or water, interests in airport hazards outside the boundaries of the airports, landing fields or other aeronautical facilities and such other airport protection privileges as are necessary to insure safe approaches to the landing areas of said airports and other aeronautical facilities, and the safe and efficient operation thereof. The commission is also hereby authorized to acquire, in the same manner, the right or easement, for a term of years or perpetually, to place or maintain suitable marks for the daytime marking and suitable lights for the nighttime marking of airport hazards,

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including the right of ingress and egress to or from such airport hazards for the purpose of maintaining and repairing such lights and marks. This authority shall not be so construed as to limit the right, power, or authority of the state or any political subdivision to zone property adjacent to any airport or restricted landing area pursuant to laws of this state.

HISTORY: CL 1948, 259.102.

259.103 Aeronautics commission; joint operations.

Sec. 103. Joint operations. The commission may engage in all such activities jointly with the United States, other states, and with political subdivisions or other agencies of this state.

HISTORY: CL 1948, 259.103.

259.104 Aeronautics commission; condemnation, right of eminent domain.

Sec. 104. Condemnation. The commission may exercise the right of eminent domain, in the name of the state, in the manner provided by the laws of this state for the acquisition of real property for public purposes, for the purpose of acquiring any property which it is herein authorized to acquire by condemnation. For the purpose of making surveys and examinations relative to any condemnation proceedings, it shall be lawful to enter upon any land, doing no unnecessary damage.

HISTORY: CL 1948, 259.104. See Sec. 4 of Act 182 of 1927, being CL 1929, 4832.

259.105 Aeronautics commission; leases and sales; capital city airport and Houghton lake state airport leases.

Sec. 105. The commission may, provided that in each case in so doing the public is not deprived of its rightful, equal and uniform use thereof:

(a) Lease for a term not exceeding 50 years, airports, landing fields, or other aeronautical facilities, or real property acquired or set apart for airport purposes, to any person, any municipal or state government or the national government, or any department of either for operation or use consistent with the purposes of this act.

(b) Lease or assign for a term not exceeding 50 years to any person, any municipal or state government or the national government, or any department of either, for operation or use consistent with the purposes of this act, space, area, improvements, or equipment on such airports.

(c) Sell any part of such airports, landing fields, other aeronautical facilities, or real or personal property to any municipal or state government, or to the United States or any department or instrumentality thereof, for aeronautical purposes or purposes incidental thereto.

(d) Confer the privilege of concessions of supplying upon the airports, goods, commodities, things, services and facilities.

(e) Subject to the approval of the state administrative board, lease at capital city airport, and the Houghton lake state airport any real property acquired or set apart for airport purposes to persons for nonaeronautical uses.

HISTORY: CL 1948, 259.105;—Am. 1954, p. 300, Act 120, Eff. Aug. 13;—Am. 1958, p. 191, Act 168, Eff. Sep. 13;—Am. 1967, p. 70, Act 51, Imd. Eff. Jun. 14.

See Sec. 1 of Act 182 of 1927, being CL 1929, 4829;—Am. 1939, Act 344;—Am. 1941, Act 333.

259.106 Aeronautics commission; charges and rentals, determination.

Sec. 106. Charges and rentals. The commission shall have the authority to determine reasonable and uniform charges or rental for the use of any properties and the charges for any service or accommodations, under its control, and the terms and conditions under which such properties may be used: Provided, That in all cases the public is not deprived of its rightful, equal, and uniform use of such property. The state shall have and the commission may enforce liens, as provided by law for liens and the enforce-

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ment thereof, for repairs to or improvement or storage or care of any personal property, to enforce the payment of any such charges.

HISTORY: CL 1948, 259.106. See Sec. 1 of Act 312 of 1915, being CL 1929, 4793; Am. 1939, Act 274; Am. 1941, Act 204;—and Sec. 1 of Act 182 of 1927, being CL 1929, 4829; Am. 1939, Act 344.

259.107 Aeronautics commission; traffic code for state-owned facilities; enforcement, penalty.

Sec. 107. (1) The commission, in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948, may promulgate a traffic code governing the operation, parking and speed of motor vehicles upon the lands comprising the state airport at Lansing, Michigan, and other state-owned and operated landing fields and aeronautical facilities for the purpose of enforcement and the imposing of penalties for the violation thereof. The traffic code may establish a prima facie presumption of evidence regarding the person who is responsible for parking a vehicle in an unauthorized place. The traffic code shall not be in contravention of the provisions of Act No. 300 of the Public Acts of 1949, as amended, being sections 257.1 to 257.923 of the Compiled Laws of 1948.

(2) The Michigan state police and the sheriff and deputy sheriffs of any county wherein such airport, landing fields or aeronautical facilities are located may enforce the traffic code.

(3) A violation of the traffic code shall be deemed a misdemeanor.

HISTORY: Add. 1962, p. 60, Act 75, Eff. Mar. 28, 1963;—Am. 1964, p. 52, Act 46, Eff. Aug. 28.

CHAPTER VII.

ACQUISITION AND OPERATION OF AIRPORTS, LANDING FIELDS AND OTHER AERONAUTICAL FACILITIES BY POLITICAL SUBDIVISIONS OF THIS STATE.

259.126 Airports; acquisition and operation by political subdivisions.

Sec. 126. Every political subdivision in this state is hereby authorized through its governing body to acquire property, real and personal, for the purpose of establishing, constructing, and enlarging airports, landing fields and other aeronautical facilities, and to acquire, establish, construct, enlarge, improve, maintain, equip, operate and regulate such airports, landing fields and other aeronautical facilities, and other property incidental to their operation, either within or without the territorial limits of such political subdivision, and within or without the state of Michigan, in the manner provided by the laws of this state for the acquisition of real property for public purposes. Acquisition may be by purchase, lease, gift, condemnation or dedication: Provided, That, except with respect to the enlargement of existing airports, landing fields and other aeronautical facilities, a verdict of necessity in any condemnation case pending on the effective date of this act, or hereafter instituted pursuant to the provisions of this section, shall not be rendered by the condemnation jury, in case the proposed site is wholly or partially located within a charter township of more than 35,000 population according to the latest census or is wholly or partially located within a political subdivision next adjoining such charter township and the proposed site is located in a county other than that in which the condemning authority is situated, until such time as evidence is presented to the court showing that the board of supervisors of the county within which the proposed site is wholly or partially located and the board of

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supervisors of the county within which the adjoining political subdivision is located have approved the acquisition and condemnation of such property for such purposes by a majority vote of its members elect.

HISTORY: CL 1948, 259.126;—Am. 1953, p. 36, Act 39, Imd. Eff. May 3.

See Sec. 1 of Act 182 of 1927, being CL 1929, 4829;—Am. 1939, Act 344;—Sec. 2 of Act 182 of 1927, being CL 1929, 4830;—Sec. 3 of Act 182 of 1927, being CL 1929, 4831;—Sec. 4 of Act 182 of 1927, being CL 1929, 4832;—and Sec. 6 of Act 182 of 1927, being CL 1929, 4834.

259.126a Aeronautical facilities; acquisition and operation by state of Wisconsin; reciprocity.

Sec. 126a. The governing body of a political subdivision in the state of Wisconsin whose laws permit, may acquire, establish, construct, enlarge, own, control, lease, equip, improve, maintain and operate airports, landing fields and other aeronautical facilities in this state, subject to all laws, rules and regulations of this state applicable to its political subdivisions in such aeronautical projects, but subject to the laws of Wisconsin in all matters relating to financing such projects. A political subdivision of the state of Wisconsin shall have the same privileges, rights and duties of like political subdivisions of this state. This section shall not apply unless the laws of Wisconsin permit political subdivisions of this state to acquire, establish, construct, enlarge, own, control, lease, equip, improve, maintain, operate and otherwise control such airport, landing field and other aeronautical facilities in Wisconsin with all privileges, rights and duties applicable to the other political subdivisions of the state of Wisconsin in such aeronautical projects.

HISTORY: Add. 1967, p. 528, Act 271, Eff. Nov. 2.

259.127 Air space rights.

Sec. 127. Acquisition of air space rights surrounding airports. Where necessary, in order to provide unobstructed air spaces for the safe landing or taking off of aircraft utilizing airports, landing fields or other aeronautical facilities acquired or operated under the provisions of this act, every political subdivision of this state is authorized to acquire, in the same manner as is provided for the acquisition of property for airport purposes, easements through or other interests in air spaces over land or water, interests in airport hazards outside the boundaries of the airports, landing fields and other aeronautical facilities, and such other airport protection privileges as are necessary to insure safe approaches to the landing and take-off areas. It is also hereby authorized to acquire, in the same manner, the right or easement, for a term of years or perpetually, to place or maintain suitable marks for the daytime marking and suitable lights for the nighttime marking of airport hazards, including the right of ingress and egress to or from such airport hazards, for the purpose of maintaining and repairing such lights and marks.

HISTORY: CL 1948, 259.127.

259.128 Encroachments on airport protection privileges declared public nuisance; abatement.

Sec. 128. Encroachments on airport protection privileges a public nuisance. It shall be unlawful for anyone to build, rebuild, create, or cause to be built, rebuilt, or created any object, or plant, cause to be planted or permit to grow higher any tree or trees or other vegetation, which shall encroach upon any airport protection privileges acquired pursuant to the provisions of this chapter. Any such encroachment is declared to be a public nuisance and may be abated in the manner as is prescribed by law for the abatement of public nuisance.

HISTORY: CL 1948, 259.128.

259.129 Prior acquisitions; validation.

Sec. 129. Prior acquisition and operation of airport property validated. Any acquisition of property within or without the limits of any political subdivision of this state

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for airports, landing fields, or other aeronautical facilities, or of airport protection privileges and arrangements made for the operation of such facilities, heretofore made by any such political subdivision in any manner, together with the conveyance and acceptance thereof, is hereby legalized and made valid and effective.

HISTORY: CL 1948, 259.129.

259.130 Political subdivisions; appropriation of funds.

Sec. 130. Political subdivisions may appropriate funds and levy tax for airports, landing fields and other aeronautical facilities. Every political subdivision of this state is hereby authorized to appropriate funds for acquisition, improvement, maintenance and equipping of airports, landing fields and other aeronautical facilities as provided in this act, and may levy tax on property within such political subdivisions subject to taxation for public purposes, as provided by law; but said tax shall never exceed in any 1 year 1 mill on the assessed valuation of said political subdivision: Provided, That funds of any political subdivision not already appropriated or earmarked for other purposes may be used for the herein authorized purposes upon the majority vote of the legislative body of any such political subdivision.

HISTORY: CL 1948, 259.130. See Sec. 7 of Act 182 of 1927, being CL 1929, 4835.

259.131 Aeronautical facilities; general obligation bonds; revenue bonds, additional security.

Sec. 131. The legislative body of any political subdivision in this state is hereby authorized to submit to the qualified electors of the political subdivision at any regular or special election called for that purpose the question of the issuance of general obligation bonds of such political subdivision, the proceeds of which shall be used for the acquisition, construction, operation, maintenance and equipping of airports, and landing fields including buildings, structures or facilities thereof or relating thereto, and the necessary land therefor. A majority vote of the qualified voters voting thereon shall authorize the issuance of such general obligation bonds, but their issuance shall be limited and governed by the provisions of the statutes in force at the time of issuance. Revenue bonds may be issued for the above purposes and the legislative body of such political subdivision may pledge as security for such bonds all or any portion of the landing fees, concession fees, rents, charges, or any other revenues derived from the operation of the airport. Such revenue bonds shall be issued in accordance with the applicable provisions of Act No. 94 of the Public Acts of 1933, as amended, being sections 141.101 to 141.139, inclusive, of the Compiled Laws of 1948: Provided, That any such fees, rents, or charges so pledged that are fixed and established pursuant to the provisions of a lease or contract, shall not be subject to revision or change except in such manner as is provided in such lease or contract. As additional security for the payment of the principal of and interest on any revenue bonds issued pursuant to the provisions of this section, any issuing political subdivision may, upon proper resolution adopted by a majority vote of its governing body, agree that in the event the funds pledged for the payment of such revenue bonds are not sufficient for the payment of the principal and interest thereon as the same shall become due, the political subdivisions shall advance sufficient moneys out of its general funds for the payment of such principal and interest, if the proceeds of the revenue bonds are used exclusively within the territorial limits of the county in which such political subdivision is located, and it shall become the duty of the treasurer of such political subdivision to promptly make such advancement. The political subdivision shall be reimbursed for any moneys so advanced out of funds pledged for the payment of said revenue bonds thereafter paid or collected. Except for the additional security which may be agreed upon by resolution of the governing body as hereinabove specifically provided, the principal of and interest on such revenue bonds shall be payable solely from the revenues hereinbefore spe-

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cifically enumerated: Provided, That the term revenues as used in this section shall mean net revenues after operating expenses.

HISTORY: CL 1948, 259.131;—Am. 1955, p. 38, Act 34, Imd. Eff. Apr. 19;—Am. 1956, p. 308, Act 163, Imd. Eff. Apr. 16;—Am. 1957, p. 288, Act 228, Imd. Eff. Jun. 6;—Am. 1958, p. 232, Act 194, Eff. Sep. 13.

259.131a Aeronautics commission; capital city airport revenue bonds, issuance.

Sec. 131a. The commission may issue revenue bonds not to exceed $5,000,000.00 for the purpose of constructing, equipping and maintaining buildings, structures or facilities for aeronautical purposes at the capital city airport and may pledge as security for such bonds all or any portion of the revenues received from the operation of the project. The revenue bonds shall be issued subject to the applicable provisions of Act No. 94 of the Public Acts of 1933, as amended, being sections 141.101 to 141.139 of the Compiled Laws of 1948.

HISTORY: Add. 1958, p. 191, Act 167, Eff. Sep. 13;—Am. 1967, p. 640, Act 299, Eff. Nov. 2.

259.132 Declaration of public purpose and necessity.

Sec. 132. Declaration of public purpose and as a public necessity. The acquisition of any lands for the purpose of establishing airports, landing fields or other aeronautical facilities; the acquisition, of airport protection privileges; the acquisition, establishment, construction, enlargement, improvement, maintenance, equipment and operation of airports, landing fields and other aeronautical facilities, and the exercise of any other powers herein granted to political subdivisions of this state, are hereby declared to be public, governmental and municipal functions, exercised for a public purpose, and matters of public necessity.

HISTORY: CL 1948, 259.132. See Sec. 3 of Act 182 of 1927, being CL 1929, 4831.

259.133 Aeronautical facilities; powers of local units.

Sec. 133. In addition to the general powers in this act conferred, and without limitation thereof, a political subdivision which has established or may hereafter establish airports, landing fields or other aeronautical facilities, is hereby authorized:

Administrative agency; Wayne county.

(a) To vest authority for the construction, enlargement, improvement, maintenance, equipment, operation and regulation thereof, in an officer, a board or body of such political subdivision, by ordinance or resolution which shall prescribe the powers and duties of such officer, board or body. In counties operating under the county road system and now having or hereafter attaining a population of more than 1,000,000, according to the last regular or any subsequent federal decennial census, the board of county road commissioners is hereby vested with authority to carry out the provisions under this section in and for such counties.

Airport manager; employment.

(b) To employ a regular airport manager for the airport, landing field or other aeronautical facility under its control, or in cases where an airport board or body is established, the airport manager may be employed by such board or body.

Management, government, use; rules; guards; penalties.

(c) To adopt and amend all needful rules, regulations and ordinances, for the management, government and use of any properties under its control, whether within or without its territorial limits; to appoint airport guards or police, with full police powers; to fix penalties for the violation of said rules, regulations and ordinances, and enforce such penalties.

Public safety rules.

(d) To adopt and enact rules, regulations and ordinances designed to safeguard the public upon or beyond the limits of private airports, landing fields or other aeronautical facilities within such political subdivision or its police jurisdiction against the per-

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ils and hazards of instrumentalities used in aerial navigation; which rules shall be consistent with and conform as nearly as may be with the laws of this state and the rules and regulations of the Michigan department of aeronautics.

Property; lease, donation, sale; concessions.

(e) To lease for a term of years, donate, or sell, such airports, landing fields or other aeronautical facilities, or buildings and structures relating thereto, or real property acquired or set apart for such purposes, to any person or persons, any other political subdivision or the state government, or the national government, or any department of any of them, either exclusively or in common with others, for operation and public use; and to confer the privileges of concessions of supplying upon its airports goods, commodities, things, services and facilities; and to enter into leases, contracts, agreements or grants of privileges of concessions with any person or persons, any other political subdivision or the state government or the national government, or any department of any of them, for the operation, use or occupancy, either exclusively or in common with others, of all or any part of the airports, landing facilities, or other aeronautical facilities, including any buildings and structures thereon or related thereto, under its control, for a term or terms not to exceed 50 years, establishing the charges, rentals or fees at a fixed or variable rate binding upon the parties thereto for the full term of such lease, contract, agreement or grant, which lease, contract, agreement or grant may provide for the resolution of disputes arising thereunder or for the fixing of variable terms therein through arbitration or similar procedure. Such terms, charges, rentals and fees shall be equal and uniform for the same type of facilities provided, services rendered or privileges granted with no discrimination between users of the same class for like facilities provided, services rendered or privileges granted: Provided, That in each case in so doing the public is not deprived of its rightful, equal and uniform use thereof: Provided further, however, That such terms, charges, rentals and fees may vary where necessary, to provide security and funds for payment of bonds to be issued as authorized by this act to finance improvements to any airport, or to allow for other differing costs of financing, construction of facilities, or maintenance and operation of any such facility.

Surplus property, disposition.

(f) To sell, donate or lease any property, real or personal, acquired for such purposes and belonging to the political subdivision, which in the judgment of its governing body, may not be subsequently required for aeronautic purposes, in accordance with the laws of this state, or the provisions of the charter of the political subdivision, governing the sale or leasing of similarly owned property.

Charges, rentals, fees; liens.

(g) To determine the charges, rentals or fees for the use of any properties under its control, and the charges for any services or accommodations, and the terms and conditions under which such properties may be used, which rentals, fees, charges, terms and conditions shall be equal and uniform for the same type of use provided, services rendered or accommodations granted with no discrimination between users of the same class for like use provided, services rendered or accommodations granted, except that any such charges, rentals and fees as may be fixed or determined by any lease, contract, agreement, or grant of privileges of concessions to which the political subdivision is a party or is the grantor, shall be binding upon all parties thereto for the full term prescribed therein unless the same is sooner modified or terminated by mutual consent of the parties thereto: Provided, That in all cases the public is not deprived of its rightful, equal, and uniform use of such property: Provided further, however, That such terms, charges, rentals and fees may vary where necessary, to provide security and funds for payment of bonds to be issued as authorized by this act to finance im-

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provements to any airport, or to allow for other differing costs of financing, construction of facilities, or maintenance and operation of any such facility. Liens may be had and enforced by law, as provided in such cases, and their enforcement, for repairs to or improvement or storage or care of any personal property, to enforce the payment of any such charges.

Incidental powers.

(h) To exercise all powers necessarily incidental to the exercise of the general and special powers herein granted.

HISTORY: CL 1948, 259.133;—Am. 1955, p. 282, Act 187, Eff. Oct. 14;—Am. 1956, p. 308, Act 163, Imd. Eff. Apr. 16;—Am. 1959, p. 256, Act 181, Eff. Mar. 19, 1960;—Am. 1968, p. 364, Act 238, Imd. Eff. Jun. 26.

See Secs. 6 and 6a of Act 90 of 1913, being Compilers' Secs. 123.66 and 123.66a for similar provisions; and see Sec. 1 of Act 182 of 1927, being CL 1929, 4829;—Am. 1939, Act 344;—Am. 1941, Act 333.

259.134 Joint operation; board, compensation, term; condemnation proceedings; expenditures.

Sec. 134. Joint operation. (a) All powers, rights and authority granted to any political subdivision in this act may be exercised and enjoyed by 2 or more of them, or by this state and 1 or more such political subdivisions, acting jointly, either within or without the territorial limits of either or any of them, and within or without this state; or by this state or any political subdivision acting jointly with any other state or political subdivision thereof, whether within or without this state; provided the laws of such other state permit such joint action; and contracts may be entered with each other for the herein provided and authorized joint action.

(b) Political subdivisions of this state acting jointly as herein authorized shall create a board from the inhabitants thereof for the purpose of acquiring property for, establishing, constructing, enlarging, improving, maintaining, equipping, operating and regulating the airports, landing fields and other aeronautical facilities, and airport protection privileges to be jointly acquired, controlled and operated. Such board shall consist of members to be appointed by the governing body of each political subdivision involved, the number to be appointed by each to be provided for by the agreement for the joint venture. Each member shall serve for such time and upon such terms as to compensation, if any, as may be provided for in the agreement.

(c) Such board may exercise, on behalf of the political subdivisions acting jointly by which it is appointed, all the powers of each such political subdivision granted by this act.

(d) Condemnation proceedings shall be instituted in the names of the political subdivisions jointly, and the property acquired shall be held by the political subdivisions as tenants in common.

(e) For the purpose of providing funds for necessary expenditures in carrying out the provisions of this act, a joint fund shall be created and maintained, into which each of the political subdivisions involved shall deposit its proportionate share as provided by the joint agreement; revenues in excess of cost of maintenance and operating expenses of the joint properties to be divided as may be provided in the original agreement for the joint venture.

HISTORY: CL 1948, 259.134. See Sec. 6 of Act 182 of 1927, being CL 1929, 4834.

259.135 Federal aid to political subdivisions; aeronautics commission as agent.

Sec. 135. (a) Every political subdivision of this state is hereby empowered to accept federal or other assistance in the acquisition, construction, enlargement, improvement, maintenance, equipment, or operation of airports, landing fields and other aeronautical facilities.

(b) No political subdivision of this state, whether acting alone or jointly with another political subdivision or with the state, shall submit to the administrator of civil aero-

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nautics of the United States any project application under the provisions of an act of Congress approved May 13, 1946, being Public Law 377, 79th Congress, known and designated as the "federal airport act", or any amendment thereof, unless the project and the project application have been first approved by the Michigan aeronautics commission.

(c) No such political subdivision shall directly accept, receive, receipt for, or disburse any funds granted by the United States under the federal airport act, as amended, but it shall designate the Michigan aeronautics commission as its agent and in its behalf to accept, receive, receipt for, and disburse such funds. It shall enter into an agreement with said Michigan aeronautics commission which shall prescribe the terms and conditions of such agency in accordance with federal laws, rules and regulations and the applicable laws of this state. Such moneys as are paid over by the United States government shall be channeled through the state treasury and disbursed for and in behalf of such political subdivision under the terms and conditions of the respective grants, such disbursements to be made in accordance with the accounting laws and procedure of the state of Michigan.

HISTORY: CL 1948, 259.135. Am. 1948, Ex. Ses., p. 88, Act 32, Imd. Eff. May 10.

NOTE: Federal airport act, above referred to, is 49 U.S.C.A. 1101 et seq.

259.136 Board of supervisors may vote aid.

Sec. 136. The board of supervisors of any county is hereby authorized to vote aid for any publicly owned or operated airport within the county, and include such aid in the county tax, or provide for the payment of the same from moneys available in the general fund of the county.

HISTORY: CL 1948, 259.136. This section supersedes with additions Sec. 7 of Act 182 of 1927, Add. 1929, p. 248, Act 103, Imd. Eff. April 29, being CL 1929, 4835.

CHAPTER VIII.

APPROACH PROTECTION FOR AIRPORTS, LANDING FIELDS AND OTHER AERONAUTICAL FACILITIES.

259.151 State plan for approach protection areas.

Sec. 151. State plan for approach protection areas. The Michigan aeronautics commission is hereby empowered to create and establish a state plan for approach protection areas surrounding airports, landing fields and other aeronautical facilities, by fixing standards of height to which any structure or obstruction of any nature, whether object of nature or man-created, may be erected or maintained within such distance from the boundaries of any airport, landing field or other aeronautical facility necessary for the safe landing, take-off or other use of such facilities by aircraft operating within this state.

HISTORY: CL 1948, 259.151.

259.152 Determination of hazard; notice to owner.

Sec. 152. Determination of hazard, notice to owner. In the interests of safety to airmen, aircraft, and persons and property upon the lands and waters of this state, upon the commission's determination that any obstruction within the approach protection area is a hazard, the commission shall notify the owner, or the airport body designated by the owner, or by any such owners acting jointly, that such determination of hazard has been made, and issue an order for the abatement of the hazard.

HISTORY: CL 1948, 259.152.

259.153 Execution of order to abate hazard; failure to comply.

Sec. 153. Execution of order to abate hazard; failure to comply. Upon receipt of such order to abate hazard from the commission, the owner of any public-owned airport shall immediately institute proper proceedings under the applicable effective

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laws of this state or ordinances of the political subdivisions owning such facilities, to effectuate the order. Failure upon the part of any owner of a public-owned airport, landing field, or other aeronautical facility to abate such hazard as determined by the commission in its order, shall make the owner liable to either restrictive use of, or the entire closing of such airport, landing field or other aeronautical facility.

HISTORY: CL 1948, 259.153.

259.154 Execution of order to abate hazard; privately owned airport; failure to comply.

Sec. 154. Execution of order to abate hazard; failure to comply; private owners of public airports. Where an airport is privately-owned but its facilities are open to the public, and the airport, landing field or other aeronautical facility is determined to be public in character and use, the order to abate hazards of the commission shall be served upon both the owner and the political subdivision having jurisdiction in the area upon which the airport, landing field or other aeronautical facility is established. Both the owner and such political subdivision shall immediately begin proceedings under the appropriate effective laws of this state or ordinances of the political subdivision to effectuate the abatement of the hazard. Failure to comply shall make the owner liable to either restrictive use of, or the entire closing of, such facility, in the interest of the safety, health and welfare of the public, and the safe use of aeronautical facilities in this state.

HISTORY: CL 1948, 259.154.

259.155 Hazards surrounding state-owned airports; fields, and facilities.

Sec. 155. Hazards surrounding state-owned airports, landing fields and other aeronautical facilities. Whenever any obstructions of whatever nature shall be determined to be a hazard adjacent to or surrounding a state-owned airport, landing field or other aeronautical facility, the Michigan aeronautics commission shall notify the state administrative board of such hazard with an order for its abatement, and the state administrative board is hereby empowered to institute proper proceedings in the name of and for the state of Michigan for the abatement of such hazard. Failure to effectively comply with such order shall subject the airport or other aeronautical facility to either restrictive use thereof, or its entire closing, in the interest of the safety, health and welfare of the public, and the safe use of aeronautical facilities in this state.

HISTORY: CL 1948, 259.155.

259.156 Encroachments upon approach protection areas declared public nuisance.

Sec. 156. Encroachments upon approach protection areas as public nuisances. It shall be unlawful for anyone to build, rebuild, create, or cause to be built, rebuilt, or created any object, or plant, cause to be planted or permit to grow higher any tree or trees or other vegetation, which shall encroach upon any approach protection area determined by the Michigan aeronautics commission in the state plan for approach protection areas. Any such encroachment is hereby declared to be a public nuisance and may be abated in the manner prescribed by law for the abatement of public nuisances.

HISTORY: CL 1948, 259.156.

CHAPTER IX.

PENAL PROVISIONS—JURISDICTION OF CRIMES, TORTS, CONTRACTS.

259.176 Violation of act; misdemeanor, penalty.

Sec. 176. Penalties. Except as herein otherwise provided, any person violating any of the provisions of this act, or any of the rules, regulations, or orders issued pursuant thereto, shall be guilty of a misdemeanor, punishable by a fine of not more than $100.00 or by imprisonment in the county jail of not more than 90 days or both such

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fine and imprisonment in the discretion of the court. A violation of each and every rule, regulation or order shall be considered a separate offense.

HISTORY: CL 1948, 259.176. See Sec. 6 of Act 182 of 1927, being CL 1929, 4834; and Sec. 5 of Act 63 of 1931.

259.177 Jurisdiction of crimes and torts.

Sec. 177. Jurisdiction of crimes and torts. All crimes, torts and other wrongs committed by or against an airman or passenger while in flight over this state shall be governed by the laws of this state; and the question whether damage occasioned by or to an aircraft while in flight over this state constitutes a tort crime or other wrong by or against the owner of such aircraft, shall be determined by the laws of this state.

HISTORY: CL 1948, 259.177. This section re-enacts except changes word "aeronaut" to "airman" Sec. 7 of Act 224 of 1923, being CL 1929, 4817.

259.178 Contracts made during flight; effect.

Sec. 178. Contracts made during flight. All contractual and other legal relations entered into by airmen or passengers while in flight over this state shall have the same effect as if entered into on the land or water beneath.

HISTORY: CL 1948, 259.178. This section re-enacts except changes word "aeronauts" to "airmen" Sec. 8 of Act 224 of 1923, being CL 1929, 4818.

259.179 Unlawful methods of hunting; penalty.

Sec. 179. Unlawful methods of hunting. It shall be unlawful for any person to hunt, pursue, worry or kill any wild waterfowl or other birds or animals by any means whatever during such time as said person is upon any kind of aircraft. Violation of this section shall be deemed a misdemeanor.

HISTORY: CL 1948, 259.179. See Sec. 10, Ch. 2, Act 286, 1929, being Compilers' § 312.10 subdivision (c) for similar provisions.

259.180 Reckless operation of aircraft; penalty.

Sec. 180. Reckless operation of aircraft. Any person who shall operate any aircraft within the airspace over, above, and upon the lands and waters of the state of Michigan, carelessly and heedlessly in wilful or wanton disregard of the rights or safety of others, or without due caution and circumspection and in a manner so as to endanger or be likely to endanger any person or property, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 259.180. See Sec. 44 of Act 328, 1931, being Compilers' § 750.44, for similar provisions.

259.180a Civil actions concerning aircraft; liability of owner or operator; guest passenger; definitions.

Sec. 180a. (1) The owner or operator or the person or organization responsible for the maintenance or use of an aircraft shall be liable for any injury occasioned by the negligent operation of the aircraft, whether the negligence consists of a violation of the provisions of the statutes of the state, or in the failure to observe ordinary care in the operation, as the rules of the common law require. No person transported by the owner or operator or the person responsible for the maintenance or use of any aircraft as a guest without payment for such transportation shall have a cause of action for damages against the owner or operator or person responsible for the maintenance or use of the aircraft for injury, death or loss, in case of accident, unless the accident shall have been caused by the gross negligence or wilful and wanton misconduct of the owner or operator or the person responsible for the maintenance or use of the aircraft, and unless the gross negligence or wilful and wanton misconduct of the owner or operator or the person responsible for the maintenance or use of the aircraft contributed to the injury, death or loss for which the action is brought.

(2) "Guest" means any person other than an employee of the owner or registrant of the aircraft, or of a person responsible for its operation with the owner's or registrant's express or implied consent, being in or upon, entering or leaving the same, except any passenger for hire and except any passenger while the aircraft is being used in the

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business of demonstrating or testing. The sharing of expense shall not constitute a carriage for hire within the meaning of this act.

(3) "Person or organization responsible for the maintenance or use of an aircraft" shall not include a mechanic who has performed work on or furnished materials, supplies or equipment for an aircraft or any employee of the mechanic when the mechanic is an independent contractor.

HISTORY: Add. 1958, p. 121, Act 114, Eff. Sep. 13.

259.181 Tampering with markings of airports and aeronautical facilities; misdemeanor.

Sec. 181. Tampering with markings of airports, landing fields, or other aeronautical facilities. It shall be unlawful for any person to tamper with, alter, destroy, remove, carry away, or cause to be carried away, any objects used for the marking of airports, landing fields, or other aeronautical facilities, or in any way change their position or location, except by the direction of the proper authorities charged with the maintenance and operation of such facilities. Any person violating any of these provisions herein mentioned or who shall have illegally in his possession any objects or devices used for such markings, shall be guilty of a misdemeanor.

HISTORY: CL 1948, 259.181.

259.182 Allowing domestic animals or fowl on airport facilities; penalty.

Sec. 182. Domestic animals or fowl on airports, landing fields, and other aeronautical facilities. It shall be unlawful for any owner or keeper of any domestic animal or fowl to allow such domestic animal or fowl to run at large and enter or be upon any premises constituting an airport, landing field or other aeronautical facility. Violations of the provisions of this section shall be deemed a misdemeanor.

HISTORY: CL 1948, 259.182. See Sec. 67 of Act 328 of 1931, being Compilers' § 750.67, for similar provisions.

259.183 Use of aircraft unlawfully; penalty.

Sec. 183. Felony; taking possession of and use of an aircraft unlawfully. Any person who shall wilfully and without authority, take possession of or use an airplane, or unlawfully remove or take any component parts of an airplane, and any person who shall assist in, or be a party to such taking illegal possession of or use of an airplane or component parts belonging to another, shall be guilty of a felony, punishable by imprisonment in the state prison for not more than 5 years.

HISTORY: CL 1948, 259.183. See Sec. 367b of Act 328 of 1931, being Compilers' § 750.367b, for similar provisions.

259.184 Trespassing on airports and facilities; misdemeanor.

Sec. 184. Trespassing on airports, landings fields, or other aeronautical facility. It shall be unlawful for any person or persons to operate any motor vehicles upon or drive across any licensed airport, landing field, or other aeronautical facility, or trespass upon the area within the boundaries of such airports, unless such cars and vehicles are used for administrative and maintenance purposes, and operated by the airport authorities and state and municipal law enforcement officers having jurisdiction. Violations of this section shall be deemed a misdemeanor.

HISTORY: CL 1948, 259.184.

CHAPTER X.

MISCELLANEOUS PROVISIONS.

259.201 Aeronautics commission; orders.

Sec. 201. Orders of the commission. In any case where the commission rejects an application for permission to operate any aeronautical facility, school of aviation, or flying club, or to act as an aviation instructor or airport manager, or in any case where the commission shall issue an order requiring certain things to be done, it shall set

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forth its reasons therefor and shall state the requirements to be met before such approval will be given or such order modified or changed. In any case where the commission may deem it necessary, it may order the closing of any aeronautical facility, or restrict its use, or any school of aviation, flying club, aviation instructor or airport manager to cease operations, until he or it shall have complied with the requirements determined by the commission.

HISTORY: CL 1948, 259.201. See Sec. 4 of Act 177 of 1929, being CL 1929, 4804;—Am. 1931, Act 53.

259.202 Aeronautics commission; orders, appeal.

Sec. 202. Appeals from order of commission or regulations issued. Anyone considering himself or itself aggrieved by any order, rule or regulation of such commission may, within 10 days after the issuance thereof, appeal to, or have the action of the commission reviewed by, the circuit court of Ingham county, at Lansing, Michigan, in the manner provided for the review of the orders of other administrative bodies of this state, and rules of law applicable to such appeals or reviews shall apply.

HISTORY: CL 1948, 259.202. See Sec. 7 of Act 177 of 1929, being CL 1929, 4807.

259.203 Gasoline privilege tax; imposition, refund.

Sec. 203. There is hereby imposed a privilege tax of 3 cents per gallon on all fuel sold or used in producing or generating power for propelling aircraft using the aeronautical facilities on the lands and waters of this state; which tax shall be paid to the secretary of state in the same manner and method and at the same time as is now prescribed by law for the collection of gasoline tax now imposed on all gasoline used in producing or generating power for propelling motor vehicles used upon the public highways of this state. A refund of 1 ½ cents per gallon shall be made to airline operators who show proof within 6 months after purchase that they are operating interstate on scheduled operations.

HISTORY: CL 1948, 259.203;—Am. 1957, p. 141, Act 123, Eff. Sep. 27.

This section supersedes Sec. 2 of Act 160 of 1931.

259.204 Aircraft fuels; storage, dispensing, sale; regulations.

Sec. 204. Aircraft fuels. Every person, firm or corporation dealing at wholesale or retail in aircraft fuels shall acquire and dispense such fuels in accordance with the laws of the state of Michigan and the rules and regulations of the state fire marshal pertaining to the storing, dispensing and selling of volatile fuels. Violation of this section shall be deemed a misdemeanor.

HISTORY: CL 1948, 259.204.

NOTE: See Sec. 502 of Act 328, 1931, being Compilers' § 750.502, for law with respect to handling of gasoline. State fire marshal act is Compilers' § 29.1 et seq.

259.205 Repair station operator lien.

Sec. 205. Repair station operator lien. Every individual, firm or corporation, who regularly, for hire or reward, services, repairs, stores or maintains aircraft, shall have a lien upon any aircraft so serviced, repaired, stored or maintained, by any of them, for the proper charges thereon due; or for gasoline, electric current or other accessories and supplies furnished or expenses bestowed or labor performed thereon or in connection therewith, at the request, or with the consent, of the registered owner of the aircraft, whether such owner be a conditional sale vendee or a mortgagor remaining in possession or otherwise, in accordance with the laws and procedure provided for the establishment and execution of garage keeper's lien, in the state of Michigan.

HISTORY: CL 1948, 259.205. Garage keeper's lien, see Compilers' § 570.301 et seq.

Sec. 206. (This was a severing clause section.)

HISTORY: Rep. 1947, p. 170, Act 129, Eff. Oct. 11. New section.

Sec. 207. (This was a repeal section.)

HISTORY: Rep. 1947, p. 169, Act 129, Eff. Oct. 11. New section.

ACTS REPEALED: Act 177, 1929, CL 1929, 4801-4810; Act 224, 1923, CL 1929, 4811-4821; Act 182, 1927, CL 1929, 4829-4835; Act 329, 1927, CL 1929, 4836-4837; Act 63, 1931; Act 89, 1931; and Act 160, 1931.

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259.208 Aeronautics code of the state of Michigan; short title.

Sec. 208. This act shall be known and may be cited as "Aeronautics code of the state of Michigan."

HISTORY: CL 1948, 259.208.

Act 107, 1969, p. 194; Imd. Eff. Jul. 24.

AN ACT to authorize the department of commerce, through the aeronautics commission, to make loans to counties, cities, townships and incorporated villages, or any combination thereof, and to establish a revolving fund for the purpose of airport development; and to authorize the commission to prescribe rules for granting loans and repayment of loans.

The People of the State of Michigan enact:

259.251 Airport loan program; creation, administration, purpose.

Sec. 1. A continuing airport loan program is created to be administered by the department of commerce through the aeronautics commission for the purpose of making loans to counties, cities, townships and incorporated villages, or any combination thereof to assist in the construction and improvement of publicly-owned airports and landing fields.

HISTORY: New 1969, p. 194, Act 107, Imd. Eff. Jul. 24.

259.252 Revolving loan account; appropriation, administration.

Sec. 2. The sum of $250,000.00 is appropriated from the state aeronautics fund to be administered by the aeronautics commission for the establishment of a revolving loan account to implement the provisions of this act.

HISTORY: New 1969, p. 194, Act 107, Imd. Eff. Jul. 24.

259.253 Aeronautics commission; promulgation of rules; loans, security, payment, interest.

Sec. 3. The commission shall promulgate rules in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948, for making loans pursuant to section 1 not to exceed 90% of the local share of the project cost, or $25,000.00 whichever is the lesser. A loan shall be secured by a lien on the airport's real property. The loan shall be repaid within 10 years and shall bear an annual interest rate as established by the state treasurer in the year of the loan. The annual interest rate shall not exceed 6%. The repayments shall be collected by the commission and credited to the revolving loan account established in section 2. The interest shall be collected annually by the commission and credited to the general fund.

HISTORY: New 1969, p. 194, Act 107, Imd. Eff. Jul. 24.

259.254 Aeronautics commission; report to legislature, time, contents.

Sec. 4. At the end of each fiscal year, the commission shall submit to the legislature a report showing total funds available for loans, itemization of loans made, and repayment of loans and interest received.

HISTORY: New 1969, p. 195, Act 107, Imd. Eff. Jul. 24.

259.255 Supplemental construction of act.

Sec. 5. This act shall be construed as supplemental to the laws of this state relative to improvement of airports.

HISTORY: New 1969, p. 195, Act 107, Imd. Eff. Jul. 24.

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Act 328, 1945, p. 596; Imd. Eff. May 28.

AN ACT to create a fund for the purpose of advancement to the state board of aeronautics of moneys for planning, surveys, engineering services, and development of airports and landing fields; to provide for disbursement of said fund; and to make an appropriation therefor.

The People of the State of Michigan enact:

259.401 Appropriation; purpose.

Sec. 1. There is hereby appropriated from the general fund the sum of $250,000.00 for the fiscal year ending June 30, 1945, to the state administrative board to be expended as provided in this act.

HISTORY: CL 1948, 259.401.

259.402 Special aeronautical planning fund; expenditure.

Sec. 2. Said appropriation shall be credited to a special fund to be known as the "special aeronautical planning fund". Moneys may be released from said special fund from time to time by the state administrative board to the director of aeronautics, upon his request for planning, survey, engineering services and development of airports and landing fields within this state.

HISTORY: CL 1948, 259.402.

Act 23, 1950 (Ex. Ses.), p. 31; Imd. Eff. Jun. 7.

AN ACT to empower and direct the Michigan aeronautics commission to adopt airport approach plans for publicly owned airports within this state; to empower the Michigan aeronautics commission, municipalities, and other political subdivisions to promulgate, adopt, establish, administer and enforce airport zoning regulations limiting the height of structures and objects of natural growth, and otherwise regulating the use of property in the vicinity of publicly owned airports, and to acquire, by purchase, grant, condemnation or otherwise, air rights and other interests in land; to provide for the establishment of zoning commissions, administrative agencies, and boards of appeals to administer the provisions of this act, and to provide for their organization and procedure and appeals therefrom; and to provide penalties and remedies for violations of this act or any ordinances or regulations made under the authority herein conferred; and to repeal any inconsistent act or parts of acts.

The People of the State of Michigan enact:

259.431 Airport zoning act; definitions.

Sec. 1. For the purpose of this act the words, terms and phrases set forth in sections 2 through 10, inclusive, shall have the meanings prescribed in such sections.

HISTORY: New 1950, Ex. Ses., p. 31, Act 23, Imd. Eff. Jun. 7.

CITED IN OTHER SECTIONS: Sections 259.431 to 259.464 are cited in § 259.482.

259.432 Airport; publicly owned; definitions.

Sec. 2. The term "airport", when used in this act means any location which is used for the landing or taking off of aircraft, which provides facilities for the shelter, supply or care of aircraft, or for receiving or discharging passengers or cargo, and all appurtenant areas used or acquired for airport buildings or other airport facilities, and all appurtenant rights-of-way, either heretofore or hereafter established. An airport is "publicly owned" if the portion thereof used for the landing and taking off of aircraft is owned, operated, controlled, leased to or leased by the United States, any agency or

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department thereof, this state or any municipality or other political subdivision of this state, or any other governing body, public agency or other public corporation.

HISTORY: New 1950, Ex. Ses., p. 31, Act 23, Imd. Eff. Jun. 7.

259.433 Airport hazard; definition.

Sec. 3. The term "airport hazard", when used in this act means any structure or tree or use of land or of appurtenances thereof which obstructs the air space required for the safe flight of aircraft in landing or taking off at an airport or is otherwise hazardous or creates hazards to such safe landing or taking off of aircraft.

HISTORY: New 1950, Ex. Ses., p. 31, Act 23, Imd. Eff. Jun. 7.

259.434 Airport hazard area; definition.

Sec. 4. The term "airport hazard area", when used in this act means any area of land or water, or both, upon which an airport hazard might be established if not prevented as provided in this act, including any such area which has been declared to be an "airport hazard area" by the Michigan aeronautics commission in connection with any airport approach plan adopted by said commission.

HISTORY: New 1950, Ex. Ses., p. 31, Act 23, Imd. Eff. Jun. 7.

259.435 Commission; definition.

Sec. 5. The term "commission", when used in this act means the Michigan aeronautics commission, or any successor thereto established by law.

HISTORY: New 1950, Ex. Ses., p. 31, Act 23, Imd. Eff. Jun. 7.

259.436 Political subdivision; definition.

Sec. 6. The term "political subdivision", when used in this act means any county, city, village or township of this state, and any other political subdivision, public corporation, authority, or district in this state which is or may hereafter be authorized by law to construct, enlarge, improve, maintain, equip, operate and regulate airports.

HISTORY: New 1950, Ex. Ses., p. 31, Act 23, Imd. Eff. Jun. 7.

259.437 Person; definition.

Sec. 7. The term "person", when used in this act means any individual, firm, partnership, corporation, company, association, joint stock association, municipal corporation or other body politic; and includes any trustee, receiver, assignee, or other similar representative thereof.

HISTORY: New 1950, Ex. Ses., p. 31, Act 23, Imd. Eff. Jun. 7.

259.438 State; definition.

Sec. 8. The term "state" when used in this act means the state of Michigan.

HISTORY: New 1950, Ex. Ses., p. 32, Act 23, Imd. Eff. Jun. 7.

259.439 Structure; definition.

Sec. 9. The term "structure", when used in this act means any object constructed or installed by man, including, but without limitation, buildings, towers, smoke stacks and overhead transmission lines, but not including highways and their appurtenances.

HISTORY: New 1950, Ex. Ses., p. 32, Act 23, Imd. Eff. Jun. 7.

259.440 Tree; definition.

Sec. 10. The term "tree", when used in this act, means any object of natural growth.

HISTORY: New 1950, Ex. Ses., p. 32, Act 23, Imd. Eff. Jun. 7.

259.441 Airport hazard declared nuisance; prevention.

Sec. 11. It is hereby found that an airport hazard endangers the lives and property of the general public, of users of the airport and of occupants of land in its vicinity, and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking-off, and maneuvering of aircraft, thus tending to destroy or impair the utility of the airport and the public investment therein. Accordingly, it is hereby

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declared: (a) That the creation or establishment or maintenance of an airport hazard is a public nuisance and an injury to the community served by the airport in question; and (b) that it is therefore necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of airport hazards be prevented. It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, abatement, or marking or lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land or property rights therein.

HISTORY: New 1950, Ex. Ses., p. 32, Act 23, Imd. Eff. Jun. 7.

259.442 Airport approach plan; adoption by aeronautics commission, considerations.

Sec. 12. The commission shall formulate, adopt and revise, when necessary, an airport approach plan for each publicly owned airport in this state. Each such plan shall indicate and determine the circumstances in which structures and trees are or would be airport hazards, the airport hazard area within which measures for the protection of the airport's aerial approaches should be taken, and what the height limits and other objectives of such measures should be. In adopting or revising any such plans, the commission shall consider, among other things, the character of the flying operations expected to be conducted at the airport, the traffic pattern and regulations affecting flying operations at the airport, the nature of the terrain, the height of existing structures and trees above the level of the airport, and the possibility of lowering or removing existing obstructions; and the commission may obtain and consider the views of the agency of the federal government charged with the fostering of civil aeronautics, as to the aerial approaches necessary to safe flying operations at the airport.

HISTORY: New 1950, Ex. Ses., p. 32, Act 23, Imd. Eff. Jun. 7.

259.443 Determination of hazard; zoning regulations.

Sec. 13. In order to prevent the creation or establishment of airport hazards, every political subdivision having an airport hazard area wholly or partly within its territorial limits or jurisdiction may make an official determination that such area is in fact an airport hazard area and may thereupon adopt, administer, and enforce, in the interest of public safety and in the manner and upon the conditions hereinafter prescribed, airport zoning regulations for that part of such airport hazard area which is within its territorial limits or jurisdiction, which regulations may divide such area into zones, and, within such zones, may specify the land uses permitted and regulate and restrict the height to which structures and trees may be erected or allowed to grow.

HISTORY: New 1950, Ex. Ses., p. 32, Act 23, Imd. Eff. Jun. 7.

259.444 Joint airport zoning board; creation, powers, membership.

Sec. 14. In each case where (a) an airport is owned, operated, controlled, leased to or leased by a political subdivision and any airport hazard area appertaining to such airport is located wholly or partly outside the territorial limits or jurisdiction of such political subdivision, or (b) an airport hazard area is located wholly or partly within the territorial limits or jurisdiction of 2 or more political subdivisions, whether or not the particular airport in connection with which such airport hazard area exists is owned, operated, controlled, leased to or leased by 1 or more of such political subdivisions, all the political subdivisions involved, including the political subdivision which is the owner, operator, controller, lessee or lessor of such airport, may, by ordinance or by resolution duly adopted, create a joint airport zoning board, which board shall have the same power to adopt, administer and enforce airport zoning regulations applicable to the airport hazard area in question, as that vested by section 13 in the political subdivision or political subdivisions within which such hazard area is wholly or partly lo-

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cated. Each such joint board shall have as members 2 representatives appointed by the governing body of each political subdivision participating in its creation and in addition, another member to be elected by a majority of the members so appointed: Provided, however, That nothing in this section shall require the creation of a joint airport zoning board whenever a county, acting through its governing body or any county agency which is by law authorized to maintain, operate and improve airports, adopts airport zoning regulations applicable to an airport hazard area located entirely within the territorial limits or jurisdiction of such county and such airport zoning regulations shall supersede any other airport zoning regulations applicable to the same airport zoning area.

HISTORY: New 1950, Ex. Ses., p. 32, Act 23, Imd. Eff. Jun. 7.

259.445 Airport zoning regulations; incorporation into zoning ordinance.

Sec. 15. In the event that a political subdivision has adopted, or hereafter adopts, a comprehensive zoning ordinance regulating, among other things, the height of buildings, any airport zoning regulations applicable to the same area or portion thereof, may be incorporated in and made a part of such comprehensive zoning regulations, and may be administered and enforced as an integral part thereof.

HISTORY: New 1950, Ex. Ses., p. 33, Act 23, Imd. Eff. Jun. 7.

259.446 Airport zoning regulations; amendment.

Sec. 16. Every airport zoning regulation for an airport hazard area existing in connection with a publicly owned airport shall be designed to effectuate the commission's airport approach plan, as amended by it, whenever necessary, for such publicly owned airport, and said regulations shall likewise be amended, when necessary, to conform to any revision of the applicable airport approach plan that may be made by the commission.

HISTORY: New 1950, Ex. Ses., p. 33, Act 23, Imd. Eff. Jun. 7.

259.447 Airport hazard; definition and certification by aeronautics commission; joint airport zoning board, appointment, meetings, powers, compensation and expenses, expenditures.

Sec. 17. In each case where an airport hazard area exists in connection with a publicly owned airport and suitable airport zoning regulations have not been adopted, administered and enforced for such airport hazard area in a form and manner deemed reasonably adequate by the commission for the purposes of this act, the commission on behalf of this state shall define and determine such airport hazard area and certify such determination to the board of supervisors of the county or counties within which such airport hazard area is located and to the political subdivision authorized by law to maintain, operate, improve and regulate such airport, hereinafter referred to in this section as the airport operating agency. Whereupon and within 90 days thereafter, the board of supervisors of each county involved shall appoint 3 members and the operating agency and the commission shall each appoint 1 member to a board which shall constitute a joint airport zoning board. Two of the members appointed by the board of supervisors of each county involved shall be from a township or townships within which the hazard area is located and 1 shall be from that part of the county outside the townships where the hazard area is located. Within 120 days after such certification such airport zoning board shall meet and organize and thereafter function in the same manner and with the same powers as joint airport zoning boards provided for under section 14 of this act. Members of joint zoning boards created pursuant to the provisions of this section shall be compensated for services actually rendered at a rate established by the airport operating agency and approved by the commission, and shall be reimbursed for any actual and necessary expenses incurred by them in the performance of their duties.

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Subject to the approval of the airport operating agency, each joint board created pursuant to the provisions of this section is hereby authorized to make such expenditures, to employ such servants and to engage such professional and consultant services as are necessary to carry out the provisions of this act. All expenses of such joint boards, including the compensation of its members, shall be paid by the airport operating agency. Provided, however, That the commission and the board of supervisors of any county involved, or any of them, are hereby authorized to participate in and contribute toward such compensation and expenses in such amounts and to such extent as may be fixed or provided by agreement.

HISTORY: New 1950, Ex. Ses., p. 33, Act 23, Imd. Eff. Jun. 7.

259.448 Airport zoning regulations; conflict, determination by commission.

Sec. 18. In the event of conflict between any airport zoning regulations adopted under this act and any other zoning regulations applicable to the same area, whether such other regulations were adopted by the political subdivision which adopted the airport zoning regulations or by some other political subdivision, or by a joint airport zoning board, and whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, those limitations or requirements which may be determined by the commission to be most conducive to airport and air travel safety shall govern and prevail.

HISTORY: New 1950, Ex. Ses., p. 34, Act 23, Imd. Eff. Jun. 7.

259.449 Airport zoning regulations; public hearing on adoption or amendment, notice.

Sec. 19. No airport zoning regulations shall be adopted, amended, or changed under this act except by action of the governing body of the political subdivision in question, or by action of the joint board provided for in sections 14 or 17, after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least 15 days' notice of the hearing shall be published in a newspaper of general circulation, in the political subdivision or subdivisions in which is located wholly or partly, the airport hazard area to be zoned, or, if no newspaper is generally circulated in any such political subdivision, then in a newspaper of general circulation in the county in which such political subdivision is located.

HISTORY: New 1950, Ex. Ses., p. 34, Act 23, Imd. Eff. Jun. 7.

259.450 Airport zoning commission; appointment, reports and hearings.

Sec. 20. Prior to the initial zoning of any airport hazard area under this act, the governing body of the political subdivision or the joint airport zoning board which is to adopt the regulations shall appoint a body, to be known as the airport zoning commission, to recommend the boundaries of the various zones to be established and the regulations to be adopted therefor. Such airport zoning commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and the governing body of the political subdivision or the joint airport zoning board shall not hold its public hearings or take other action until it has received the final report of such airport zoning commission. Where a city plan commission or comprehensive zoning commission already exists, it may be appointed as the airport zoning commission.

HISTORY: New 1950, Ex. Ses., p. 34, Act 23, Imd. Eff. Jun. 7.

259.451 Airport zoning regulations; reasonableness, considerations.

Sec. 21. All airport zoning regulations adopted under this act shall be reasonable and none shall impose any requirement or restriction which is not reasonably necessary to effectuate the purposes of this act. In determining what regulations it may adopt, each political subdivision and joint airport zoning board, shall consider, among other things, the character of the flying operations expected to be conducted at the airport, the traffic pattern and regulations affecting flying operations at the airport,

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the nature of the terrain within the airport hazard area, the character of the neighborhood, and the uses to which the property to be zoned is put and adaptable.

HISTORY: New 1950, Ex. Ses., p. 34, Act 23, Imd. Eff. Jun. 7.

259.452 Airport zoning regulations; removal or alteration of structures or trees prohibited, exception.

Sec. 22. No airport zoning regulations adopted under this act shall require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations when adopted or amended, or otherwise interfere with the continuance of any non-conforming use, except as provided in sections 23 and 25.

HISTORY: New 1950, Ex. Ses., p. 34, Act 23, Imd. Eff. Jun. 7.

259.453 Airport zoning regulations; construction permits for new structures required.

Sec. 23. Any airport zoning regulations adopted under this act shall require that a permit be obtained before any new structure or use may be constructed or established and before any existing use or structure may be substantially changed or substantially altered or substantially repaired. All such regulations shall further provide that before any non-conforming structure or tree may be replaced, substantially altered or substantially repaired, rebuilt, allowed to grow higher, or replanted, a permit authorizing such replacement, change or repair must be secured from the administrative agency authorized to administer and enforce the regulations. No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a non-conforming structure or tree or non-conforming use to be made or become higher or become a greater hazard to air navigation than it was when the applicable regulation was adopted or than it is when the application for permit is made. Whenever an administrative agency determines that a non-conforming use or non-conforming structure or tree has been abandoned or more than 80 per cent torn down, destroyed, deteriorated or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.

HISTORY: New 1950, Ex. Ses., p. 34, Act 23, Imd. Eff. Jun. 7.

259.454 Airport zoning regulations; variances, application, allowance.

Sec. 24. Any person desiring to erect any structure, or increase the height of any structure, or permit the growth of any tree, or otherwise use his property in violation of the airport zoning regulations adopted under this act, may apply to the board of appeals, for a variance from the zoning regulations in question. Such variances shall be allowed where a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest, but would do substantial justice and be in accordance with the spirit of the regulations of this act: Provided, however, That any variance may be allowed subject to any reasonable conditions or condition subsequent that the board of appeals may deem necessary to effectuate the purposes of this act. Nothing in this section authorizes the allowance of any variation which will conflict with any general zoning ordinance or regulation of any political subdivision, except such as is adopted exclusively for airport zoning purposes.

HISTORY: New 1950, Ex. Ses., p. 35, Act 23, Imd. Eff. Jun. 7.

259.455 Airport zoning regulations; variances, markers and lights required.

Sec. 25. In granting any permit under section 23 or variance under section 24, any administrative agency or board of appeals may, if it deems such action advisable to effectuate the purposes of this act and reasonable in view of the surrounding circumstances, so condition such permit or variance as to require the owner of the structure or tree in question to permit the state or the political subdivision, as the case may be,

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at its own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard.

HISTORY: New 1950, Ex. Ses., p. 35, Act 23, Imd. Eff. Jun. 7.

259.456 Airport zoning regulations; administration and enforcement.

Sec. 26. All airport zoning regulations adopted under this act shall provide for the administration and enforcement of such regulations by an administrative agency which may be an agency created by such regulations or any official, board, or other existing agency of any political subdivision adopting the regulations or one of the political subdivisions which participated in the creation of the joint zoning board adopting the regulations, if satisfactory to that political subdivision; but in no case shall such administrative agency be or include any member of the board of appeals. The duties of any administrative agency designated pursuant to this act shall include that of hearing and deciding all permits under section 23 but such agency shall not have or exercise any of the powers herein granted to the board of appeals.

HISTORY: New 1950, Ex. Ses., p. 35, Act 23, Imd. Eff. Jun. 7.

259.457 Board of appeals; provision, powers.

Sec. 27. All airport zoning regulations adopted under the provisions of this act shall provide for a board of appeals to have and exercise the following powers:

(a) To hear and decide appeals from any order, requirement, decision, or determination made by the administrative agency in the enforcement of the zoning regulations, as provided in section 29;

(b) To hear and decide any special exceptions to the terms of the airport zoning regulations upon which such board may be required to pass under such regulations;

(c) To hear and decide specific variances under section 24.

HISTORY: New 1950, Ex. Ses., p. 35, Act 23, Imd. Eff. Jun. 7.

259.458 Board of appeals; members, appointment, terms, officers, removals, rules, meetings, records, subpoenas.

Sec. 28. Where a zoning board of appeals already exists it may be appointed as the board of appeals under this act. Otherwise, the board of appeals shall consist of 5 members, each to be appointed for a term of 3 years and until his successor is appointed and qualified, 1 of whom shall be designated as chairman and 1 of whom shall be designated as vice-chairman, which appointments shall be made by the governing body of the political subdivision adopting the regulations, or by the joint airport zoning board adopting the regulations, as the case may be; and said members shall be removable by the appointing body for cause shown, upon written charges and after notice and opportunity for public hearing before the appointing body.

The concurring vote of a majority of the members of the board of appeals shall be sufficient for all purposes including the reversal of any order, requirement, decision or determination of the administrative agency, or a decision in favor of the applicant on any matter upon which it is required to pass under the airport zoning regulations, or to effect any variation in such regulations.

The board shall adopt rules concerning its organization and procedure and other authorized matters, consistent with the provisions of this act, and in accordance with the provisions of the ordinance or resolution by which it was created. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. The chairman, or in his absence, the vice-chairman, may administer oaths or affirmations and issue subpoenas to compel the attendance of witnesses. All hearings of the board shall be public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official ac-

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tions, all of which shall be immediately filed in the offices of the board and shall be a public record.

In case of disobedience of a subpoena, the board or its duly authorized agents may invoke the aid of any circuit court of the state of Michigan in requiring the attendance and testimony of witnesses and the production of books, records and papers pertaining to the question involved. Any of the circuit courts of the state within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena, issue an order requiring such person to appear before said board or its duly authorized agents and to produce books, records and papers if so ordered and give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

HISTORY: New 1950, Ex. Ses., p. 36, Act 23, Imd. Eff. Jun. 7.

259.459 Appeals; filing, hearing, notice.

Sec. 29. In cases where airport zoning regulations are adopted by a political subdivision or joint airport zoning board under sections 13, 14, 15 or 17, any person, including the commission on behalf of the state, aggrieved by any decision of an administrative agency made in its administration of airport zoning regulations adopted under this act, or any governing body of a political subdivision, or any joint airport zoning board, which is of the opinion that a decision of such an administrative agency is an improper application of airport zoning regulations of concern to such governing body or board, may appeal to the board of appeals authorized to hear and decide appeals from the decisions of such administrative agency.

All appeals taken under this section must be taken within a reasonable time, as provided by the rules of the board, by filing with the agency from which the appeal is taken and with the board, a notice of appeal specifying the grounds thereof. The agency from which the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the agency from which the appeal is taken certifies to the board, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in its opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed otherwise than by order of the board on notice to the agency from which the appeal is taken and on due cause shown.

The board shall fix a reasonable time for the hearing of appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

The board may, in conformity with the provisions of this act, reverse or affirm, wholly or partly, or modify, the order, requirement, decisions, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the administrative agency from which the appeal is taken.

HISTORY: New 1950, Ex. Ses., p. 36, Act 23, Imd. Eff. Jun. 7.

259.460 Appeals; petitions for review by circuit court.

Sec. 30. Any person, including the commission, on behalf of and in the name of the state, aggrieved by any decision of a board of appeals, or any governing body of a political subdivision or any joint airport zoning board who is of the opinion that a decision of a board of appeals is erroneous, after first exhausting the remedies provided by such board, may present to the circuit court in any county in which the board transacts its business, a verified petition setting forth that the decision is erroneous, in whole or in part, and specifying the grounds of the error. Such petition shall be presented to the court within 30 days after the decision is filed in the office of the board.

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When petitions for review are filed in qualified courts located in different counties, the court in which a petition is filed first shall have exclusive jurisdiction of the matter.

HISTORY: New 1950, Ex. Ses., p. 37, Act 23, Imd. Eff. Jun. 7.

259.461 Board of appeals; certiorari; jurisdiction of court.

Sec. 31. Upon presentation of such petition the court may allow a writ of certiorari directed to the board of appeals to review such decisions of the board. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, or notice to the board and on due cause shown, grant a restraining order.

The board of appeals shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by the writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

The court shall have exclusive jurisdiction to affirm, modify, or set aside the decision brought up for review, in whole or in part, and if need be, to order further proceedings by the board of appeals. The findings of fact of the board if supported by substantial evidence, shall be accepted by the court as conclusive.

In any case in which airport zoning regulations adopted under this act, although generally reasonable, are held by a court to interfere with the use or enjoyment of a particular structure or parcel of land to such an extent, or to be so onerous in their application to such a structure or parcel of land, as to constitute a taking or deprivation of that property in violation of the constitution of this state or the constitution of the United States, such holding shall not affect the application of such regulations to other structures and parcels of land.

HISTORY: New 1950, Ex. Ses., p. 37, Act 23, Imd. Eff. Jun. 7.

259.462 Approach protection; acquisition of property by aeronautics commission.

Sec. 32. In any case in which: (a) it is desired to remove, lower, or otherwise terminate a non-conforming structure, tree or use; or (b) the approach protection necessary cannot, because of constitutional limitations, be provided by airport zoning regulations under this act; or (c) it appears advisable that the necessary approach protection be provided by acquisition of property rights rather than by airport zoning regulations, the commission, on behalf of and in the name of the state, within the limitation of available appropriations, or each political subdivision within which the property or non-conforming use is wholly or partly located or the political subdivision owning, operating, controlling or which is lessee or lessor of the airport or is served by it may acquire, by purchase, grant, or condemnation in the manner provided by the law under which the commission, on behalf of and in the name of the state, or political subdivisions are authorized to acquire real property for public purposes, such air right, avigation easement, or other estate or interest in the property or non-conforming structure or use in question as may be necessary to effectuate the purposes of this act.

HISTORY: New 1950, Ex. Ses., p. 37, Act 23, Imd. Eff. Jun. 7.

259.463 Violation of act or regulations; penalty.

Sec. 33. Any person who shall violate this act or any regulations, orders, or rulings promulgated or made pursuant to this act, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than $100.00 and imprisonment for a term not to exceed 90 days, and each day a violation continues to exist after notice shall constitute a separate offense. In addition, the political subdivision or joint airport zoning board adopting airport zoning regulations under this act may institute in the circuit court of any county in which the airport hazard area is located, in whole

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or in part, in connection with which such airport zoning regulations were adopted, an action to prevent, restrain, correct or abate any violation of this act, or of airport zoning regulations adopted under this act, or of any order or ruling made in connection with their administration or enforcement, and the court shall adjudge to the plaintiff such relief, by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order to fully effectuate the purposes of this act and of the regulations adopted and orders and rulings made pursuant thereto.

HISTORY: New 1950, Ex. Ses., p. 38, Act 23, Imd. Eff. Jun. 7.

259.464 Airport zoning act; short title.

Sec. 34. This act shall be known and may be cited as the "Airport Zoning Act."

HISTORY: New 1950, Ex. Ses., p. 38, Act 23, Imd. Eff. Jun. 7.

Act 259, 1959, p. 400; Eff. Mar. 19, 1960.

AN ACT to promote the safety, welfare and protection of persons and property in the air and on the ground by regulating the height, location and visual and aural identification characteristics of certain structures; and to provide penalties for violation of the provisions of this act.

The People of the State of Michigan enact:

259.481 Tall structure act; definitions.

Sec. 1. As used in this act:

(a) "Public use airport" means any area of land or water designed and set aside for the landing and taking off of aircraft and utilized or to be utilized in the interest of the public for such purposes.

(b) "Approach surface" means the imaginary sloping plane beginning 100 feet from the end of a landing strip and rising uniformly over the approach area at the required slope.

(c) "Department" means the state department of aeronautics.

(d) "Landing strip" means that part of the area within an airport boundary, which either in its natural state or as a result of construction work is suitable for the landing and take-off of aircraft.

(e) "Permit" means a permit issued by the department under the provisions of this act.

(f) "Person" means any individual, firm, partnership, corporation, association, or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof.

(g) "Runway" means the paved, or hard surfaced, or stabilized portion of a landing strip.

(h) "Structure" means any object constructed or installed, including but without limitation, buildings, towers, smokestacks and overhead transmission lines, but not including radio and television transmitting towers where governed by federal regulation.

(i) "Transitional surface" means an imaginary sloping plane having a profile perpendicular to the extended runway or landing strip longitudinal centerlines, beginning at the approach surface and rising uniformly at the required slope.

HISTORY: New 1959, p. 400, Act 259, Eff. Mar. 19, 1960.

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259.482 Building permits for tall structures; maximum height, proximity to airports.

Sec. 2. (a) Until a permit therefor has been issued by the department no person shall erect, add to the height of or replace any structure within the areas described in paragraphs (b) and (c) of this section which will result in a structure higher than allowed by those paragraphs, nor at any other place in this state which will result in a structure extending more than 500 feet above the highest point of land within a 1-mile radius from the structure.

(b) In territory surrounding public use airports for which zoning ordinances or resolutions have not been made effective by local governmental authorities pursuant to Act No. 23 of the Public Acts of 1950, being sections 259.431 to 259.464 of the Compiled Laws of 1948, no person shall erect, add to the height of or replace any structure within any area lying 500 feet on either side of the centerline of a runway or landing strip for a distance of 2 miles from the nearest boundary of the public use airport which will result in a structure extending higher than the height determined by the ratio of 1 foot measured vertically from the established airport elevation to each 20 feet of distance measured horizontally, between such nearest boundary of such airport and the structure.

(c) In territory for which a zoning ordinance or resolution has been made effective by local governmental authorities pursuant to Act No. 23 of the Public Acts of 1950, no permit from the department shall be required but no person shall erect, add to the height of or replace any structure except as allowed by such local zoning ordinance or resolution. Outside of such locally zoned territory and within an area determined by the extensions of the approach surface and the transitional surface on the same slope ratios established under such local zoning ordinance or resolution, but not to exceed a slope ratio of 1 foot measured vertically to each 40 feet measured horizontally for the approach surface and 1 foot measured vertically to each 7 feet measured horizontally for the transitional surface, to a point where such extended approach and transitional surface intersect the 500-foot level described in paragraph (a) of this section, no structure shall be erected, altered by increasing the height or replaced until a permit therefor has been obtained from the department.

HISTORY: New 1959, p. 401, Act 259, Eff. Mar. 19, 1960.

259.483 Building permits; public utility structures, emergency repair.

Sec. 3. No application for a permit shall be required for the emergency repair or replacement of nonconforming public utility structures, other than buildings, to insure continuity of proper customer service, when the height of such structures is not increased by such emergency repair or replacement: Provided further, That any combination of circumstances calling for immediate action or remedy in the repair or replacement of such nonconforming public utility structures shall be deemed an emergency.

HISTORY: New 1959, p. 401, Act 259, Eff. Mar. 19, 1960.

259.484 Building permits; 1,000-foot structures.

Sec. 4. No permit shall be issued to erect, add to or replace any structure which will extend more than 1,000 feet above the highest point of land within a 1-mile radius from the location of the structure, except as hereinafter provided, nor shall any person erect, add to or replace any structure for which a permit is required that exceeds the height allowed by the permit.

The department may issue a permit to erect or add to a structure which will extend to a height of more than 1,000 feet above the highest point of land within a 1-mile radius from the location of the structure proposed to be erected or added to if such proposed structure will not be higher than 50 feet above the height of the highest struc-

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ture in existence on the effective date of this act which is within a distance of 1 mile from the location of the structure proposed to be erected or added to.

HISTORY: New 1959, p. 401, Act 259, Eff. Mar. 19, 1960.

259.485 Building permits; applicant; specification of location and maximum height.

Sec. 5. It is not necessary that ownership of, option for, or other possessory right to a specific location site be held by the applicant before application for a permit is filed with the department, but any permit granted by the department, among other things, shall state the specific location and the maximum height allowed for the structure.

HISTORY: New 1959, p. 402, Act 259, Eff. Mar. 19, 1960.

259.486 Building permits; visual or aural identification, installation.

Sec. 6. Every permit granted shall also specify what, if any, obstruction markers, markings, lighting or other visual or aural identification shall be installed on or in the vicinity of the structure. Such identification characteristics required shall conform to federal laws and regulations where applicable.

HISTORY: New 1959, p. 402, Act 259, Eff. Mar. 19, 1960.

259.487 Building permits; denial, modification, public hearing.

Sec. 7. Upon receiving an application for a permit, the department shall make such investigation as may be necessary to process the application properly under this act.

If, upon such investigation, the department determines that a permit should not be issued or that the height or location should be other than as applied for, the department shall thereupon notify the applicant in writing of its determination. Such notification may be served by delivering it personally to the applicant or by sending it by first class mail to the applicant at the address specified in the application. Such determination shall become final 20 days after notification thereof is served, unless the applicant, within such 20-day period, requests in writing that a hearing be held before the department with reference to the application. All such hearings shall be open to the public. Any person interested may appear and be heard either in person or by counsel and may present such evidence and testimony as may be pertinent.

HISTORY: New 1959, p. 402, Act 259, Eff. Mar. 19, 1960.

259.488 Building permits; conduct, controlling statute and rules for conduct of public hearings.

Sec. 8. All public hearings shall be conducted as prescribed by Act No. 327 of the Public Acts of 1945, as amended, being sections 259.1 to 259.208 of the Compiled Laws of 1948, and the rules and regulations promulgated thereunder.

HISTORY: New 1959, p. 402, Act 259, Eff. Mar. 19, 1960.

259.489 Building permits; orders of aeronautics department, review by Ingham circuit court.

Sec. 9. Anyone considering himself or itself aggrieved by any order, rule or regulation of the department, within 10 days after the issuance thereof, may appeal to or have the action of the department reviewed by the circuit court of Ingham county in the manner provided for the review of orders of other administrative bodies of this state, and rules of law applicable to such appeals or reviews shall apply.

HISTORY: New 1959, p. 402, Act 259, Eff. Mar. 19, 1960.

259.490 Violation of act or rules; injunction.

Sec. 10. In addition to any other remedy, the department may institute in any court of competent jurisdiction an action to enjoin, restrain, correct or abate any violation of the provisions of this act or of any rules, regulations or orders of the department issued pursuant thereto. The court may grant such relief, by way of injunction or otherwise,

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as may be necessary under this act and the rules, regulations and orders of the department issued pursuant thereto.

HISTORY: New 1959, p. 402, Act 259, Eff. Mar. 19, 1960.

259.491 Department of aeronautics; rules and regulations, forms.

Sec. 11. The department shall adopt and promulgate, and may from time to time amend or rescind, reasonable rules and regulations for the administration of this act in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948. Such rules and regulations and changes therein shall become effective on the date such changes are approved at a regular or special meeting of the Michigan aeronautics commission. Publication and distribution of such changes shall be at the department's expense. The department shall prescribe and furnish forms necessary for the administration of this act.

HISTORY: New 1959, p. 402, Act 259, Eff. Mar. 19, 1960.

259.492 Violation of act; penalty.

Sec. 12. Whoever violates or fails to comply with the provisions of this act shall be guilty of a misdemeanor punishable by a fine of not more than $500.00, or by imprisonment for not more than 1 year, or both. Each day that such violation or failure continues is a separate offense.

HISTORY: New 1959, p. 403, Act 259, Eff. Mar. 19, 1960.

259.493 Tall structure act; short title.

Sec. 13. This act shall be known and may be cited as the "tall structure act".

HISTORY: New 1959, p. 403, Act 259, Eff. Mar. 19, 1960.

Act 329, 1945, p. 596; Imd. Eff. May 28.

AN ACT to create a fund to be known as the "Michigan aviation matching fund" for the purpose of matching the political subdivisions of the state in the construction and improvement of publicly owned airports and landing fields, and in assisting the several political subdivisions in matching federal funds, within the state of Michigan; to make an appropriation therefor; and to provide for disbursements thereof. Am. 1949, p. 498, Act 298, Imd. Eff. Jun. 16.

The People of the State of Michigan enact:

259.501 Michigan aviation matching fund; creation, purpose.

Sec. 1. There is hereby created a fund to be known as the "Michigan aviation matching fund," for the purpose of matching the political subdivisions of the state in the construction and improvement of publicly owned airports and landing fields, and in assisting the several political subdivisions in matching federal funds, within the state of Michigan.

HISTORY: CL 1948, 259.501;—Am. 1949, p. 498, Act 298, Imd. Eff. Jun. 16.

259.502 Appropriations to department of aeronautics; amounts.

Sec. 2. There is hereby appropriated from the general fund of the state the sum of $1,000,000.00 for the fiscal year ending June 30, 1945, to the department of aeronautics to be disbursed as provided in this act.

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There is hereby appropriated from the general fund of the state the sum of $192,770.00 for the fiscal year ending June 30, 1950, to the department of aeronautics, to be disbursed as provided in this act and to be added to and supplement any balances remaining from the appropriation made by Act No. 329 of the Public Acts of 1945.

HISTORY: CL 1948, 259.502;—Am. 1949, p. 499, Act 298, Imd. Eff. Jun. 16.

259.503 Appropriations; disposition.

Sec. 3. Said appropriation shall be credited to the Michigan aviation matching fund and shall not revert to the general fund of the state until the purpose for which said appropriation is made has been completed: Provided, That the unencumbered balance of said fund shall revert to the general fund on July 1, 1951.

HISTORY: CL 1948, 259.503;—Am. 1949, p. 499, Act 298, Imd. Eff. Jun. 16.

259.504 Aviation matching fund; disbursements by aeronautics board as agent of state.

Sec. 4. The Michigan board of aeronautics is hereby empowered and directed to act as agent for the state of Michigan and its political subdivisions in any disbursements from said fund, and no such moneys shall be disbursed from said fund for matching federal funds unless the Michigan aeronautics commission is the sponsor of a project for the state or is designated and appointed as agent by political subdivisions of this state on airport projects on which such political subdivisions are sponsors.

HISTORY: Am. 1947, p. 446, Act 279, Imd. Eff. June 27;—CL 1948, 259.504.

259.505 Aviation matching fund; expenditure, purposes; conformity with aeronautics code.

Sec. 5. Said fund shall be used only to assist in the construction and improvement of publicly owned airports and landing fields in this state, through the matching of federal funds or funds of its political subdivisions made available for such expenditures, in accordance with provisions of the Michigan aeronautics code and the rules and regulations thereunder.

HISTORY: Am. 1947, p. 446, Act 279, Imd. Eff. Jun. 27;—CL 1948, 259.505;—Am. 1949, p. 499, Act 298, Imd. Eff. Jun. 16.

259.506 Aviation matching fund; disbursement, procedure.

Sec. 6. In the disbursement of the funds herein provided, the accounting laws of this state shall govern, and vouchers shall be certified to by the director of the state board of aeronautics.

HISTORY: CL 1948, 259.506.

259.507 Appropriation; allocation to counties and political subdivisions, amounts.

Sec. 7. The appropriation made under the second paragraph of section 2 of this act as well as any remaining balances from the previous appropriation made under the first paragraph of section 2 of this act shall be allocated to the various counties and political subdivisions as hereinafter set forth to be available when they shall comply with the requirements of the Michigan department of aeronautics: Provided, That the various counties and political subdivisions shall match state funds, provided said funds are matched by federal grants.

Alcona county	
Harrisville	$ 710
Alger county	
Munising	1,775
Allegan county	
Plainwell	2,130
Wayland	1,420

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Antrim county
- Bellaire 888
- Mancelona 533

Arenac county
- Au Gres 3,018
- Standish 2,662

Baraga county
- Big Lake 426

Barry county
- Hastings 2,130

Bay county
- Bay City 8,875
- Bay City Sp 1,775

Benzie county
- Thompsonville 710
- Frankfort 2,485

Berrien county
- Twin Cities 15,975
- Niles 3,550
- Watervliet 1,065

Branch county
- Coldwater 3,550

Calhoun county
- Marshall 2,130
- Battle Creek 8,875

Cass county
- Dowagiac 5,857

Charlevoix county
- Boyne City 1,775
- Charlevoix 1,775
- East Jordan 710

Cheboygan county
- Indian River 2,130

Chippewa county
- Drummond Island 1,775
- Sault Ste. Marie 1,420

Clare county
- Clare 2,840
- Harrison 1,864

Dickinson county
- Iron Mountain 7,987

Delta County
- Escanaba 5,325
- Steuben 887

Eaton county
- Charlotte 3,550

Genesee county

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Flint	13,312
Gladwin county	
Gladwin	1,775
Gogebic county	
Ironwood	9,762
Marenisco	3,550
Watersmeet	1,065
Grand Traverse county	
Interlochen	1,775
Traverse City	2,662
Gratiot county	
Alma	5,325
Hillsdale county	
Hillsdale	5,325
Houghton county	
Houghton county memorial	5,325
Laurium	532
Sidnaw	1,420
Huron county	
Sebewaing	2,130
Ingham county	
Lansing	24,726
Leslie	710
Ionia county	
Belding	1,775
Iosco county	
East Tawas	1,420
Iron county	
Crystal Falls	1,420
Iron River	5,680
Stambaugh	1,775
Isabella county	
Mt. Pleasant	3,550
Jackson county	
Jackson	17,750
Kalamazoo county	
Kalamazoo	2,982
Kent county	
Grand Rapids	83,425
Lowell	178
Sparta	887
Lake county	
Baldwin	1,065
Leelanau county	
Northport	1,775
Lenawee county	
Adrian	7,100

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Livingston county	
Howell	2,130
Mackinac county	
Hessel	533
Rexton	355
St. Ignace	1,775
Manistee county	
Manistee	1,420
Marquette county	
Ishpeming	1,030
Marquette (Old)	710
Marquette (New)	4,082
Mason county	
Ludington	3,550
Mecosta county	
Mecosta	1,775
Wheatland township	1,065
Menominee county	
Menominee	3,373
Midland county	
Midland	3,550
Monroe county	
Monroe	10,650
Montcalm county	
Lakeview	2,840
Muskegon county	
Muskegon	17,750
Newaygo county	
Fremont	2,840
Newaygo	1,420
White Cloud	710
Ontonagon county	
Simar	355
Osceola county	
Evart	533
Oscoda county	
Mio	710
Otsego county	
Gaylord	1,775
Ottawa County	
Grand Haven	10,650
Presque Isle county	
Onaway	1,775
Rogers City	1,420
Roscommon county	
Houghton Heights	1,775
Roscommon	888

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Roscommon Cons.	1,065
St. Helen's	710
Saginaw county	
Saginaw	5,325
Chesaning	568
Schoolcraft county	
Gulliver	533
Schoolcraft county	710
Seney	2,130
Shiawassee county	
Owosso	8,875
St. Clair county	
Port Huron	8,875
St. Joseph county	
Sturgis	1,775
Three Rivers	887
Van Buren county	
South Haven	4,260
Washtenaw county	
Ann Arbor	7,455
Wexford county	
Cadillac	2,130
Metropolitan area (Oakland, Wayne, Macomb)	
Wayne major	177,500
Pontiac	12,780
GRAND TOTAL	$629,770

HISTORY: Am. 1947, p. 447, Act 279, Imd. Eff. Jun. 27;—CL 1948, 259.507;—Am. 1949, p. 499, Act 298, Imd. Eff. Jun. 16.

259.507a Appropriation; allocation to local governmental units, amounts; unencumbered funds, allocation.

Sec. 7a. There is hereby appropriated from the general fund of the state the sum of $639,707.00 for the fiscal year ending June 30, 1951, to the department of aeronautics to be allocated to the various units of local government according to the following schedule when said units of local government shall comply with the requirements of the Michigan department of aeronautics: Provided, That the various units of local government shall match state funds, provided said funds are matched by federal grants:

Alpena	$ 1,750.00
Bad Axe	1,000.00
Bay City	1,500.00
Benton Harbor-St. Joseph	7,012.50
Charlotte	1,725.00
Detroit city airport	12,500.00
Detroit-Wayne major airport	304,647.50
Escanaba	6,337.50
Flint	18,344.00

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Fremont	1,080.00
Gaylord	862.50
Grand Rapids	79,787.50
Greenville	2,687.50
Iron Mountain	4,125.00
Ironwood	8,000.00
Indian River	935.00
Jackson	10,375.00
Kalamazoo	8,562.50
Lakeview	1,580.00
Lansing	88,887.00
Manistee	540.00
Marquette	1,229.00
Menominee	4,063.50
Monroe	4,675.00
Munising	862.50
Muskegon	29,666.00
Niles	500.00
Northport	887.50
Otsego-Plainwell	1,060.00
Pellston	2,500.00
Pontiac	3,610.00
St. Clair county	4,437.50
Saginaw (municipal)	4,837.50
Saginaw (Freeland, tri-city)	1,787.50
Sault Ste. Marie	9,290.00
Sebewaing	2,085.00
South Haven	4,870.00
Traverse City	1,107.50
Total	$639,707.00

If any unit of local government named herein as a participant in the federal-state matching program for airport construction shall certify to the Michigan aeronautics commission that said unit of local government no longer desires to construct the airport facilities for which the appropriations are made herein and therefore will not match the funds appropriated herein, the state administrative board on recommendation of the controller of the department of administration may allocate all or any part of the unencumbered funds among the other units of local government named herein, such allocation to be on the basis of the greatest need for airport facilities as determined by the Michigan aeronautics commission.

HISTORY: Add. 1950, Ex. Ses., p. 42, Act 26, Imd. Eff. Jun. 12.

Former section 259.507a (Sec. 7a added by Act 279, 1947, p. 447, Imd. Eff. June 27) was repealed by Act 298, 1949, p. 502, Imd. Eff. June 16. It provided for allocation of funds to counties.

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259.508 Advancement of funds.

Sec. 8. The provisions of this act shall not be construed to authorize advancement of funds to defray costs of surveys, plans, buildings or acquisition of lands, but said funds shall be used only for the construction and improvement of publicly owned airports and landing fields, and the improvement of approaches thereto.

HISTORY: CL 1948, 259.508.

259.509 Repealed. 1949, p. 502, Act 298, Imd. Eff. Jun. 16.

Section provided that aviation matching funds be considered public moneys.

Sec. 10. (This was a severing clause section.)

HISTORY: Rep. 1947, p. 170, Act 129, Eff. Oct. 11.

Act 206, 1951, p. 285; Eff. Jul. 1.

AN ACT to create a fund to be known as the "Michigan aviation supplemental matching fund" for the purpose of assisting the state of Michigan and its political subdivisions in matching federal funds for the construction and improvement of publicly owned airports and landing fields within the state of Michigan; to make an appropriation therefor; and to provide for the disbursement thereof.

The People of the State of Michigan enact:

259.511 Michigan aviation supplemental matching fund; creation, purpose.

Sec. 1. There is hereby created a fund to be known as the "Michigan aviation supplemental matching fund," for the purpose of matching the political subdivisions of the state in the construction and improvement of publicly owned airports and landing fields, and in assisting the several political subdivisions in matching federal funds, within the state of Michigan.

HISTORY: New 1951, p. 285, Act 206, Eff. Jul. 1.

259.512 Appropriation to department of aeronautics; amount, disposition.

Sec. 2. There is hereby appropriated from the general fund of the state the sum of $585,000.00 for the fiscal year ending June 30, 1952, to the department of aeronautics to be disbursed as provided in this act. Said appropriation shall be credited to the Michigan aviation supplemental matching fund and shall not revert to the general fund of the state until the purpose for which said appropriation was made has been completed: Provided, That the unencumbered balance of said fund shall revert to the general fund on July 1, 1952.

HISTORY: New 1951, p. 285, Act 206, Eff. Jul. 1.

259.513 Aviation supplemental matching fund; expenditure, purposes.

Sec. 3. Said fund shall be used only to assist in the construction and improvement of publicly owned airports and landing fields in this state, through the matching of federal funds or funds of political subdivisions made available for such expenditures, in accordance with provisions of the Michigan aeronautics code and the rules and regulations thereunder.

HISTORY: New 1951, p. 285, Act 206, Eff. Jul. 1.

259.514 Appropriation; allocation to counties and political subdivisions, amounts.

Sec. 4. The appropriation made under the provisions of this act shall be allocated as hereinafter set forth, to be available when compliance shall be made with the requirements of the Michigan department of aeronautics: Provided, That the various counties and political subdivisions shall match state funds, provided said funds are matched by federal grants.

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Berrien County	
Twin Cities airport (Benton Harbor and St. Joseph)	$ 30,000.00
Calhoun County	
Kellogg field (Battle Creek)	25,000.00
Clinton-Ingham Counties	
Capital City airport (Lansing)	55,000.00
Dickinson County	
Ford airport (Iron Mountain)	15,000.00
Genesee County	
Bishop airport (Flint)	10,000.00
Gogebic County	
Gogebic county airport (Ironwood)	10,000.00
Kent County	
Kent county airport (Grand Rapids)	175,000.00
Marquette County	
K. I. Sawyer airport (Marquette)	15,000.00
Menominee County	
Menominee county airport (Menominee)	12,500.00
Muskegon County	
Muskegon county airport (Muskegon)	37,500.00
Wayne County	
Detroit Wayne major airport	200,000.00
Total	$585,000.00

HISTORY: New 1951, p. 285, Act 206, Eff. Jul. 1.

259.515 Advancement of funds.

Sec. 5. The provisions of this act shall be construed to authorize advancement of funds with respect to such items for the construction and improvement of publicly owned airports and landing fields, and the improvement of approaches thereto, as shall be eligible for matching of federal moneys: Provided, That no such funds shall be used for building construction purposes.

HISTORY: New 1951, p. 286, Act 206, Eff. Jul. 1.

259.516 Unencumbered funds; allocation, basis.

Sec. 6. If any unit of local government named herein shall fail to notify the Michigan aeronautics commission within 60 days of the effective date of this act that said unit of local government desires to participate in state and federal matching for airport construction and improvement, the state administrative board, on recommendation of the controller of the department of administration, may allocate all or any part of the unencumbered funds among the other units of local government named herein, such allocation to be on the basis of the greatest need for airport facilities as determined by the Michigan aeronautics commission.

HISTORY: New 1951, p. 286, Act 206, Eff. Jul. 1.

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259.517 Supplemental construction of act; effective date.

Sec. 7. This act shall be construed as supplemental to the laws of this state relative to the improvement of airports, and shall take effect on July 1, 1951.

HISTORY: New 1951, p. 286, Act 206, Eff. Jul. 1.

259.521-259.527. Expired.

Sections (Secs. 1-7, Act 206, 1952, p. 286, Imd. Eff. Apr. 29) made supplemental appropriation of $287,500 for fiscal year ending June 30, 1953 to the "Michigan aviation supplemental matching fund" for purpose of assisting state of Michigan and its political subdivisions in matching federal funds for construction and improvement of publicly owned airports and landing fields within the state, and provided for the disbursement thereof.

259.531-259.537. Expired.

Sections (Secs. 1-7, Act 222, 1953, p. 359, Imd. Eff. June 25) made supplemental appropriation of $200,000 for fiscal year ending June 30, 1954 to the "Michigan aviation supplemental matching fund" for purpose of assisting state of Michigan and its political subdivisions in matching federal funds for construction and improvement of publicly owned airports and landing fields within the state, and provided for the disbursement thereof.

259.541-259.547. Expired.

Sections (Secs. 1-7, Act 266, 1955, p. 466, Imd. Eff. June 29) made supplemental appropriation of $212,500 for fiscal year ending June 30, 1956 to the "Michigan aviation supplemental matching fund" for purpose of assisting state of Michigan and its political subdivisions in matching federal funds for construction and improvement of publicly owned airports and landing fields within the state, and provided for the disbursement thereof.

259.551-259.557. Expired.

Sections (Secs. 1-7, Act 204, 1956, p. 407, Imd. Eff. Apr. 29) made supplemental appropriation of $866,500 for fiscal year ending June 30, 1957 to the "Michigan aviation supplemental matching fund" for purpose of assisting state of Michigan and its political subdivisions in matching federal funds for construction and improvement of publicly owned airports and landing fields within the state, and provided for the disbursement thereof.

259.561-259.566. Expired.

Sections (Secs. 1-6, Act 271, 1957, p. 358, Imd. Eff. June 13) made supplemental appropriation of $587,750 for fiscal year ending June 30, 1958 to the "Michigan aviation supplemental matching fund" for purpose of assisting state of Michigan and its political subdivisions in matching federal funds for construction and improvement of publicly owned airports and landing fields within the state, and provided for the disbursement thereof.

259.571-259.576. Expired.

Sections (Secs. 1-6, Act 255, 1959, p. 392, Imd. Eff. Aug. 21) made supplemental appropriation of $728,500 for fiscal year ending June 30, 1960 to the "Michigan aviation supplemental matching fund" for purpose of assisting state of Michigan and its political subdivisions in matching federal funds for construction and improvement of publicly owned airports and landing fields within the state, and provided for the disbursement thereof.

259.581-259.586. Expired.

Sections (Secs. 1-6, Act 130, 1960, p. 154, Imd. Eff. Apr. 26) made supplemental appropriation of $500,000 for fiscal year ending June 30, 1961 to the "Michigan aviation supplemental matching fund" for purpose of assisting state of Michigan and its political subdivisions in matching federal funds for construction and improvement of publicly owned airports and landing fields within the state, and provided for the disbursement thereof.

259.591-259.596. Expired.

Sections (Secs. 1-6, Act 168, 1961, p. 242, Imd. Eff. June 2) made supplemental appropriation of $500,000 for fiscal year ending June 30, 1962 to the "Michigan aviation supplemental matching fund" for purpose of assisting state of Michigan and its political subdivisions in matching federal funds for construction and improvement of publicly owned airports and landing fields within the state, and provided for the disbursement thereof.

Act 296, 1931, p. 487; Imd. Eff. Jun. 8.

AN ACT to authorize the state administrative board to lease certain lands to the city of Lansing for use as an airport.

The People of the State of Michigan enact:

259.601 Lease of lands to Lansing for airport; state administrative board authority, term, description of lands.

Sec. 1. The state administrative board is hereby authorized to lease to the city of Lansing for a period of 25 years the tract of land now under the jurisdiction and held by the boys' vocational school and now being used for airport purposes and described

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as, the southwest 1/4 of section 31; west 1/2 of the southeast 1/4 of section 31; the south 1/2 of northwest 1/4 of section 31; the southwest 1/4 of the northeast 1/4 of section 31 of Dewitt township, T5N, R2W, except the right-of-way of the Pere Marquette railroad and the land south of said right-of-way being 338 acres more or less.

HISTORY: CL 1948, 259.601.

259.602 Lease of lands to Lansing for airport; conditions.

Sec. 2. Such lease shall be upon the following conditions:

(a) Such property shall be used as an airport and landing field and the city of Lansing shall improve and maintain it as such.

(b) The city of Lansing shall pay to the state the sum of 1,000 dollars as an annual rental during the term of such lease.

(c) The state shall reserve the right to use the same for the purpose of an airport and landing field and to that end to build and maintain 1 hangar.

(d) At the expiration of the lease herein authorized to be made, the state administrative board may sell the land described upon such terms and at such price as it may deem proper, but based on the established value of lands in that vicinity at that time. The city of Lansing is hereby given an option to purchase said property at the time named and at the price to be fixed as herein set forth.

HISTORY: CL 1948, 259.602.

259.611-259.617 Repealed. 1970, p. 171, Act 73, Imd. Eff. Jul. 16.

Sections provided for appropriation for and construction of an airport terminal building at state owned capital city airport, Lansing.

Act 206, 1957, p. 254; Eff. Sep. 27.

AN ACT to authorize 2 or more counties, cities, townships and incorporated villages, or any combination thereof, to incorporate an airport authority for the planning, promoting, acquiring, constructing, improving, enlarging, extending, owning, maintaining and operating the landing, navigational and building facilities necessary thereto of 1 or more community airports; to provide for changes in the membership therein; to authorize such counties, cities, townships and incorporated villages to levy taxes for such purpose; to provide for the operation and maintenance and issuing notes therefor; and to authorize condemnation proceedings.

The People of the State of Michigan enact:

259.621 Community airport authority; formation, issuance of revenue bonds; selection of site, location.

Sec. 1. Any 2 or more counties, cities, incorporated villages and townships, or any combination thereof, by resolution of their respective legislative bodies, approved by a majority vote of the qualified electors having property assessed for taxes voting thereon, may join to form an airport authority and issue revenue bonds for the purpose of planning, promoting, acquiring, constructing, improving, enlarging, extending, owning, maintaining and operating the landing, navigational and building facilities necessary thereto, either within or without their limits, of 1 or more community airports subject to the 1 mill limitation hereinafter provided. No site for the physical facilities of the airport authority shall be selected without the approval of 2/3 of the total membership of the airport board and shall be located within the boundaries of the airport authority.

HISTORY: New 1957, p. 254, Act 206, Eff. Sep. 27;—Am. 1958, p. 296, Act 216, Eff. Sep. 13;—Am. 1969, p. 59, Act 32, Imd. Eff. Jul. 10.

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259.622 Airport authority; body corporate, powers.

Sec. 2. The airport authority shall be a body corporate with power to sue or be sued in any court of this state and may exercise any and all powers necessary and incident to the acquisition, construction, improvement, enlargement, extension, ownership, maintenance and operation of the landing, navigational and building facilities necessary thereto of 1 or more community airports.

HISTORY: New 1957, p. 254, Act 206, Eff. Sep. 27.

259.623 Airport authority; resolution designating constituent municipalities, contents; tax limitations.

Sec. 3. (1) The resolution creating the airport authority shall designate the counties, cities, incorporated villages and townships to be included therein and shall set forth the fact that a sum of money not to exceed 1 mill of their assessed valuation as last equalized by the state may be requested and certified by the airport board annually for the purpose of planning, promoting, acquiring, constructing, improving, enlarging, extending, owning, maintaining and operating the landing, navigational and building facilities necessary thereto of 1 or more community airports, and that such sum or any portion thereof may be pledged by the governing body of the airport authority for the payment of revenue bonds under Act No. 94 of the Public Acts of 1933, as amended, being sections 141.101 to 141.139 of the Compiled Laws of 1948. The authority shall be deemed to be a charter authority within the meaning of section 6 of article 9 of the constitution. Where the amounts certified are pledged for the payment of bonds, taxes may be levied therefor without limitation as to rate or amount. The resolution may provide that the airport authority shall become operative if a specified number of the proposed number of members bodies approve it. The resolution may fix a time within which the respective units must act in order to be included in the airport authority. The resolution may designate a date for the appointed representatives to convene.

Subsequent additions; release.

(2) Any county, city, incorporated village or township may subsequently become a member of any airport authority formed under the provisions of this act upon resolution adopted by the governing body of the municipality approved by a majority vote of the qualified electors voting thereon and acceptance thereof by resolution adopted by majority vote of the entire governing board of the airport authority. Any county, city, incorporated village or township which now or hereafter becomes a member of such airport authority, upon request and upon resolution of its governing body, duly accepted by a 2/3 majority vote of the entire governing board of such airport authority, may be released from membership in the airport authority. No county, city, incorporated village or township may be released from membership in any airport authority formed under the provisions of this act until all outstanding obligations of the airport authority that have been incurred after the time of the admission to membership of the county, city, incorporated village or township and such part of prior obligations as may be agreed to by the board and the governing body of the county, city, incorporated village or township have been paid, or adequate provision has been made for the payment thereof.

HISTORY: New 1957, p. 254, Act 206, Eff. Sep. 27;—Am. 1969, p. 60, Act 32, Imd. Eff. Jul. 10.

259.624 Airport authority; taxing power of legislative bodies, limitation.

Sec. 4. The legislative bodies of the counties, cities, incorporated villages and townships creating the airport authority may raise by a tax, to be levied on the taxable property within their respective jurisdictions, a sum of money to be used to assist in the planning, promoting, acquiring, constructing, improving, enlarging, extending, owning, maintaining and operating the landing, navigational and building facilities necessary thereto of the community airport authorized by this act. The tax shall not

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exceed 1 mill on each dollar of assessed valuation as last equalized by the state in each county, city, incorporated village or township. In computing the total tax to be levied, the assessed valuation of any unit of government joining the airport authority shall not be used more than once.

HISTORY: New 1957, p. 255, Act 206, Eff. Sep. 27;—Am. 1958, p. 296, Act 216, Eff. Sep. 13;—Am. 1969, p. 60, Act 32, Imd. Eff. Jul. 10.

259.625 Airport board; membership, officers, terms, executive and advisory committees; compensation, expenses.

Sec. 5. The airport authority shall be directed and governed by an airport board consisting of 1 member for each 20,000 population, or fraction thereof, for the first 100,000 population and an additional 1 member for each additional 250,000 population or fraction thereof, to be appointed by their respective legislative bodies. On the date appointed in the adopting resolutions, or within 30 days after the creation of the airport authority, the members appointed by the counties, cities, villages and townships shall convene to elect a temporary chairman and secretary. As soon as possible the full airport board shall hold its first meeting and organize by electing a chairman and vice-chairman who must be members of the board, and a secretary and treasurer who need not be such members. The board may also appoint an executive committee, consisting of the chairman and 2 other members, to carry on the active administrative duties of the airport authority, which executive committee shall hold office during the pleasure of the airport board. The airport board may also appoint an airport advisory committee whose duty shall be to advise the airport board in regard to technical problems of airport operation and in regard to federal aviation administration and civil aeronautics board policies. The airport board may also select and employ other officers and employees and engage such services as shall be deemed necessary to effectuate its purposes. All members of the airport board shall serve without compensation but shall be entitled to reimbursement of actual expenses incurred in the discharge of their duties.

HISTORY: New 1957, p. 255, Act 206, Eff. Sep. 27;—Am. 1958, p. 296, Act 216, Eff. Sep. 13;—Am. 1969, p. 61, Act 32, Imd. Eff. Jul. 10.

259.626 Airport board; meetings, quorum, records, accounting, bond, rules and regulations, policies.

Sec. 6. After organization the airport board shall hold meetings at the call of the chairman, who shall give 3 days' personal or written notice of the time and place of such meeting. The chairman shall call a meeting at any time upon request of 3 members of the board. A majority of all members shall constitute a quorum. The board shall keep a written or printed record of every meeting, which record shall be public. The board shall also provide for a system of accounts to conform to any uniform system required by law and for the auditing at least once a year of the accounts of the treasurer by a competent certified public accountant. The board shall require of the treasurer a suitable bond by a responsible bonding company, the bond to be paid for by the board. The airport advisory committee, with the approval of the airport board, shall adopt rules, regulations and policies governing the professional work of such airports and the eligibility and qualifications of their staffs, which may conform, as nearly as practicable to the applicable standards recommended by the American association of airport executives, the federal aviation administration and the civil aeronautics board.

HISTORY: New 1957, p. 256, Act 206, Eff. Sep. 27;—Am. 1969, p. 61, Act 32, Imd. Eff. Jul. 10.

259.627 Airport board; budget, payments by municipalities, financial report.

Sec. 7. Not later than April 1 of each year the airport board shall prepare a budget containing an itemized statement of the estimated current expenses and the expenses for capital outlay, including the amount necessary to pay the principal and interest of

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any outstanding bonds or other obligations of the authority maturing during the ensuing fiscal year or which have previously matured and are unpaid, and an estimate of the estimated revenue of the airport authority from all sources for the ensuing fiscal year. Airport authorities consisting only of 2 or more counties shall have until September 1 of each year to prepare such budget. The board shall adopt such budget as shall be deemed necessary and shall ascertain what appropriations are required from the several counties, cities, townships and villages to meet their respective shares of the amount of the budget in excess of the estimated revenues. In determining the fair and equitable share of each county, city and township, the board shall establish the ratio that the total assessed valuation of each as last equalized by the state bears to the total assessed valuation so equalized of all the counties, cities and townships included in the airport authority and use the same. Any village included in the airport authority shall pay its proportionate share of the amount apportioned to the township in which it is located, and in determining the division between the township and village, the amount of their respective last assessed valuations as last equalized by the state shall be used as the basis for the determination. The board shall certify to each participating county, city, township and village the amount to be raised by them, and the respective counties, cities, townships and villages shall include such amounts in their next ensuing budgets and shall pay the amounts so certified from any funds they have available or from the proceeds of a tax which they are authorized to levy, in an amount sufficient therefor, but in any event not exceeding 1 mill. Payment of sums so certified shall be due and payable to such airport authority 120 days subsequent to the date upon which local taxes become due and payable in counties, cities, villages and townships participating in the airport authority. Each county, city, township and village shall be liable for the amount so certified. The board shall also render to each participating county, city, township and village, on each July 1, during the operation of the airport a certified report thereof. Each report shall state the condition of the finances, the amount of money expended and the moneys received from all sources. The board shall also file a copy of the report with the municipal finance commission together with such other information as the commission may require. Within 30 days after the formation of any new airport authority, and annually on July 1 thereafter, the airport board shall file with the secretary of state such report as the secretary of state may require, showing the date of formation, the names of the member communities and such other information as the report may call for.

HISTORY: New 1957, p. 256, Act 206, Eff. Sep. 27;—Am. 1969, p. 61, Act 32, Imd. Eff. Jul. 10.

259.628 Airport board; revenue bonds, issuance, referendum.

Sec. 8. For the purpose of acquiring, purchasing, constructing, improving, enlarging or repairing such community airports, the airport board may issue self-liquidating bonds of the authority in accordance with the provisions of Act No. 94 of the Public Acts of 1933, as amended, being sections 141.101 to 141.139 of the Compiled Laws of 1948. The bonds shall not impose any liability upon the counties, cities, villages and townships included in the airport authority, other than on the amounts which are assessed against the respective municipalities as provided for herein, which amounts or any portion thereof may be pledged by the governing body of the airport authority for the payment of the bonds for a period not exceeding 40 years. The amount herein required to be paid by any municipality under the provisions of this act shall be considered to be a part of the revenues of the airport authority as that term is defined in section 3, subsection (f) of Act No. 94 of the Public Acts of 1933, as amended. The bonds shall be sold for not less than par and shall bear interest at a rate not in excess of 7%; in the event a petition for referendum is filed with the secretary of the airport authority in accordance with the provisions of section 33 of Act No. 94 of the Public Acts of 1933, the governing body of the airport authority shall adopt a resolution establishing

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the date of the election, which shall be not less than 60 days nor more than 90 days after the adoption of the resolution. The secretary of the authority, within 5 days after the adoption of such resolution, shall transmit a certified copy thereof to the governing body of each member community. The governing bodies of the member communities shall forthwith provide for an election in accordance with the resolution so passed in which the question of issuing the bonds and pledging the authority's revenues, including all or any part of the amounts assessed against the respective municipalities as provided for herein, shall be submitted. The ballots for use in the election shall be provided by the authority and the election shall be conducted in the respective communities except that where any part or all of a village belonging to such authority is located in a township belonging to the same authority, the township election shall include that part of the village located in it and the village shall not be required to hold an election except in that portion of the village not located in a township belonging to the authority. The governing bodies of the member communities shall act as a board of canvassers and shall certify the results of the election to the airport board, within 5 days after the date of the election, on forms provided by the airport authority. The airport board shall compile and tabulate the vote as received from the member communities and certify the result of the election by resolution upon the records of the authority; and a majority of the total valid votes cast at such an election voting "yes" on the question submitted shall constitute an approval.

HISTORY: New 1957, p. 257, Act 206, Eff. Sep. 27;—Am. 1969, p. 62, Act 32, Imd. Eff. Jul. 10.

259.629 Airport board; loans for current expenses.

Sec. 9. The airport board operating any airport under the provisions of this act, by resolution adopted by a majority vote of the entire governing board, may borrow money and issue notes therefor, maturing not more than 1 year from the date of their issuance and bearing interest at not to exceed 6% per annum for the purpose of meeting current expenses of operation and maintenance of the airport. The resolution shall provide for the pledging of income and revenues of the airport authority not heretofore pledged for the payment of such notes, and shall also provide for a special sinking fund into which there shall first be paid, as collected, a sufficient sum from the revenues of said airport authority pledges therefor to retire both the principal and interest of the notes at maturity. The resolution may also provide for the pledging of other assets of the airport authority as additional security for the payment of the notes. Notes issued under the provisions hereof shall be subject to the provisions of Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2 of the Compiled Laws of 1948.

HISTORY: New 1957, p. 257, Act 206, Eff. Sep. 27.

259.630 Airport board; control of property; condemnation proceedings; taxation.

Sec. 10. For the purposes of the authority, the airport board may purchase, lease, accept by gift or devise real or personal property, or condemn private property. Condemnation shall be exercised by the authority in the same manner as provided the state aeronautics commission by section 104 of Act No. 327 of the Public Acts of 1945, as amended or under such other appropriate acts as shall be passed for the purpose of instituting and prosecuting condemnation proceedings for airport or landing field purposes. It may sell, exchange, lease, hold, manage and control such property. It may convey its property or any part thereof without monetary consideration to a nonprofit corporation organized for the purpose of owning, maintaining and operating a public airport or permit the use of such property by such corporation. The conveyance or permission for use shall be upon condition that the corporation maintain and operate an airport upon any land so conveyed or use of which is permitted, and that the corpo-

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ration shall conform to the rules and standards provided by Act No. 327 of the Public Acts of 1945, as amended, being sections 259.1 to 259.208 of the Compiled Laws of 1948. If land is acquired by condemnation, the provisions of Act No. 149 of the Public Acts of 1911, as amended, being sections 213.21 to 213.41 of the Compiled Laws of 1948, or such other appropriate provisions therefor as exist or shall be made by law, may be adopted and used for the purpose of instituting and prosecuting the condemnation proceedings. All buildings or personal property located on the community airport may be taxed in the same manner as taxes assessed to owners of real property, except that such taxes shall not become a lien against the property. When due, such taxes shall constitute a debt due from the owner of the buildings or personal property to the township, city, village, county, and school district in which the airport is located and shall be recoverable by direct action of assumpsit.

HISTORY: New 1957, p. 258, Act 208, Eff. Sep. 27;—Am. 1958, p. 297, Act 216, Eff. Sep. 13;—Am. 1969, p. 63, Act 32, Imd. Eff. Jul. 10.

259.631 Community airport; definition.

Sec. 11. As used in this act, "community airport" means any location, either on land or water, which is used for the landing or take-off of aircraft, which provides facilities for the shelter, supply or care of aircraft, or for receiving or discharging passengers or cargo, and all appurtenant areas used or suitable for airport buildings or other airport facilities, all appurtenant rights of way and runway clear zones as designated by the civil aeronautics authority, whether heretofore or hereafter established.

HISTORY: New 1957, p. 258, Act 208, Eff. Sep. 27.

Act 17, 1946 (1st Ex. Ses.), p. 40; Imd. Eff. Feb. 25.

AN ACT to authorize the Michigan department of aeronautics to accept and receive from the federal government such airports and equipment which may be declared surplus by the federal government.

The People of the State of Michigan enact:

259.651 Airports and equipment declared surplus by federal government; acceptance by department of aeronautics.

Sec. 1. The Michigan department of aeronautics is hereby authorized for and in the name of the state of Michigan to accept and receive from the federal government such airports, including necessary operating equipment, which may be declared surplus by the federal government and which are made available to the state and its political subdivisions under the provisions of the surplus property act of 1944, and any legislation amendatory or supplemental thereto. The department is further authorized to comply with the terms and conditions of disposal agreements covering such surplus public airports, including necessary operating equipment.

HISTORY: CL 1948, 259.651.

Act 257, 1955, p. 441; Eff. Oct. 14.

AN ACT to provide for the giving of security by owners and operators of aircraft involved in accidents; to provide for administration thereof; and to provide penalties for violation of any provisions of this act.

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The People of the State of Michigan enact:

259.671 Uniform aircraft financial responsibility act; definitions.

Sec. 1. As used in this act, unless the context requires otherwise:

(a) "Agency" means the department of aeronautics of this state.

(b) "Aircraft" means any contrivance now known, or hereafter invented, used or designed for navigation of or flight in the air.

(c) "Judgment" means any judgment which has become final by expiration without appeal of the time within which an appeal might have been perfected, or by final affirmation on appeal, rendered by a court of competent jurisdiction of any state or of the United States, upon a claim for damages suffered by a claimant arising out of the ownership, operation, maintenance or use of any aircraft, including damages for care and loss of services, because of bodily injury to or death of any person or injury to or destruction of property, including the loss of use thereof, or upon an agreement of settlement for such damages.

(d) "Non-resident's operating privilege" means the privilege conferred upon a non-resident by the law of this state pertaining to the operation by him of an aircraft, or the use of an aircraft owned by him, in this state.

(e) "Operator" means any person who is exercising actual physical control of an aircraft.

(f) "Owner" means any of the following persons who may be legally responsible for the operation of an aircraft:

(1) A person who holds the legal title to an aircraft;

(2) A lessee of an aircraft;

(3) A conditional vendee, a trustee under a trust receipt and a mortgagor or other person holding an aircraft subject to a security interest.

(g) "Passenger" means any person in, on or boarding an aircraft for the purpose of riding therein, or alighting therefrom following a flight or attempted flight therein.

(h) "Person" means any individual, firm, copartnership, association or corporation, public or private, including his or its successors, assignees or legal representatives.

(i) "Registration" means a certificate of registration of aircraft engaged in air navigation in this state, or of operators thereof, issued by the agency pursuant to the laws of this state.

(j) "Resident's operating privilege" means the privilege conferred upon a resident by the law of this state pertaining to the operation by him of an aircraft, or the use of an aircraft owned by him, in this state.

(k) "State" means any state, the District of Columbia, any territory or possession of the United States and the commonwealth of Puerto Rico.

(l) "Claimant" means any person having a claim for damages as the result of an accident within this state involving an aircraft.

HISTORY: New 1955, p. 441, Act 257, Eff. Oct. 14.

259.672 Department of aeronautics; administration of act, rules and regulations; hearings; judicial review.

Sec. 2. (a) The agency shall administer and enforce the provisions of this act and may make rules and regulations necessary for its administration, in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82, inclusive, of the Compiled Laws of 1948, and Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110, inclusive, of the Compiled Laws of 1948.

(b) The agency shall provide for hearings upon request of any person who may be affected by its orders or acts under the provisions of this act and may provide for a stay thereof until a hearing may be had.

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(c) Any person aggrieved by any order or act of the agency or by a failure of the agency to act hereunder, may have judicial review thereof as provided in the general laws of this state for judicial review of the orders or acts of administrative agencies.

HISTORY: New 1955, p. 441, Act 257, Eff. Oct. 14.

259.673 Accident report; persons who must file; form, contents.

Sec. 3. (a) The operator of any aircraft involved in an accident within this state in which any person is killed or injured or damage in excess of $100.00 is sustained to the property of any person, other than property owned by the owner or operator or in his care, custody or control or carried in or on the aircraft, upon written request of the agency shall report the matter in writing to the agency. If the operator is physically incapable of making the report, the owner of the aircraft involved in the accident shall make the report. If the owner or operator dies as a result of the accident, the legal representative of the operator or owner shall make the report. The law enforcement agency within whose jurisdiction the accident occurred shall notify the agency thereof in writing immediately but not later than 48 hours after learning of the accident.

(b) The report, the form of which shall be prescribed by the agency, shall include information to enable the agency to determine whether the requirements for the deposit of security under section 4 are inapplicable by reason of existence of insurance or other exceptions specified in this act. The agency may rely upon the accuracy of the information until it has reason to believe that the information is erroneous.

(c) The operator and the owner shall furnish such additional information as the agency may require.

HISTORY: New 1955, p. 442, Act 257, Eff. Oct. 14;—Am. 1964, p. 117, Act 120, Eff. Aug. 28.

259.674 Security required after accident; suspension of registration and privileges; persons excepted; waiver of suspension; modification of order.

Sec. 4. As promptly as practicable but not later than 30 days after receipt of an accident report as required in section 3, the agency shall determine by an order entered of record (1) the amount of security within the limits specified in section 5, which it deems sufficient to satisfy any judgment for damages resulting from the accident which may be recovered against each owner or operator, and (2) the name and address of each claimant.

(b) As promptly as practicable but not later than 30 days after the entry of the order required by subsection (a) of this section the agency, unless there is deposited for the benefit of the owner or operator or both, as the case may be, security in the sum so determined by the agency, upon 10 days' notification shall suspend:

(1) If the owner or operator is a resident, the registration of the owner or operator and the registration of all aircraft owned by him.

(2) If the owner is a non-resident, the non-resident's operating privilege of the owner and of all aircraft owned by him.

(c) The requirements as to security and suspension do not apply:

(1) To the operator or the owner of the aircraft if the agency determines upon satisfactory evidence that he is not charged with responsibility for the accident by the claimants, or to the operator of an aircraft involved in an accident in which no injury was caused to the person of any one other than the operator, and no damage in excess of $100.00 was caused to property not owned, rented, occupied or used by such operator nor in his care, custody or control nor carried in or on the aircraft;

(2) To the operator or owner of an aircraft if at the time of the accident the aircraft was stationary, without passengers thereon or boarding the aircraft or alighting therefrom and the aircraft was parked in an area legally used for aircraft parking with no engine running nor in the process of being started;

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(3) To the owner of an aircraft if at the time of the accident the aircraft was being operated, or was parked, without his permission, express or implied;

(4) To the owner or operator if there is in effect at the time of the accident an aircraft liability policy or bond with respect to the aircraft involved in the accident;

(5) To the operator or owner if his liability for damages resulting from such accident is covered by any other form of liability insurance policy or bond in effect at the time of the accident;

(6) To any person qualifying as a self-insurer under section 7, or to any person operating an aircraft for the self-insurer for whose acts the self-insurer is legally responsible; nor

(7) After there is filed with the agency satisfactory evidence that the person otherwise required to deposit security has (1) been released from liability, or (2) been adjudicated not to be liable by judgment, or (3) executed a written agreement with all claimants providing for payment of an agreed amount with respect to all claims for injuries or damages resulting from the accident.

(d) The requirements as to suspension may be waived by the agency, in its discretion, if there is filed with the agency by all claimants consent in writing that the person hereunder chargeable be allowed continuing operating privilege. If such waiver is granted by the agency, it shall continue for 6 months from the date of the consent and thereafter unless the consent is revoked in writing.

(e) The agency may take the actions authorized hereby or may modify or rescind the same at any time necessary to carry out the provisions of this act upon 10 days' notification of the persons affected thereby.

HISTORY: New 1955, p. 442, Act 257, Eff. Oct. 14.

259.675 Security requirements; risks not covered.

Sec. 5. (a) A policy or bond is not effective under section 4 unless:

(1) Issued by an insurer or surety company authorized to do business in this state; or

(2) Issued by an insurer or surety company not authorized to do business in this state found by the agency to afford adequate protection and which has filed or shall file with the agency a power of attorney authorizing the agency to accept service on its behalf of notice or process in any action upon the policy or bond arising out of such accident.

(3) If the accident results in bodily injury to or death of a person not a passenger, the policy or bond provides coverage of not less than $25,000.00 because of bodily injury to or death of 1 person in any accident and $50,000.00 because of bodily injury to or death of 2 or more persons in any 1 accident.

(4) If the accident involves an aircraft being operated for hire and the accident results in bodily injury to or death of a passenger, the policy or bond provides coverage of not less than $50,000.00 because of bodily injury to or death of 1 person in any 1 accident and not less than $50,000.00 multiplied by the number of passenger-seats in the aircraft because of bodily injury to or death of 2 or more persons in any 1 accident.

(5) If the accident involves an aircraft not being operated for hire and the accident results in bodily injury to or death of a passenger, the policy or bond provides coverage of not less than $25,000.00 because of bodily injury to or death of 1 person in any 1 accident and not less than $25,000.00 multiplied by the number of passenger-seats in the aircraft because of bodily injury to or death of 2 or more persons in any 1 accident.

(6) If the accident results in damage to or destruction of property, the policy or bond provides coverage of not less than $25,000.00 because of damage to or destruction of property in any 1 accident with the exception of the following property which is exempted from the security required under this act: Property owned, rented, occu-

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pied or used by, or in the care, custody or control of the owner or operator or carried in or on the aircraft.

(b) The policy or bond need not cover:

(1) Any liability on account of bodily injury to or death of any employee of the owner or operator while the employee is engaged in the duties of his employment; or

(2) Any obligation for which the owner or operator or his insurer may be held liable under any workmen's compensation law.

HISTORY: New 1955, p. 443, Act 257, Eff. Oct. 14;—Am. 1967, p. 160, Act 130, Eff. Nov. 2.

259.676 Suspended registration or non-resident's operating privilege; restoration or renewal, conditions.

Sec. 6. Registrations or non-resident's operating privilege suspended as provided in section 4 shall not be restored or renewed with respect to the aircraft involved in or the owner or operator liable for the accident until:

(a) Security is deposited as required under section 4; or

(b) One year shall have elapsed following the date of such suspension and satisfactory evidence is filed with the agency that during such period no action for damages arising out of the accident has been instituted; or

(c) Satisfactory evidence is filed with the agency of a release from liability, or a judgment of non-liability as to all persons damaged or injured in the accident, or a written agreement, in accordance with paragraph 8 of subsection (c) of section 4. If there is a default in payment under such written agreement, then upon 10 days' notification of the owner or operator, the agency shall suspend the registration or non-resident's operating privilege of such person defaulting and the same shall not be restored unless and until (1) such person deposits and thereafter maintains security as required under section 4 in such amount as the agency may then determine, within the limits herein provided, or (2) 1 year has elapsed following the time when such security was required and during such period no action upon the agreement has been instituted in a court of this state; or

(d) Satisfactory evidence is filed with the agency that any judgment against such person for damages resulting from the accident has been satisfied in full or that there has been paid thereon an amount equal to the applicable limits set forth in section 5; or

(e) Written consent thereto has been filed with the agency by all claimants and the same is approved by the agency in its discretion.

HISTORY: New 1955, p. 444, Act 257, Eff. Oct. 14.

259.677 Certificate of self-insurance; application, issuance, cancellation.

Sec. 7. (a) Any person may at any time apply to the agency for a certificate of self-insurance, whether or not there has occurred an accident as a result of which he might be affected by some other provision of this act.

(b) The agency may in its discretion issue a certificate of self-insurance when satisfied that the applicant is possessed of ability to pay judgments against him within the limits provided in this act.

(c) Upon not less than 10 days' notification of a self-insurer the agency may for reasonable cause cancel a certificate of self-insurance and shall cancel such certificate upon failure to pay any judgment within 30 days.

HISTORY: New 1955, p. 444, Act 257, Eff. Oct. 14.

259.678 Non-resident involved in accident; compliance with act required.

Sec. 8. (a) In case the owner or operator of an aircraft involved in an accident within this state has no certificate of registration, or is a non-resident, he shall not be allowed

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a non-resident's operating privilege, until he has complied with the requirements of this act.

Non-resident's operating privilege; certificate of suspension to state of residence.

(b) When a non-resident's operating privilege is suspended pursuant to section 4 or section 6, the agency shall transmit a certified copy of the record of such action to the official or department regulating the operation of aircraft in the state in which the non-resident resides, if the law of the other state provides for action in relation thereto, similar to that provided for in subsection (c) of this section.

Suspension of resident's registration for accident in another state.

(c) Upon receipt of a certification that the operating privilege of a resident of this state has been suspended or revoked in any other state pursuant to a law providing for its suspension or revocation for failure to deposit security for the payment of judgments arising out of an aircraft accident, under circumstances which would require the agency to suspend a non-resident's operating privilege had the accident occurred in this state, the agency upon 10 days' notification shall suspend his registration if he was the operator of an aircraft involved in the accident, or if he was the owner of an aircraft involved in the accident and was legally responsible for its operation. The suspension shall continue until the resident furnishes evidence of his compliance with the security requirements of the law of the other state.

HISTORY: New 1955, p. 444, Act 257, Eff. Oct. 14.

259.679 Security by deposit of cash or securities; interest.

Sec. 9. (a) The security required under this act shall be cash, securities permissible under state law as security for deposit of state funds, and in such amount as the agency may require but in no case in excess of the limits specified in section 5 in reference to the limits of a policy or bond. If at the time of the accident there is in effect a liability policy or a bond meeting the requisites of this act other than amount of coverage set forth in section 5, the agency may consider such policy or bond in fixing the amount of security. The person depositing security shall specify in writing the person or persons on whose behalf the deposit is made and, at any time while such deposit is in the custody of the state treasurer the person depositing it may, upon approval of the agency, amend in writing the specification of the person or persons on whose behalf the deposit is made to include an additional person or persons: Provided, however, That a single deposit of security shall be applicable only on behalf of persons required to furnish security because of the same accident. Interest and other income upon securities deposited as herein provided shall be paid or inure to the benefit of the person making the deposit.

Reduction, increase, substitution of security.

(b) Upon 10 days' notification of the parties concerned, the agency may reduce, or, within the limits specified in section 5, increase the amount of security ordered in any case if in its discretion the amount ordered is excessive or insufficient. In case the security originally ordered has been deposited, the excess shall be returned to the depositor notwithstanding the provisions of section 10. Substitution of security shall be permitted.

HISTORY: New 1955, p. 445, Act 257, Eff. Oct. 14.

259.680 Release of security; conditions.

Sec. 10. Security deposited in compliance with the requirements of this act shall be delivered to the agency and shall be placed by the agency in the custody of the state treasurer and shall be released only:

(a) Upon certificate of the agency in the payment of a judgment rendered against the person or persons on whose behalf the deposit was made, for damages arising out

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of the accident in a civil action, begun not later than 1 year after the date of the accident or within 1 year after the date of deposit of any security under subsection (c) of section 6 or in the payment of a settlement, agreed to by the depositor and all the claimants, of a claim or claims arising out of the accident.

(b) Upon certificate of the agency issued after 10 days' notification of all claimants upon evidence satisfactory to the agency that all claims arising from such accident have been satisfied by either (1) a release from liability, or (2) a judgment of nonliability, or (3) a written agreement in accordance with paragraph 8 of subsection (c) of section 4, or whenever, after the expiration of 1 year from the time of the accident or from the date of deposit of any security under subsection (c) of section 6, the agency is given evidence satisfactory that there is no such action pending and that no judgment rendered in any such action is unpaid.

(c) Upon the certificate of the agency that other security complying with subsection (a) of section 9 and satisfactory in form, character and amount, has been deposited with it in lieu of the original security deposited hereunder.

HISTORY: New 1955, p. 445, Act 257, Eff. Oct. 14.

259.681 Records and proceedings before department of aeronautics and state treasurer; inadmissible in evidence in civil and criminal proceedings.

Sec. 11. The records of and proceedings before the agency and the state treasurer with reference to this act shall be inadmissible in evidence and shall not be referred to at the trial of any civil action or criminal proceeding.

Subject to the foregoing provisions, the agency shall, upon written request, make available to persons whose legal rights may be affected thereby, information and material developed in the course of its administration of this act.

HISTORY: New 1955, p. 446, Act 257, Eff. Oct. 14.

259.682 Suspended registration; transfer; rights of persons holding security interest.

Sec. 12. No transfer of registration of aircraft of which the owner's registration has been suspended hereunder, shall be deemed valid or accepted by the agency, unless the transferor or transferee demonstrates to the satisfaction of the agency that the transfer of registration is the result of a bona fide transaction of purchase and sale, and not for the purpose, or with the effect, of defeating the purposes of this act. Nothing in this section shall affect the rights of any lessor or conditional vendor, chattel mortgagee, or other person holding a security interest in any aircraft registered in the name of another as owner who becomes subject to the provisions of this act.

HISTORY: New 1955, p. 446, Act 257, Eff. Oct. 14.

259.683 Suspended registration; return to department of aeronautics.

Sec. 13. Any person whose registrations are suspended as herein provided shall immediately surrender or return his registration certificates to the agency, until such time as the registrations are restored by the agency. If such person fails or refuses to surrender or return the registration certificates to the agency, the agency shall forthwith apply to the circuit court of Ingham county which, upon such application, shall issue a writ directing any peace officer or enforcement officer of the state to secure possession thereof and deliver the same to the agency.

HISTORY: New 1955, p. 446, Act 257, Eff. Oct. 14.

259.684 Violations of act; penalties.

Sec. 14. (a) Any owner or operator who knowingly refuses or fails to make any report of an accident as required in section 3 shall be guilty of a misdemeanor and upon conviction shall be fined not more than $100.00; and if any person is killed or injured in such accident, the agency shall in addition suspend the registration or non-resident's

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operating privilege of the person failing to make such report, until such report is filed and for such further period not to exceed 30 days as the agency may fix.

(b) Any owner or operator who knowingly makes a false statement or representation of a material fact in a report to or written instrument filed with the agency shall be guilty of a misdemeanor and upon conviction shall be fined not more than $1,000.00, or imprisoned for not more than 90 days, or both.

(c) Any owner or operator whose registration or non-resident's operating privilege has been suspended or revoked under this act and who, during such suspension or revocation, operates any aircraft in this state, or knowingly permits any aircraft owned by such person to be operated by another in this state, except as permitted under this act, shall be guilty of a misdemeanor and upon conviction shall be fined not more than $1,000.00, or imprisoned not more than 6 months, or both.

(d) Any owner or operator wilfully failing to return his registrations as required in section 13 shall be guilty of a misdemeanor and upon conviction shall be fined not more than $500.00, or imprisoned not to exceed 30 days, or both.

HISTORY: New 1955, p. 446, Act 257, Eff. Oct. 14.

259.685 Inapplicability of act to certain aircraft.

Sec. 15. This act shall not apply to:

(a) Any aircraft owned and operated by or leased to and subject to the sole control of the United States or any civil or military agency of the United States or of the District of Columbia, the commonwealth of Puerto Rico or any territory or possession of the United States;

(b) Any aircraft owned and operated by or leased to and subject to the sole control of this or any other state or agency thereof or any political subdivision or municipality of this or any other state;

(c) Any aircraft owned and operated by or leased to and subject to the sole control of any foreign country or any civil or military agency thereof or any political subdivision or municipality thereof;

(d) Any aircraft owned or being operated by a public air carrier engaged principally in regularly scheduled interstate or foreign air transportation for hire under either a federal certificate of public convenience and necessity or under a letter of registration or exemption order issued by the civil aeronautics board or its successor.

HISTORY: New 1955, p. 446, Act 257, Eff. Oct. 14.

259.686 Inapplicability of act to accidents prior to effective date.

Sec. 16. This act shall not apply with respect to any accident occurring prior to the effective date of this act.

HISTORY: New 1955, p. 447, Act 257, Eff. Oct. 14.

259.687 Construction of act as to other legal process.

Sec. 17. Nothing in this act shall be construed as precluding any party in any action or proceeding from employing other processes provided by law. Nothing in this act shall be construed as precluding the utilization by the agency of the injunctive or other process of the courts in aid of the enforcement of this act.

HISTORY: New 1955, p. 447, Act 257, Eff. Oct. 14.

259.688 Service of process; department of aeronautics deemed agent of non-residents.

Sec. 18. (a) The operation of an aircraft on the land or waters of or in the air over this state shall be deemed an appointment by the owner or operator of the agency to be his true and lawful agent upon whom may be served legal process in any action or proceeding against him, arising from the ownership, maintenance, use or operation of such aircraft and resulting in damage or loss to person or property, and said use or op-

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eration shall be signification of their agreement that any such process against him which is so served, shall be of the same legal force and validity as though served upon him personally, provided such person is a non-resident of this state or at the time a cause of action arises is a resident of this state but subsequently becomes a non-resident of this state.

Same; manner of making.

(b) Service of such process shall be made by serving the original thereof and a copy of the complaint upon the agency or by filing the same in such office, together with a fee of $2.00 and by the mailing of a copy of such process and of the complaint by the plaintiff or his attorney to the defendant, and to each of the defendants if more than one at his last known address, within 10 days thereafter by registered mail. In lieu of such mailing to such defendant in a foreign state, plaintiff may cause a copy of the complaint and process to be served personally in the foreign state upon such defendant by any adult person not a party to the suit, by actually delivering the same to such defendant or by offering to make such delivery in case defendant refuses to accept delivery.

Same; proof of service; completion.

(c) Proof of the service of such process upon the agency or the filing thereof in such office, and proof of the mailing or personal delivery thereof to the defendant shall be made by the affidavit or affidavits of the party or parties doing the acts, which shall be filed in the office of the clerk of the court in which the suit is filed. Process shall be deemed to be completed upon the filing of such affidavit or affidavits and of the original registry receipt issued by the post office upon the mailing of such registered letter, if service is obtained by mail.

HISTORY: New 1955, p. 447, Act 257, Eff. Oct. 14.

259.689 Discharge in bankruptcy.

Sec. 19. A discharge in bankruptcy shall not relieve any person from the requirements of this act.

HISTORY: New 1955, p. 448, Act 257, Eff. Oct. 14.

259.690 Construction of act as to number and gender.

Sec. 20. The singular includes the plural and the plural includes the singular; the masculine includes the feminine and neuter, as requisite.

HISTORY: New 1955, p. 448, Act 257, Eff. Oct. 14.

259.691 Construction of act as to uniformity.

Sec. 21. This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the laws of those states which enact it.

HISTORY: New 1955, p. 448, Act 257, Eff. Oct. 14.

259.692 Uniform aircraft financial responsibility act; short title.

Sec. 22. This act may be cited as the uniform aircraft financial responsibility act.

HISTORY: New 1955, p. 448, Act 257, Eff. Oct. 14.

259.751-259.756. Expired.

Sections (Secs. 1-6, Act 223, 1962, p. 480, Imd. Eff. July 9) made supplemental appropriation of $500,000 for fiscal year ending June 30, 1963 to the "Michigan aviation supplemental matching fund" for purpose of assisting state of Michigan and its political subdivisions in matching federal funds for construction and improvement of publicly owned airports and landing fields within the state, and provided for the disbursement thereof.

259.761-259.766. Expired.

Sections (Secs. 1-6, Act 129, 1963, p. 182, Imd. Eff. May 10) made supplemental appropriation of $500,000 for fiscal year ending June 30, 1964 to the "Michigan aviation supplemental matching fund" for purpose of assisting state of Michigan and its political subdivisions in matching federal funds for construction and improvement of publicly owned airports and landing fields within the state, and provided for the disbursement thereof.

259.771-259.775. Expired.

Sections (Secs. 1-5, Act 192, 1964, p. 263, Imd. Eff. May 20) made supplemental appropriation of $500,000 for fiscal year ending June 30, 1965 to the "Michigan aviation supplemental matching fund" for purpose of assisting state of Michigan and its political subdivisions in matching federal funds for construction and improvement of publicly owned airports and landing fields within the state, and provided for the disbursement thereof.

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Act 333, 1965, p. 648; Imd. Eff. Jul. 23.

AN ACT to regulate the use of model rockets.

The People of the State of Michigan enact:

259.781 Model rockets; definitions.

Sec. 1. As used in this act:

(a) "Model rocket" means an aero-model that ascends into the air without use of aerodynamic lifting forces against gravity and is propelled by means of a model rocket engine.

(b) "Model rocket engine" or "engine" means a device or combination of devices which provide the necessary force or motive power to cause the model rocket to move through the air.

HISTORY: New 1965, p. 648, Act 333, Imd. Eff. Jul. 23.

259.782 Inapplicability of act to certain activities.

Sec. 2. This act does not apply to the design, construction, production, maintenance, launch, flight, test, operation or use of, or any other activity in connection with a model rocket or model rocket engine, when carried on or engaged in by (a) the United States or this state, (b) a college, university or other institution of higher education, or (c) an individual or an entity engaged in research, development or production of rockets, rocket engines or propellants, or components thereof, as a business.

HISTORY: New 1965, p. 648, Act 333, Imd. Eff. Jul. 23.

259.783 Model rockets; requirements prior to launch, operation and flight.

Sec. 3. A model rocket shall comply with the following requirements prior to its launch, operation and flight:

(a) Gross weight, including the model rocket engine, shall not exceed 16 ounces.

(b) No more than 4 ounces of propellant materials shall be contained in a model rocket engine at the moment of launch.

(c) It shall be so constructed as to be capable of repeated flights and shall contain means for retarding descent to the ground so that the structure shall not be substantially damaged and no hazard shall be created to persons and property on the ground.

(d) Construction shall be of wood, plastic, paper, rubber or similar materials and without substantial metal parts.

(e) Design and construction shall include attached surfaces which will provide aerodynamic stabilizing and restoring forces necessary to maintain a substantially true and predictable flight path.

(f) It shall not contain any type of explosive or pyrotechnic warhead.

HISTORY: New 1965, p. 648, Act 333, Imd. Eff. Jul. 23.

259.784 Model rocket engines; standards.

Sec. 4. A model rocket engine which supplies the propulsive force for a model rocket shall conform to the following standards:

(a) It shall be a commercially manufactured device or combination of devices wherein all chemical ingredients of a combustible nature are pre-mixed and ready for use.

(b) The force or motive power shall be created by a rearward discharge of gas generated by the combustion or other operation of materials contained solely within the device or combination of devices.

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(c) The device or combination of devices shall have been tested by the federal bureau of explosives and shall qualify as a "toy propellant device" under title 18, section 11 of the United States code.

(d) An engine constructed wholly or partly of metal shall be equipped with an adequate blowout disc or other safety release, as an integral part of the engine, for the purpose of preventing rupture of the engine casing in the event of internal overpressure.

(e) It shall be so designed and constructed as to be incapable of spontaneous ignition or combustion in air, water, under pneumatic or hydraulic pressure, as a result of motion or jarring, when subjected to a temperature of 170 degrees Fahrenheit or less, or in glycerine.

HISTORY: New 1965, p. 648, Act 333, Imd. Eff. Jul. 23.

259.785 Model rockets; location of launch site, standards.

Sec. 5. A model rocket may be launched, operated and flown only in a location, not otherwise restricted by law, which shall comply with the following minimum standards:

(a) A ground area shall be used containing at least 5,000 square yards and having a general rectangular shape with no side less than 50 yards in length.

(b) Flight areas shall be located in places that will not create a hazard to persons and property in the vicinity of the area.

(c) Flight areas shall not contain or be located adjacent to a high voltage power line, major highway, multi-story building or other obstacle.

HISTORY: New 1965, p. 649, Act 333, Imd. Eff. Jul. 23.

259.786 Model rockets; launching, conditions.

Sec. 6. A model rocket may be launched upon compliance with the following conditions:

(a) A device or mechanism shall be used which shall restrict the horizontal motion of the model rocket until sufficient flight velocity shall have been attained for reasonably safe, predictable flight.

(b) Launching or ignition shall be conducted by remote electrical means fully under the control of the person launching the model.

(c) A launching angle of more than 60 degrees from the horizontal shall be used.

(d) At least 1 adult person shall inspect each model rocket before flight and shall supervise the launching of each model rocket.

(e) All persons in the vicinity of the launching shall be advised that a launching is imminent before a model rocket is ignited and launched.

(f) Winds shall be less than 20 miles per hour and visibility shall be greater than 2,000 feet.

(g) A model rocket in flight shall not create a hazard to aircraft.

(h) A model rocket shall not be used as a weapon against ground or air targets.

HISTORY: New 1965, p. 649, Act. 333, Imd. Eff. Jul. 23.

259.787 Model rocket engines; ground testing, conditions.

Sec. 7. A model rocket engine may be tested on the ground for the purpose of determining performance or may be used as the motive power of an experiment conducted on the ground under the following minimum conditions:

(a) The engine shall be affixed to a testing device or to an immovable structure in such manner that the engine may not become free during the conduct of the test or experiment.

(b) The engine shall be ignited only by remotely operated electrical means fully under the control of the person conducting the test or experiment.

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(c) When a test or experiment is conducted indoors, the exhaust from the engine so tested shall be directed into a nonflammable hood or vent which shall lead directly to the outside of the building.

(d) The exhaust path shall be cleared of all inflammable objects prior to the igniting of such engine.

(e) A person who conducts, participates in or observes static or ground testing of a model rocket engine shall stand a safe distance away from the engine, and particularly its exhaust path, at all times during the conduct of the test.

(f) At least 1 adult person shall inspect each engine to be tested and the testing device to be used before the test is conducted.

(g) The conduct of the test or experiment shall be supervised by at least 1 adult person.

HISTORY: New 1965, p. 649, Act 333, Imd. Eff. Jul. 23.

259.788 Model rockets; activities prohibited.

Sec. 8. The following activities are prohibited:

(a) The use of a model rocket engine for pyrotechnic purposes or for the primary purpose of producing a spectacular display of color, sound, light or any combination thereof, or in any way contrary to the provisions of this act.

(b) Tampering with or using an engine in any manner or degree contrary to the purpose for which the engine is designed and intended to be used, or contrary to the provisions of this act.

(c) The ignition of an engine with such instantaneous and violent expansion of gas or relinquishment of energy as to cause rupture of the casing.

(d) The launching, operating, discharging, flying or otherwise activating of a model rocket without first having fully complied with the foregoing provisions of this act.

HISTORY: New 1965, p. 649, Act 333, Imd. Eff. Jul. 23.

259.789 Scope of act.

Sec. 9. Chapter 39 of Act No. 328 of the Public Acts of 1931, as amended, being section 750.243 of the Compiled Laws of 1948, and all other acts and parts of acts inconsistent with the provisions of this act do not apply to the use of model rockets in conformity with the provisions of this act.

HISTORY: New 1965, p. 650, Act 333, Eff. Jul. 23.

Act 73, 1970, p. 166; Imd. Eff. Jul. 16.

AN ACT to provide for the creation of airport authorities; to provide for certain counties and cities within certain limitations of state-owned airports to create an airport authority; to provide for the membership of authorities; to provide for the powers and duties of the authorities; to provide for the transfer of employees of state airports to the employment of an authority; to provide for the transferring of state-owned lands to the authority; to provide for the retention of certain rights, powers and privileges by the state in state-owned airport facilities; to provide for a referendum; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

259.801 Airport authority; formation, charter; population specifications.

Sec. 1. Within 90 days of the effective date of this act, counties, any portion of whose boundaries are within 10 miles of any state-owned airport and any city located within the boundaries of any such counties and having a population of over 100,000, by a resolution passed by each of their legislative bodies by a majority of the entire

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membership of each board or council voting separately shall join to form an airport authority, hereafter referred to as the "authority". The authority shall be deemed to be a charter authority within the meaning of section 6 of article 9 of the state constitution.

HISTORY: New 1970, p. 166, Act 73, Imd. Eff. Jul. 16.

259.802 Airport authority board; membership, appointment, qualifications.

Sec. 2. The authority shall be directed and governed by an airport authority board, hereafter referred to as the "board". The membership of the board shall consist of the director of the Michigan aeronautics commission or his designee, 3 members from any such city appointed by the mayor with the advice and consent of the council, 2 members from the balance of the county having a city of over 100,000 located primarily within its boundaries and 2 members from each other county comprising the authority to be appointed by their respective legislative bodies by a majority of the full membership of the appointing legislative body. The appointed members shall be electors of their respective appointing cities and counties and may be members of the legislative bodies thereof.

HISTORY: New 1970, p. 166, Act 73, Imd. Eff. Jul. 16.

259.803 Airport authority board; members, term, vacancy.

Sec. 3. Of the county members first appointed, 1 member shall be appointed for 4 years and 1 member for 3 years. Of the city members, 1 shall be appointed for 2 years, 1 for 3 years and 1 for 4 years. After the initial appointments expire all members shall be appointed for 4 years. All members appointed shall serve until they are reappointed or a successor named at the end of their term. If a member is unable to complete his term of office, a successor shall be appointed in the same manner as the original appointment to complete the term. In the case of the appointment of a successor, he shall serve until another is appointed or he is reappointed.

HISTORY: New 1970, p. 166, Act 73, Imd. Eff. Jul. 16.

259.804 Airport authority board; members removal.

Sec. 4. The legislative body of a county or the city council appointing members to the board may remove any member appointed by it by a ¾ vote of its full membership.

HISTORY: New 1970, p. 167, Act 73, Imd. Eff. Jul. 16.

259.805 Additional counties joining authority.

Sec. 5. Any additional county contiguous to the original counties forming the authority may subsequently become a member of the authority upon resolution adopted by the governing body of the county and acceptance thereof by resolution adopted by majority vote of the board. The number of members to be added to the board when an additional county becomes a member of the authority shall be determined by the board.

HISTORY: New 1970, p. 167, Act 73, Imd. Eff. Jul. 16.

259.806 Airport authority board; first meeting; election of officers; seal; executive committee; expenses; quorum; legal majority.

Sec. 6. Within 90 days of the effective date of this act the board shall hold its first meeting and organize by electing a chairman and vice-chairman who shall be members of the board, and a secretary and treasurer who need not be board members and such other and additional officers who need or need not be members of the board as the board shall deem necessary. The board may also adopt a corporate seal, appoint an executive committee, consisting of the chairman and 1 member from each of the governmental units comprising the authority other than that represented by the chairman to perform such duties as the board shall assign. The members of the executive committee shall hold office during the pleasure of the board. All members of the board and

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executive committee shall serve without compensation from the authority, but shall be entitled to reimbursement by the authority of actual expenses incurred in the discharge of their duties. In the conduct of the business of the board, a simple majority of the board members shall constitute a quorum. On all voting issues before the board, a simple majority of the full membership of the board shall constitute a legal majority.

HISTORY: New 1970, p. 167, Act 73, Imd. Eff. Jul. 16.

259.807 Airport authority as body corporate; other airports; powers.

Sec. 7. The authority shall be a public body corporate with powers to sue or be sued in any court of this state and have the power and duty of planning, promoting, extending, owning, maintaining, acquiring, purchasing, constructing, improving, enlarging and operating all publicly-owned airports and airport facilities hereinafter established to be operated within the territorial jurisdiction of the authority. Any existing publicly-owned airport or airport facility now or hereafter within the jurisdictional confines of the authority may elect to come within the operational jurisdiction of the authority unless prohibited by legal restrictions or limitations, upon acceptance by the authority under mutually agreeable terms and conditions.

HISTORY: New 1970, p. 167, Act 73, Imd. Eff. Jul. 16.

259.808 Airport authority board; meetings, notice; records; accounts; audits; treasurer's bond; executive director; adoption of rules; contracts, interest.

Sec. 8. (a) After organization, the board shall hold meetings at the call of the chairman, who shall give 3 days' personal or written notice of the time and place of such meeting. The board shall adopt a schedule of regular monthly meetings and adopt a regular meeting date, place and time. The chairman shall call a special meeting at any time upon request of 3 members of the board. The board shall keep a written or printed record of every meeting, which record shall be public. The board shall provide for a system of accounts to conform to any uniform system required by law and for the auditing at least once a year of the accounts of the treasurer by a competent certified public accountant. The board shall require of the treasurer a suitable bond by a responsible bonding company, the cost of the premium of bond to be paid for by the board. The board may appoint an executive director and shall adopt rules, regulations and policies governing professional work and services offered by airports and airport facilities under its jurisdiction.

(b) No board member or any person holding appointment by the board shall be interested directly or indirectly in any contract entered into under the provisions of the law. No board member shall be subject to personal liability on account of any liability of the authority.

HISTORY: New 1970, p. 167, Act 73, Imd. Eff. Jul. 16.

259.809 Airport authority; powers, duties and limitations; elections.

Sec. 9. In exercising its powers and duties, the authority and the cities and counties comprising the authority shall be vested with and be subject to the same powers, duties and limitations as provided by Act No. 206 of the Public Acts of 1957, as amended, being sections 259.621 to 259.631 of the Compiled Laws of 1948 and Act No. 327 of the Public Acts of 1945, as amended, being sections 259.1 to 259.208 of the Compiled Laws of 1948 unless the provisions of this act are applicable. When the provisions of this act or any act which the authority or the counties comprising the authority are subject to calls for an election or the submission of an issue or proposition

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to the election process, the provisions of Act No. 116 of the Public Acts of 1954, as amended, being sections 168.1 to 168.992 of the Compiled Laws of 1948, shall apply unless provisions of this act are applicable.

HISTORY: New 1970, p. 168, Act 73, Imd. Eff. Jul. 16.

259.810 Budget; contents; adoption; annual report.

Sec. 10. On or before June 1 of each year the board shall prepare a budget containing an itemized statement of the estimated current operational expenses and the expenses for capital outlay including funds for the operation and development of all airports under the jurisdiction of the board, including the amount necessary to pay the principal and interest of any outstanding bonds or other obligations of the authority maturing during the ensuing fiscal year or which have previously matured and are unpaid, and an estimate of the estimated revenue of the authority from all sources for the ensuing fiscal year. The fiscal year of the authority shall be from July 1 to June 30. The board shall adopt such budget as shall be deemed necessary and shall ascertain what appropriations are required from the several counties comprising the authority to meet their respective shares of the amount of the budget in excess of the estimated revenues. The authority shall file a copy of their annual report with the state aeronautics commission.

HISTORY: New 1970, p. 168, Act 73, Imd. Eff. Jul. 16.

259.811 Local units contributions; certification, payment; tax, rate, limitation.

Sec. 11. The board shall certify to each participating county the amount to be raised by them, and the counties comprising the authority shall include the certified amount to be raised in their next ensuing budget and shall pay the amounts so certified from any funds they have available including the proceeds of a tax the county is authorized to levy on the taxable property within their respective jurisdiction. The tax shall not exceed ¾ mill on each dollar of assessed valuation as last equalized by the state. In computing the total tax to be levied, the assessed valuation of any unit of government within the county shall not be used more than once. The limitation of section 6 of article 9 of the state constitution shall not apply to taxes imposed by the board and levied by the counties comprising the authority.

HISTORY: New 1970, p. 168, Act 73, Imd. Eff. Jul. 16.

259.812 Revenue bonds; purpose.

Sec. 12. For the purpose of acquiring, purchasing, constructing, improving, enlarging or repairing airports and airport facilities created within or hereafter acquired by the authority, the board may issue self-liquidating bonds of the authority in accordance with the provisions of Act No. 94 of the Public Acts of 1933, as amended, being sections 141.101 to 141.139 of the Compiled Laws of 1948.

HISTORY: New 1970, p. 168, Act 73, Imd. Eff. Jul. 16.

259.813 State employees; transfer provisions, rights.

Sec. 13. Employees of the airport division of the state aeronautics commission employed at the state-owned airport on the date the authority is established may transfer to the employment of the authority. The authority shall accept the transfers without a break in employment. Employees transferring shall be retained in positions at least comparable to positions held by employees on the date of transfer and without a reduction in compensation or loss in fringe benefits or accumulation thereof. The authority shall be a 3/5 vote of the board elect to come under the provisions of Act No. 135 of the Public Acts of 1945, as amended, being sections 38.601 to 38.668b of the Compiled Laws of 1948 and shall adopt the provision of Act No. 88 of the Public Acts of 1961, as amended, being sections 38.1101 to 38.1105 of the Compiled Laws of 1948. Employees of the airport division of the state aeronautics commission, who transfer to

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the employment of the authority on the effective date the authority is established pursuant to this section, and become members of the municipal employees retirement system, shall be entitled to all accrued credits and benefits provided by Act No. 88 of the Public Acts of 1961, as amended.

HISTORY: New 1970, p. 168, Act 73, Imd. Eff. Jul. 16.

259.814 Operative sections.

Sec. 14. In the event that an authority is formed as prescribed in section 1, sections 15, 16, 17, 18, 19, 20 and 22 shall become operative.

HISTORY: New 1970, p. 169, Act 73, Imd. Eff. Jul. 16.

259.815 Capital city airport; transfer.

Sec. 15. The state administrative board shall transfer to the authority subject to conditions and restrictions herein approximately 1,135 acres of land in fee simple, 238 acres in easements and land now under lease, including all options, easements, rights of way, and all improvements thereto, except as noted herein and equipment necessary to the operation of the airport as listed in the final agreement now owned by the state to the authority.

HISTORY: New 1970, p. 169, Act 73, Imd. Eff. Jul. 16.

259.816 Terminal building; transfer.

Sec. 16. The state administrative board shall, subject to restrictions of this act, transfer and convey the terminal building and all buildings and other properties and interests and liabilities of the control and management of the board of control to the authority.

HISTORY: New 1970, p. 169, Act 73, Imd. Eff. Jul. 16.

259.817 Terminal building; reservation by state.

Sec. 17. The state shall retain occupancy of approximately 10,240 square feet of space in the terminal building to be utilized by the state aeronautics commission and an additional 1,000 square feet of storage space to be used by the commission in the terminal building rent free but subject to reasonable and provable charges for power, heat, air conditioning and janitorial services. Parking for state employees of the aeronautics commission employed at the airport shall be provided for by the authority in the employees' parking lot with no charge to the state. If, at any time, any authority created under the provisions of this act, ceases to exist or ceases to use all of the property transferred and conveyed by this act to an authority for the use or benefit of an airport or as airport facilities, all conveyances so transferred shall revert to the state.

HISTORY: New 1970, p. 169, Act 73, Imd. Eff. Jul. 16.

259.818 Property reserved by state.

Sec. 18. The state shall maintain its present ownership and occupancy of the state hangar, paint shop, and 3 quonset type storage sheds consisting of a total of approximately 87,120 square feet located on the west side of the present airport, described more fully as follows:

That land in DeWitt township, Clinton county, T2N, R2W, starting at west ¼ corner of section 31; thence south along section line 387′ more or less; thence east 40′ to point of beginning; thence east 135′ more or less; thence south 180′ more or less; thence west 135′ more or less; thence north 180′ more or less, being 24,300 square feet more or less to point of beginning, and starting at west ¼ corner of section 31; thence north along section line 23′ more or less; thence east 228′ to point of beginning; thence east 250′; thence south 425′; thence west 250′; thence north 425′ to point of beginning being 106,250 square feet more or less. Exception—Gulf Oil Lease south of state hangar approximately 5,100 square feet, and all in northwest ¼ of northwest ¼ of

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southwest ¼ of section 31 being 2.9 acres more or less. Parcel description to be in accordance with survey for transfer agreement.

The state shall have the use of the fueling rights, ramps, aircraft parking and motor vehicle parking rights in the immediate area adjacent to the state hangar with perpetual rights of ingress and egress to such facilities, equipment and properties and the use of a plot of land without charge located in the southeast aviation development area consisting of approximately 7.96 acres, or 348,000 square feet to be used for the development and construction of a state hangar with assured ingress and egress to the area, described more fully as follows:

A portion of DeWitt township, Clinton county, T5N, R2W

Part I (East)

Parcel with following approximate description:

Starting at southwest corner of section 32; thence north on section line 170′ more or less to the point of beginning; thence north on section line 334′ more or less (common with Part II); thence north 46° more or less east 253′ more or less; thence south 44° more or less east 963′ more or less to south line section 32; thence west on section line 460′ more or less; thence north 66° west 430′ to point of beginning.

All in southwest ¼ of southwest ¼ of section 32, being 6.9 acres, more or less. Parcel description to be in accordance with survey for transfer agreement.

Part II (West)

Parcel with following approximate description:

Starting at southwest corner of section 32; thence north on section line 170′ more or less to the point of beginning; thence north on section line 334′ more or less (common with Part I); thence south 46° more or less west 327′ more or less; thence south 66° more or less east 258′ more or less to point of beginning.

All in southeast ¼ of southeast ¼ of southeast ¼ of section 31, being 0.9 acres more or less. Parcel description to be in accordance with survey for transfer agreement.

The state reserves for the state health department the use of all properties or a part thereof in the southwest ¼ of section 32, T5N, R2W, DeWitt township, Clinton county, Michigan, except the north 500 feet thereof, containing 130 acres more or less, and also the north 620 feet more or less of the west 3,000 feet of section 5, T4N, R2W, Lansing township, Ingham county, Michigan, lying north of the Chesapeake and Ohio railroad (formerly Pere Marquette) containing 31 acres more or less; so long as not used for airport purposes, which shall be reserved for use by the Michigan department of health for the purposes of sanitary land fill, grazing, cropping or other agricultural purposes.

HISTORY: New 1970, p. 169, Act 73, Imd. Eff. Jul. 16.

259.819 State's free use of facilities.

Sec. 19. The state shall have the free use of runways, taxiways, ramp facilities and public areas, under the jurisdiction of the authority, necessary to the operation of its aircraft. The authority is prohibited from charging the state landing fees, tie-down fees or other similar fees.

HISTORY: New 1970, p. 170, Act 73, Imd. Eff. Jul. 16.

259.820 Transfer of existing contracts and agreements.

Sec. 20. All contracts and rental agreements between the state aeronautics commission, the terminal building board of control and contracting parties relevant of space, services, facilities or business enterprises in existence at the time of the formation of

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the authority shall be transferred to the authority and all terms and conditions of the contracts and agreements shall be continued until terminated or renegotiated by the terms of the contracts and agreements.

HISTORY: New 1970, p. 170, Act 73, Imd. Eff. Jul. 16.

259.821 Act contingent as to federal funding.

Sec. 21. The provisions of this act shall be contingent upon the federal aviation agency finding that the authority created by this act is a public agency or public body corporate capable of assuming the obligations of the covenants which may have been entered into between the aeronautics commission and the federal aviation agency relative to sponsored project applications and contracts entered into between the agencies.

HISTORY: New 1970, p. 170, Act 73, Imd. Eff. Jul. 16.

259.822 Repeal.

Sec. 22. Act No. 143 of the Public Acts of 1956, being sections 259.611 to 259.617 of the Compiled Laws of 1948, is repealed.

HISTORY: New 1970, p. 171, Act 73, Imd. Eff. Jul. 16.

259.823 Referendum.

Sec. 23. Within 60 days of the effective date of this act, petitions may be filed with the secretary of state, signed by a number of registered electors from a county within the authority equal to at least 5% of the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected within the petitioning county, requesting that the county's participation in the authority be submitted for approval by a majority of the electors of the county voting at the next general election in the manner provided by law.

HISTORY: New 1970, p. 171, Act 73, Imd. Eff. Jul. 16.

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CHAPTERS 261-278B. GENERAL DRAIN LAW

General Drain Law
Act 316 of 1923
261.1-278B.33 Repealed.

261.1-278b.33 Repealed. 1949, p. 331, Act 247, Imd. Eff. Jun. 6;—1953, p. 36, Act 40, Eff. Oct. 2;—1956, p. 125, Act 40, Imd. Eff. Mar. 28.

Sections consisted of General Drain Law of 1923.

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CHAPTER 279. DRAINS, SUPPLEMENTAL CHAPTER

SEWERS CONSTRUCTED BY DRAIN COMMISSIONERS
Act 243 of 1931

279.1, 279.2 Repealed.

DEFERRED DRAIN TAXES
Act 38 of 1932 (1st Ex. Ses.)

279.11-279.17 Repealed.

Act 157 of 1953

279.31 Drain taxes; extending time of payment, maximum; drainage district bonds, payment.
279.32 Drain taxes; resolution of board of supervisors.
279.33 Drain taxes; unpaid interest and principal of outstanding drainage district bonds, payment; agreement.
279.34 Drain taxes; assessment, levy and collection, procedure; duty of drain commissioner; new assessment.
279.35 Drain taxes; money credited to general fund.
279.36 Drain taxes; lien.
279.37 Drain taxes assessed at large; defect in proceedings not legalized or waived.
279.38 Scope of act.

AGRICULTURAL LAND DRAINS
Act 158 of 1929

279.101-279.123 Repealed.

IRRIGATION DISTRICTS
Act 205 of 1967

279.201 Irrigation districts; conditions and limitations for withdrawal of waters from Great Lakes; enforcement of act.
279.202 Construction of act.
279.203 Previously organized districts; validity, rights, privileges, obligations; applicability of act.
279.204 Irrigation districts; body corporate, powers, seal, condemnation.
279.205 District contracts with federal government, state and others; approval by water resources commission; state's public trust.
279.206 Grant to United States or irrigation district of right to use rights of way in county or intercounty drainage districts; approval; rights of private persons.
279.207 Dams for irrigation; approval.
279.208 Grants of federal, state and private aid for irrigation projects.
279.209 Irrigation districts; petitions for formulation or improvement; contents, circulation, signatures.
279.210 Irrigation districts; affidavit of signers of petitions; evidence.
279.211 Irrigation districts; lands included.
279.212 Irrigation boards; creation; members; chairman, minutes, records and files; contested reports.
279.213 Commissioners of irrigation; oath of office; annual accounts to water resources commission.
279.214 Water resources commission; control over withdrawals and operations, rules, orders, expenses.
279.215 Irrigation board; meetings, notices, quorum, adjournments, majority vote; orders, signature by chairman.
279.216 Proceedings upon petition for establishment of irrigation districts; meetings; filing and examination of petition; report; expenses and compensation.
279.217 Hearing on petition; determinations by boards; naming of projects; hearings on objections; notices; establishment of district.
279.218 Plans, specifications and costs; estimates of proposed irrigation projects.
279.219 Design plans of irrigation works; commissioner's alteration or deviation; approval of water resources commission.
279.220 Acquisition of lands or rights of way.
279.221 Advertisement for bids for construction; acceptance and rejection of bids.
279.222 Costs of irrigation district; computation, approval.
279.223 Assessment roll; description of lands benefited; apportionment of costs, objections.
279.224 Hearings on objections; notice.
279.225 Hearing on objections; scope of review; equalization.
279.226 Special assessment rolls; final orders and confirmation; indorsement; memorandum of installments; conclusiveness.
279.227 Irrigation special assessments liens.
279.228 Tax assessment rolls; contents; permanent installment payments.
279.229 Spread of special assessments on local tax rolls; orders by boards of supervisors.
279.230 Spread of special assessments on local tax rolls; duties of local assessing officers.
279.231 Special assessment taxes; interest, charges, collections, disbursement; defense of collecting officer; limitation of actions; payments under protest; liens.
279.232 Additional pro rata assessments; limitations.
279.233 Invalid assessments; validation procedure; payments applied to reassessments.
279.234 Irrigation orders to pay charges and to pay easements or rights of way; installments; drawing orders on first and succeeding years' assessments; limitations; certification by treasurer.
279.235 Interest on bonds; board of supervisors resolution pledging full faith and credit of county to pay.
279.236 Irrigation boards; duties; water service charges; approval; liens; assessment for additional expenses.
279.237 Attacks on orders of determination or apportionment of benefits; review; writ; limitation of action.
279.238 Suspension of water delivery; delinquent irrigation taxes; rights of way for laterals; condemnation; payment.
279.239 Irrigation boards; powers and duties; business affairs, contracts, employees, rules and regulations.

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279.240 Right of entry upon land to survey; location of drains; acquisition of property; reservoirs for storage or transfers of Great Lakes water.
279.241 Advancement of moneys to pay costs; reimbursement; obligations; evidence of indebtedness.
279.242 District accounts; duties of county treasurer; expenditure from district funds; bond interest; funds transfer.
279.243 Irrigation district funds; deposit, interest, use.
279.244 Irrigation district funds; county treasurers as custodians, deputies; bond, orders for payment.
279.245 Revolving drain funds to pay preliminary costs; assessment of costs; notice of hearing; repayment of funds.
279.246 Borrowing money; issuing bonds; anticipating collection of special assessments, amount, interest, funds for payment; applicability of law.

279.1, 279.2 Repealed. 1956, p. 125, Act 40, Imd. Eff. Mar. 28.
Sections provided for repayment in certain cases of taxes collected for sewer construction by county drain commissioners.

279.11-279.17 Repealed. 1956, p. 125, Act 40, Imd. Eff. Mar. 28.
Sections provided for deferred drain taxes.

Act 157, 1953, p. 188; Imd. Eff. Jun. 2.

AN ACT to authorize the extension of time of payment of certain drain taxes; to provide for the assessment, levy and collection of such deferred drain taxes; to authorize the payment of drainage district bonds issued in anticipation of the collection thereof; and to provide for the disposition of such drain taxes when collected.

The People of the State of Michigan enact:

279.31 Drain taxes; extending time of payment, maximum; drainage district bonds, payment.

Sec. 1. In any county of this state in which there are situated any lands assessed since the year of 1945 for special drain taxes and/or any townships, cities and/or villages assessed at large for special drain taxes, for county drains, which taxes were assessed in only 1 installment, the board of supervisors of such county is hereby authorized to extend the time of payment of such drain taxes in not to exceed 7 yearly installments, in the manner and on the conditions hereinafter set forth, and is further authorized to assume on behalf of the county the payment of any drainage district bonds issued in anticipation of the collection thereof.

HISTORY: New 1953, p. 188, Act 157, Imd. Eff. Jun. 2.

279.32 Drain taxes; resolution of board of supervisors.

Sec. 2. The board of supervisors may, by resolution, by a 2/3 vote of the members of such board, provide for the extension of the time of payment of such drain taxes in not to exceed 7 yearly installments against the property now assessed, and against the political subdivisions assessed at large, and in the same proportion as now assessed, together with any interest on any installment until due as provided in Act No. 316 of the Public Acts of 1923, as amended, being sections 261.1 to 277.9, inclusive, of the Compiled Laws of 1948.

HISTORY: New 1953, p. 188, Act 157, Imd. Eff. Jun. 2.

279.33 Drain taxes; unpaid interest and principal of outstanding drainage district bonds, payment; agreement.

Sec. 3. Such board shall be authorized to and shall agree, in the resolution provided for in the preceding section, to assume and pay all unpaid interest and principal of all outstanding drainage districts bonds in such county issued in anticipation of the collection of such special drain taxes. Such agreement shall constitute a general obligation of

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such county. The assumption of such liability shall not exceed constitutional limitations on the total indebtedness of such county.

HISTORY: New 1953, p. 188, Act 157, Imd. Eff. Jun. 2.

279.34 Drain taxes; assessment, levy and collection, procedure; duty of drain commissioner; new assessment.

Sec. 4. The assessment, levy and collection of the drain taxes in this act provided for shall be governed by the procedure set forth in Act No. 316 of the Public Acts of 1923, as amended, being sections 261.1 to 277.9, inclusive, of the Compiled Laws of 1948, insofar as applicable, and not inconsistent with the provisions of this act. Such installments shall be levied and collected on the general tax rolls. The drain commissioner of any such county shall prepare a new and permanent drain special assessment roll, for each drain, to cover the drain assessments herein provided for and shall perform such other duties in connection with the assessment, levy and collection of such drain taxes as shall be necessary. Such new permanent drain special assessment roll shall supersede, for each drain, on and after the date of the first levy thereunder, any installment or installments to be hereafter levied against property or political subdivisions now assessed in any such county, for each drain, on the permanent drain special assessment roll prepared under the provisions of said Act No. 316 of the Public Acts of 1923, as amended.

HISTORY: New 1953, p. 188, Act 157, Imd. Eff. Jun. 2.

279.35 Drain taxes; money credited to general fund.

Sec. 5. In case the county advances money for the payment of such drainage district bonds or drainage taxes, such drain taxes when collected shall be credited to the general fund of the county.

HISTORY: New 1953, p. 189, Act 157, Imd. Eff. Jun. 2.

279.36 Drain taxes; lien.

Sec. 6. All drain taxes so extended shall be and remain a lien on the property assessed to the same extent as if no such extension had been made. Nothing in this act contained shall be construed to affect any lien or liens attaching on any land or lands under the provisions of said Act No. 316 of the Public Acts of 1923, as amended.

HISTORY: New 1953, p. 189, Act 157, Imd. Eff. Jun. 2.

279.37 Drain taxes assessed at large; defect in proceedings not legalized or waived.

Sec. 7. Nothing in this act contained shall be construed to include that portion of the drain taxes assessed at large against such county or against any state trunk line highway in such county. Nothing in this act contained, or in the proceedings taken under the provisions of this act, shall be construed to legalize or waive any defect or defects in the proceedings in the establishment of any drain project or projects in any such county.

HISTORY: New 1953, p. 189, Act 157, Imd. Eff. Jun. 2.

279.38 Scope of act.

Sec. 8. The provisions of this act shall only apply to the property owned by such persons who request the extension authorized under the provisions of this act.

HISTORY: New 1953, p. 189, Act 157, Imd. Eff. Jun. 2.

279.101-279.123 Repealed. 1956, p. 125, Act 40, Imd. Eff. Mar. 28.

Sections provided for agricultural land drains.

Act 205, 1967, p. 283; Imd. Eff. Jul. 10.

AN ACT to provide for the establishment of irrigation districts in counties of 400,000 population or less; to provide for irrigation boards; to provide for irrigation pro-

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jects in such districts; to provide for the assessment and collection of taxes of such districts; to provide for the issuance of bonds or irrigation orders by such districts and to provide for maintenance assessments in such districts; to prescribe the duties of various officials in such irrigation districts and authorize cooperation at various governmental agencies and their officers with such districts.

The People of the State of Michigan enact:

279.201 Irrigation districts; conditions and limitations for withdrawal of waters from Great Lakes; enforcement of act.

Sec. 1. This act shall be applicable in counties of 400,000 population or less to the use of water from the Great Lakes only, which for the purposes of this act shall include such portions of the lakes and streams tributary thereto where the natural water levels are controlled by and at essentially the same water level as the Great Lake involved.

Water shall not be withdrawn from the Great Lakes if it is being used within the confines of an irrigation district under the provisions of this act which cannot reasonably be expected to benefit agricultural crops or other agricultural operations for improvement of the food supply and water shall not be withdrawn from the Great Lakes under the provisions of this act at any place or at any time or in any amount or amounts for a single irrigation district or for the sum of all irrigation districts and water from the Great Lakes shall not be stored or transmitted by or for any irrigation district, herein authorized to be created, in any manner or by any means or with the aid of any dam or other device which:

(1) Will materially injure other users of the waters of the Great Lakes and connecting channels; or

(2) Will significantly affect the levels of the Great Lakes and prejudice the state in its relations with other states bordering on the Great Lakes; or

(3) Will adversely affect the state in its development and maintenance of fish and wildlife resources; or

(4) Will be detrimental to the health and welfare of the people of the state.

The water resources commission shall enforce and carry out the conditions and limitations of this section in performing all duties placed upon it by the terms of this act and for this purpose the water resources commission is authorized to call upon any officer, board, department, school, university or other state institution and the officers or employees thereof for any assistance deemed necessary to the carrying out of this act.

HISTORY: New 1967, p. 283, Act 205, Imd. Eff. Jul. 10.

279.202 Construction of act.

Sec. 2. The provisions of this act shall be liberally construed to promote the public welfare by irrigating lands, improving the existing water supply for the lands or providing new means or methods of water supply, or constructing and completing dams, reservoirs, canals, drains, structures, mechanical devices, levee, dyke, barriers and the use of any pumping equipment, pipelines or other works or a combination of any or all of the same specified in the petition to be utilized for the preservation or operation of any irrigation system constructed, or proposed to be constructed for the purpose of irrigation.

HISTORY: New 1967, p. 284, Act 205, Imd. Eff. Jul. 10.

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279.203 Previously organized districts; validity, rights, privileges, obligations; applicability of act.

Sec. 3. Nothing in this act shall be construed as to affect the validity of any district heretofore organized under the laws of this state, or its rights in or to property, or any of its rights or privileges of whatsoever kind or nature; but the districts are subject to the provisions of this act so far as practicable; nor shall it affect, impair or discharge any contract, obligations, lien, or charge for, or upon which it was or might become liable or chargeable had not this act been passed; nor shall it affect the validity of any bonds which have been issued; nor shall it affect any action which now may be pending.

HISTORY: New 1967, p. 284, Act 205, Imd. Eff. Jul. 10.

279.204 Irrigation districts; body corporate, powers, seal, condemnation.

Sec. 4. Any irrigation district heretofore or hereafter established is a body corporate with power to contract, to sue and to be sued, and to hold, manage and dispose of real and personal property, in addition to any other powers conferred upon it by law, and shall continue in existence until such time as the same shall be dissolved by operation of law. In addition each established irrigation district may adopt and use a corporate seal, acquire the right to use of water for irrigation purposes, under plans approved by the water resources commission, acquire sites for reservoirs, and rights of way for drains, canals and laterals, exercise the right of condemnation pursuant to the provisions of Act No. 149 of the Public Acts of 1911, as amended, being sections 213.21 to 213.41 of the Compiled Laws of 1948, or under the applicable provisions of sections 75 to 84 of Act No. 40 of the Public Acts of 1956, as amended, being sections 280.75 to 280.84 of the Compiled Laws of 1948, and shall be deemed to be a "state agency" as the term is used in said act.

HISTORY: New 1967, p. 284, Act 205, Imd. Eff. Jul. 10.

279.205 District contracts with federal government, state and others; approval by water resources commission; state's public trust.

Sec. 5. The irrigation district may contract with the federal government, which term as used in this section shall mean the United States and shall include any and all agencies of the United States, whereby the federal government will pay the whole or part of the cost of the project or will perform the whole or any part of the work connected therewith, which contract may include any specific terms required by act of congress or federal regulation as a condition for such participation on the part of the federal government. The irrigation district may also contract with the state or any agency thereof or with any person, private corporation or with any public corporation in respect to any matter connected with the construction, operation or maintenance of any irrigation works or for the improvement or providing new means of water supply or the improvement of the existing water supply for the lands within the irrigation district. All contracts and agreements executed under the provisions of this section shall be subject to the approval of the water resources commission. No such contracts or agreements or anything in consequence thereof shall in any manner infringe upon or invade the state's public trust in its waters.

HISTORY: New 1967, p. 284, Act 205, Imd. Eff. Jul. 10.

279.206 Grant to United States or irrigation district of right to use rights of way in county or intercounty drainage districts; approval; rights of private persons.

Sec. 6. Subject to the written assignment, consent and approval of the drain commissioner administering a county drainage district or the written assignment, consent and approval of the drainage board of an intercounty drainage district, the county drain commissioner and the drainage board of intercounty drainage districts may grant

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unto the United States or to any irrigation district the right to use all the easements and rights of way conveyed to their respective drainage district or to any county lying wholly or in part in such districts for the construction, use and maintenance of any county or intercounty drain by the United States or any irrigation district in connection with any irrigation project undertaken by the irrigation district, solely or in cooperation with the United States or any other federal department or agency. Private rights of persons acquired by reason of the establishment and construction of the drain or part thereof shall not be interfered with or in any way impaired by the use of the drain for irrigation purposes within the scope of this act.

HISTORY: New 1967, p. 285, Act 205, Imd. Eff. Jul. 10.

279.207 Dams for irrigation; approval.

Sec. 7. No dams for irrigation purposes shall be constructed unless the same shall have been approved in a manner provided by law.

HISTORY: New 1967, p. 285, Act 205, Imd. Eff. Jul. 10.

279.208 Grants of federal, state and private aid for irrigation projects.

Sec. 8. Any irrigation district may apply for and accept grants or any aid which the United States government or any agency thereof or the state or any of its political subdivisions or any private person, corporation or trust may authorize to be made or given in aid of any irrigation project.

HISTORY: New 1967, p. 285, Act 205, Imd. Eff. Jul. 10.

279.209 Irrigation districts; petitions for formulation or improvement; contents, circulation, signatures.

Sec. 9. (1) Whenever a majority of freeholders owning lands in any proposed irrigation district who represent 1/3 or more of the area of lands within the district or whenever freeholders owning lands who represent more than 1/2 the area of lands within the district desire to provide for the irrigation of the same, or to improve the existing water supply for the lands or provide a new water supply system for said lands; or to purchase, extend, operate, or maintain constructed irrigation works; or to cooperate with the United States for the assumption as principal or guarantor of indebtedness to the United States on account of district lands, they may file in the office of the county drain commissioner of the county which embraces the largest acreage of the district a petition hereinafter referred to as the "petition" which shall include:

(a) The name of the proposed irrigation district.

(b) The necessity of the proposed work describing the necessity.

(c) The object and purpose of the system proposed to be constructed, together with a general description thereof.

(d) A general description of the lands proposed to be included in the district, accompanying the petition shall be a preliminary engineering report on the feasibility of the project, including a report on the sufficiency of its water supply; the approximate area of irrigable land within the district, including an estimate of the cost of construction.

(e) The names of all freeholders owning lands in said proposed district when known.

(f) Whether or not the petitioners desire and propose to cooperate with the United States.

(g) A general plea for the organization of the district.

(2) The petitions for the organization of the same district may be circulated, and may be filed in more than one counterpart, and when filed, shall together be regarded as a single petition having as many signers as there are separate signers on the several petitions filed. All petitions for the organization of the district filed prior to the hearing on the petition shall be considered by the irrigation board, the same as if filed with

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the first petition placed on file, and the signatures thereon contained shall be counted in determining whether sufficient persons have signed the petition.

HISTORY: New 1967, p. 285, Act 205, Imd. Eff. Jul. 10.

279.210 Irrigation districts; affidavit of signers of petitions; evidence.

Sec. 10. The affidavit of 1 or more of the signers of the petition stating that they have examined it and are acquainted with the locality of the district and that the petition is signed by a sufficient number of persons or corporations owning lands in the district may be taken by the irrigation board as sufficient evidence of the facts therein stated.

HISTORY: New 1967, p. 286, Act 205, Imd. Eff. Jul. 10.

279.211 Irrigation districts; lands included.

Sec. 11. The lands proposed to be included in any irrigation district need not be contiguous if the benefit of the proposed work in each part will exceed the costs of the proposed work in each part; and lands within any city, village or township may be included within the limits of any irrigation district if the creation of the irrigation district will benefit the lands within the city, village or township in any amount equal to or in excess of the amount of assessment for construction against the lands therein.

HISTORY: New 1967, p. 286, Act 205, Imd. Eff. Jul. 10.

279.212 Irrigation boards; creation; members; chairman, minutes, records and files; contested reports.

Sec. 12. There is created for each irrigation district petitioned for under the provision of this act an irrigation board to consist of the drain commissioner of each county involved in the project in which the lands of the proposed irrigation district are located, the director of the department of agriculture and the chairman of directors of each soil conservation district involved in the project, in which the lands of the proposed irrigation district are located. The director of the department of agriculture is authorized to designate a representative from his department and the chairman of directors of each soil conservation district is authorized to designate a representative from the directors of said soil conservation district to serve in their stead as members of the irrigation board. The county drain commissioner of the county in which are contained the largest amount of irrigation district lands shall serve as chairman of the irrigation board. He shall keep minutes of the proceedings of the irrigation board and all records and files of the board shall be kept in his office. All members of the irrigation board shall be known as commissioners of irrigation. Commissioners of irrigation districts are public officers. The presumption shall be in favor of the regularity and validity of all their official acts. Whenever any report of the commissioners of any irrigation district or any part or action is contested the burden of proof shall rest upon the contestant.

HISTORY: New 1967, p. 286, Act 205, Imd. Eff. Jul. 10.

279.213 Commissioners of irrigation; oath of office; annual accounts to water resources commission.

Sec. 13. Before entering upon their duties, commissioners shall take and subscribe the constitutional oath of office. The commissioners shall make a true account of their activities to the water resources commission at least once annually.

HISTORY: New 1967, p. 286, Act 205, Imd. Eff. Jul. 10.

279.214 Water resources commission; control over withdrawals and operations, rules, orders, expenses.

Sec. 14. The water resources commission shall maintain superintending control over withdrawals and operations of each irrigation district formed under the provisions of this act and is authorized to promulgate rules and regulations to carry out this author-

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ity in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

The commission is further authorized to enforce the limitations and conditions of section 1 by order prohibiting the further withdrawal of water or by taking such other action as is authorized by this or any other act or law. Each irrigation district shall reimburse the water resources commission for any reasonable and necessary expense incurred by the commission in maintaining superintending control over that district.

HISTORY: New 1967, p. 287, Act 205, Imd. Eff. Jul. 10.

279.215 Irrigation board; meetings, notices, quorum, adjournments, majority vote; orders, signature by chairman.

Sec. 15. Meetings of the irrigation board may be called by the chairman or any 2 members thereof, upon notice sent by certified mail to each member, setting forth the time and place thereof, which notice shall be mailed not less than 5 days previous to the time of the meeting. The affidavit of the chairman as to such mailing shall be conclusive proof thereof. No notice of any meeting shall be required if all members are present. Any member of the board may waive notice of any meeting, either before or after such meeting. A majority of the members of the board shall constitute a quorum for the transaction of business, but a lesser number may adjourn from time to time. Any meeting may be adjourned from time to time. Unless otherwise provided herein, no action shall be taken by the board except by a majority vote of its members. In the event of the adjournment of any hearing, it shall not be necessary to advertise the adjournment of the hearing. All orders issued by the irrigation board shall be signed by the chairman.

HISTORY. New 1967, p. 287, Act 205, Imd. Eff. Jul. 10.

279.216 Proceedings upon petition for establishment of irrigation districts; meetings; filing and examination of petition; report; expenses and compensation.

Sec. 16. (1) Upon receipt of a petition for the establishment of an irrigation district, the county drain commissioner shall call the first meeting of the irrigation board. A copy of such petition and duplicates of all maps and other papers filed with the same shall be filed in the office of the water resources commission at least 4 weeks before the date set for the public hearing on the petition. The water resources commission shall examine the petition, maps and other papers and, if it deems it necessary, examine the proposed district, the irrigation works proposed to be constructed or the location of the irrigation works to be constructed, and prepare a report covering those features of the proposed irrigation project as relate to the provisions of section 1 and such other matters as the water resources commission deems advisable and shall submit the same to the irrigation board at the meeting set for the hearing of the petition. All reasonable and necessary expenses incurred by the water resources commission in making the report shall be paid for by the persons signing the petition.

(2) Any additional compensation for services rendered on behalf of an irrigation district by members of the irrigation board in addition to official duties of the members shall be provided by the respective governmental agencies from whom the original compensation for other various duties and services rendered are received.

HISTORY: New 1967, p. 287, Act 205, Imd. Eff. Jul. 10.

279.217 Hearing on petition; determinations by boards; naming of projects; hearings on objections; notices; establishment of district.

Sec. 17. The irrigation board at its first meeting shall consider the petition for the project and make a tentative determination as to the sufficiency thereof and the prac-

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ticability of the proposed irrigation project, and shall also make a tentative determination of the area to be assessed. The irrigation board shall give a name to the project and to the irrigation district. After the irrigation board has made the determination specified in the first sentence of this section, it shall fix a time and place when and where it will meet to hear any objections to the proposed irrigation project and the petition therefor, and to the matter of assessing the cost of such irrigation project in the affected lands. Notice of the hearing shall be published twice in the county by inserting the same in at least 1 newspaper published therein, designated by the irrigation board, with the first publication to be not less than 20 days prior to the time of hearing. Notice of the hearing shall be given to all property owners in the assessment district pursuant to Act No. 162 of the Public Acts of 1962, being sections 211.741 to 211.745 of the Compiled Laws of 1948. The irrigation board may provide a form to be substantially followed in the giving of the notice. At the hearing, the water resources commission shall submit its report on the petition and any taxpayer in the irrigation district shall be entitled to be heard. After the hearing, the irrigation board shall make a determination as to the sufficiency of the petition, the practicability of the irrigation project, whether the irrigation project should be constructed, and if so, it shall issue its order accordingly, which order shall be known as the "final order of determination". No final order of determination establishing an irrigation district shall be issued by the irrigation board until the board has been served with an order by the water resources commission that in its opinion the proposed irrigation by the proposed irrigation district, as set forth in the petition, supporting papers and examinations specified in section 16, is feasible and within the purpose of the act and can be constructed and operated in such a manner as should not, in its opinion, violate the conditions and limitations of section 1. If the water resources commission by its order determines that the proposed irrigation district cannot be established without violating one or more of the conditions and limitations of section 1 of this act, its order shall be final and no further action for the formation of the proposed irrigation district shall be taken by the irrigation board. No lands in the irrigation district may be eliminated from, or added to, those tentatively determined to be assessed without a rehearing after notice, as above provided. The irrigation district shall be deemed to be legally established after entry of the final order of determination.

HISTORY: New 1967, p. 287, Act 205, Imd. Eff. Jul. 10.

279.218 Plans, specifications and costs; estimates of proposed irrigation projects.

Sec. 18. The irrigation board shall proceed to secure from a competent engineer, plans and specifications and an estimate of cost of the proposed irrigation project which, when adopted by the board, shall be filed with the chairman.

HISTORY: New 1967, p. 288, Act 205, Imd. Eff. Jul. 10.

279.219 Design plans of irrigation works; commissioner's alteration or deviation; approval of water resources commission.

Sec. 19. The commissioners shall not be confined to the points of location, commencement, routes or termini of the drains, reservoirs, dams, canals, ditches, pump, or other work, or the number, extent or size of the same, as proposed by the petitioners, but shall locate, design, lay out and plan the same in such manner as to them shall seem best to promote the public welfare and to benefit the lands of the parties interested with the least damage and greatest benefit to all lands affected thereby. All alterations or deviations in the design plans of the irrigation works shall have the final approval of the water resources commission.

HISTORY: New 1967, p. 288, Act 205, Imd. Eff. Jul. 10.

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279.220 Acquisition of lands or rights of way.

Sec. 20. The irrigation board shall proceed to secure the necessary lands or rights of way necessary for the irrigation project. If the same cannot be secured by negotiation then the irrigation board may proceed under the provision of section 4.

HISTORY: New 1967, p. 288, Act 205, Imd. Eff. Jul. 10.

279.221 Advertisement for bids for construction; acceptance and rejection of bids.

Sec. 21. The irrigation board shall advertise for bids for construction of the improvements requested in the petition. The contract shall be let to the lowest bidder in accordance with the statutory provisions applicable to award of public contracts and the irrigation board shall have the right to reject any and all bids and readvertise the same.

HISTORY: New 1967, p. 288, Act 205, Imd. Eff. Jul. 10.

279.222 Costs of irrigation district; computation, approval.

Sec. 22. Within 10 days after the letting of contracts, or in case of an appeal, then forthwith after the appeal has been decided the chairman of the irrigation board shall make a computation of cost of a project under this act, which shall include all preliminary costs, the cost of construction of the improvement, establishment of the special assessment district, the preparation of the tax roll, notices, advertising, printing, financing, legal, professional, engineering, inspection, condemnation expenses, interest on the bonds for the first year if bonds are to be issued and an amount not to exceed 10% of the gross sum to cover contingent expenses, and all other administrative costs incidental to making of the improvement or establishment of the irrigation special assessment district. The chairman shall submit the computation of costs to the irrigation board for its approval and when approved by the board or amended and approved by the board, it shall become the final computation of cost for the irrigation district.

HISTORY: New 1967, p. 289, Act 205, Imd. Eff. Jul. 10.

279.223 Assessment roll; description of lands benefited; apportionment of costs, objections.

Sec. 23. The chairman of the irrigation board, under the direction of the board, shall make out an assessment roll, entering and describing therein all the lots, premises and parcels of land to be assessed, including therein all lands benefited by the construction of the irrigation improvement. The assessments shall be based upon benefits to be derived from the proposed irrigation improvement. The irrigation board shall tentatively establish the percentage of the cost of the irrigation improvement which is to be borne by each of the parcels of land assessed on the special assessment roll. After the tentative apportionments and assessment roll is made the irrigation board shall set a time and place when and where they will meet and hear any objections to the roll.

HISTORY: New 1967, p. 289, Act 205, Imd. Eff. Jul. 10.

279.224 Hearings on objections; notice.

Sec. 24. Notice of hearing shall be given pursuant to Act No. 162 of the Public Acts of 1962 and also by publication for at least 2 insertions in some newspaper published and of general circulation in the county, the first publication to be at least 20 days prior to the time of the hearing. The irrigation board shall provide a form to be substantially followed in giving of the notice.

HISTORY: New 1967, p. 289, Act 205, Imd. Eff. Jul. 10.

279.225 Hearing on objections; scope of review; equalization.

Sec. 25. At the hearing the irrigation board shall hear the proofs and allegations of all parties interested, and shall carefully reconsider and review the description of land comprised within the irrigation improvement special assessment district, the several

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descriptions and apportionment of benefits, and define and equalize the same as may seem just and equitable.

HISTORY: New 1967, p. 289, Act 205, Imd. Eff. Jul. 10.

279.226 Special assessment rolls; final orders and confirmation; indorsement; memorandum of installments; conclusiveness.

Sec. 26. After the hearing the irrigation board shall enter its final order of apportionment and order of confirmation of the roll and shall make an indorsement upon the roll showing the date of confirmation and when the amount to be raised is to be payable. If the amount is to be payable in more than 1 installment, they shall enter thereon a memorandum of the installments thereof and of the years when the installments shall be spread and shall add a certificate in writing of the determination whether the taxes assessed for benefits shall be paid in 1 or more years. The special assessment rolls shall be dated and signed by the irrigation board and filed on or before the last Wednesday in September in each year in the office of the county clerk of the counties involved. When any improvement special assessment roll is confirmed by the irrigation board it shall be final and conclusive.

HISTORY: New 1967, p. 289, Act 205, Imd. Eff. Jul. 10.

279.227 Irrigation special assessments liens.

Sec. 27. From the date of confirmation of the special assessment roll thereof, all irrigation special assessments shall constitute a lien upon the respective lots or parcels assessed, and when assessed, shall be charged against the person to whom assessed until paid.

HISTORY: New 1967, p. 290, Act 205, Imd. Eff. Jul. 10.

279.228 Tax assessment rolls; contents; permanent installment payments.

Sec. 28. The chairman of the irrigation board at the direction of the irrigation board shall prepare a tax assessment roll in each year for the collection of taxes for the current year and shall certify it to the county clerk on or before the first day of the annual meeting of the board of supervisors. In each roll he shall add, to the amount to be collected, interest on all unpaid installments to the date of tax collection. To the roll for the last year he shall add such further amount, if any, as may be necessary together with outstanding uncollected taxes, to pay all outstanding bonds and interest thereon to maturity. If the roll is made payable in more than 1 installment, a permanent assessment roll may be maintained in the office of the county treasurer, subject to the direction of the board of county auditors, in counties having such a board, and of the board of supervisors in other counties, showing the total cost, the number of installments and the amount of each annual assessment, together with interest charges thereon, which shall be carried in a separate column. If the roll is made payable in more than 1 installment, and the total amount of any assessment is $10.00 or less, exclusive of interest, then the assessment shall be payable in 1 installment; but if the assessment exceeds $10.00 and is made payable in more than 1 installment, then no installment, exclusive of interest, shall be less than $10.00, excepting the final installment, which shall be payable in the amount of the actual balance.

HISTORY New 1967, p. 290, Act 205, Imd. Eff. Jul. 10.

279.229 Spread of special assessments on local tax rolls; orders by boards of supervisors.

Sec. 29. The board of supervisors of the counties involved shall order the spread of all irrigation special assessments on the local tax rolls by the local tax assessing officials pursuant to sections 36 to 38 of Act No. 206 of the Public Acts of 1893, as amended, being sections 211.36 to 211.38 of the Compiled Laws of 1948.

HISTORY: New 1967, p. 290, Act 205, Imd. Eff. Jul. 10.

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279.230 Spread of special assessments on local tax rolls; duties of local assessing officers.

Sec. 30. The supervisor, village or city assessor shall spread on his roll the total amount of all irrigation special assessment taxes determined upon by the irrigation board and approved by the board of supervisors to be assessed upon the county, township, city or village tax roll for the year in which the same was assessed and extending the tax in the same column with the general county, township, city or village tax. In villages or cities where the municipal taxes therefor are assessed and collected prior to the October meeting of the board of supervisors, all taxes ordered to be spread against such municipalities shall be spread during the calendar year following the action by the board of supervisors. The supervisor, assessor, or tax levying official shall spread upon the roll, separately, and immediately following the other descriptions, all tracts or parcels of land specified by the irrigation board to be assessed for benefits, and shall place opposite each description, in a column marked "(giving the name or number) ..... irrigation special assessment taxes", the amount of taxes apportioned thereon, as certified to him by the county clerk.

HISTORY: New 1967, p. 290, Act 205, Imd. Eff. Jul. 10.

279.231 Special assessment taxes; interest, charges, collections, disbursement; defense of collecting officer; limitation of actions; payments under protest; liens.

Sec. 31. All irrigation special assessment taxes assessed under the provisions of this act shall be subject to the same interest and charges, and shall be collected in the same manner as state and other general taxes are collected, and collecting officers are vested with the same power and authority in the collection of such taxes as are or may be conferred by law for collecting general taxes. Irrigation special assessment taxes when collected, shall be returned to the county treasurer to be disbursed by him. Where suit is brought against the collector arising out of the collection of any irrigation special assessment tax, the county shall defend the officer in the same manner that he has now the right to be defended in the collection of general taxes. No suit shall be instituted to recover any special assessment tax or money paid or property sold therefor, or for damages on account thereof, unless brought within 30 days from the time of payment of such money to, or sale of such property by, the collecting officer; and if the tax is paid under protest the reasons therefor shall be specified, and the same procedure observed as is required by the general tax law. All taxes levied under the provisions of this act, with all lawful costs, interest and charges, shall be and remain a perpetual lien upon the lands upon which they are assessed, and a personal claim against the owner of the lands until they are paid. If the taxes levied by the special assessment irrigation district are not collected by the treasurer of a participating municipality, they shall be returned by him, together with the lands upon which they were levied, to the county treasurer in the same return, at the same time, and in the same manner, in every respect, naming in each case the particular irrigation district, as lands are returned for state, county and township taxes, and the taxes shall follow the lands, the same as all other taxes, and all the general provisions of law for enforcing the payment of township, county and state taxes, shall apply to irrigation special assessment taxes, and to the lands returned delinquent therefor, in the same manner and with like effect.

HISTORY: New 1967, p. 290, Act 205, Imd. Eff. Jul. 10.

279.232 Additional pro rata assessments; limitations.

Sec. 32. If the assessments in any special assessment roll prove insufficient for any reason, including the noncollection thereof, to pay for the improvement for which they were made or to pay the principal and interest on the bonds issued in anticipation

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of the collection thereof, then the irrigation board shall make additional pro rata assessments to supply the deficiency but the total amount assessed against any parcel of land shall not exceed the value of the benefits received from the improvement.

HISTORY: New 1967, p. 291, Act 205, Imd. Eff. Jul. 10.

279.233 Invalid assessments; validation procedure; payments applied to reassessments.

Sec. 33. Whenever, in the opinion of the irrigation board, any special assessment is invalid by reason of irregularities or informalities in the proceedings, or if any court of competent jurisdiction adjudges an assessment illegal, the irrigation board, whether the improvement has been made or not, whether any part of the assessment has been paid or not, may proceed from the last step at which the proceedings were legal and cause a new assessment to be made for the same purpose for which the former assessment was made. All proceedings on such reassessment and for the collection thereof shall be conducted in the same manner as provided for the original assessment. Whenever an assessment or any part thereof levied upon any premises has been so set aside, if the same has been paid and not refunded, the payment so made shall be applied upon the reassessment.

HISTORY: New 1967, p. 291, Act 205, Imd. Eff. Jul. 10.

279.234 Irrigation orders to pay charges and to pay easements or rights of way; installments; drawing orders on first and succeeding years' assessments; limitations; certification by treasurer.

Sec. 34. The irrigation board of each special assessment district may issue irrigation orders for the payment of all charges reflected by the computation of costs upon the irrigation fund of each particular district. In no case shall irrigation taxes be assessed for benefits received which are to be paid by irrigation orders in excess of 10 annual installments. All irrigation orders for the payment for easements or rights of way shall be paid out of the first year's taxes and the balance of such first year's taxes shall be applied toward payment of the irrigation construction contracts. For the balance due upon such contracts the irrigation board shall draw irrigation orders payable out of each succeeding year's assessment. No irrigation board shall draw orders payable in any one year for a larger amount than 90% of that year's assessment. Irrigation orders shall be ordered to be paid by the irrigation board only after a certification by the treasurer of the irrigation district that there are sufficient funds in the irrigation district fund to pay the order. The county treasurer of the counties involved in irrigation districts shall keep a record of all receipts and disbursements of all irrigation districts in their respective counties.

HISTORY: New 1967, p. 291, Act 205, Imd. Eff. Jul. 10.

279.235 Interest on bonds; board of supervisors resolution pledging full faith and credit of county to pay.

Sec. 35. The board of supervisors of the county involved by a resolution adopted by 2/3 vote of its members elect may pledge the full faith and credit of the county for the prompt payment of the interest on the bonds or evidences of indebtedness issued by the respective irrigation districts pursuant to the provisions of this act.

HISTORY: New 1967, p. 292, Act 205, Imd. Eff. Jul. 10.

279.236 Irrigation boards; duties; water service charges; approval; liens; assessment for additional expenses.

Sec. 36. (1) The irrigation board shall be responsible for the operation and maintenance of the properties of the irrigation district.

(2) The irrigation board may fix and collect water charges to cover the cost of the operation and maintenance of any physical structures and any administrative expenses of the district in connection with the transportation impoundment and utilization of

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water for irrigation purposes. Such charges shall be approved by the majority vote of the irrigation board. The charges shall be made to each user of water.

Charges for water services furnished to any user or to any landowner shall be a lien on the affected lands from the date such charges are due and any charges delinquent for 6 months or more shall be certified annually to the proper tax assessing officer or agency who shall enter the same upon the next tax roll against the premises to which such services shall have been rendered and the charges shall be collected and the lien shall be enforced in the same manner as provided for the collection of taxes assessed upon such roll and the enforcement of the lien therefor. The time and manner of certification and the other details in respect to the collection of such charges and the enforcement of such lien shall be prescribed by the irrigation board in cooperation with the governing bodies of the public corporations in which the lands are located. In lieu of or in addition to levying water charges for the operation and maintenance of the properties of the irrigation district, the irrigation board, under the same conditions and for the same purpose, may exact connection, readiness to serve, availability or service charges to be paid by the users, or owners of land utilizing irrigation water for irrigation purposes.

(3) Any future necessary expenses incurred in administration and operation of the district and its properties may be assessed at least once every 3 years on the basis of benefits derived after notice of the hearing on such maintenance assessment roll shall be given in accordance with Act No. 162 of the Public Acts of 1962.

HISTORY: New 1967, p. 292, Act 205, Imd. Eff. Jul. 10.

279.237 Attacks on orders of determination or apportionment of benefits; review; writ; limitation of action.

Sec. 37. Neither the final order of determination nor the order of apportionment of benefits or order confirming the special assessment roll shall be subject to attack in any court except by proceedings by writ of superintending control brought within 20 days after the filing of the order in the office of the chairman of the irrigation board issuing it. If no proceeding is brought within the time prescribed, the irrigation special assessment district and project shall be deemed to have been legally established and the legality of the irrigation special assessment district and project and the assessments therefor shall not thereafter be questioned in any suit at law or in equity.

HISTORY: New 1967, p. 292, Act 205, Imd. Eff. Jul. 10.

279.238 Suspension of water delivery; delinquent irrigation taxes; rights of way for laterals; condemnation; payment.

Sec. 38. The irrigation board may by the adoption of an appropriate order provide for the suspension of water delivery to any land in the district upon which the irrigation taxes levied and assessed thereon shall remain due and unpaid for 2 years. The irrigation board shall make all arrangements for right of way for laterals from the main drain or canal to each tract of land subject to assessment, and when necessary the board shall condemn to procure right of way for laterals and make such rules in regard to the payment for the right of way as it may deem just and equitable.

HISTORY: New 1967, p. 292, Act 205, Imd. Eff. Jul. 10.

279.239 Irrigation boards; powers and duties; business affairs, contracts, employees, rules and regulations.

Sec. 39. The irrigation board shall manage and conduct the business affairs of the district, make and execute all necessary contracts, employ such agents, officers and employees as may be required and prescribe their duties, establish equitable orders, rules and regulations for the distribution and use of water among owners of such lands, and generally to perform all such acts as shall be necessary to fully carry out the purposes of this act. The orders, rules and regulations with respect to the irrigation dis-

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trict shall be printed in convenient form for distribution to the freeholders in the irrigation district.

HISTORY: New 1967, p. 293, Act 205, Imd. Eff. Jul. 10.

279.240 Right of entry upon land to survey; location of drains; acquisition of property; reservoirs for storage or transfers of Great Lakes water.

Sec. 40. The irrigation board, its agents and employees shall have the right to enter upon any land within the district to make surveys, and may locate the line of any drain or canal and the necessary branches of such location. The irrigation board may acquire, either by purchase or condemnation, all lands and other property necessary for the construction, use, maintenance, repair and improvement of any canal, drain or drains, and lands for reservoirs or dams, for the storage of water and all necessary appurtenances thereto. The board may acquire by purchase or condemnation any irrigation works, dams, drains, canals, pumping equipment, pump or reservoirs for the use of the district. The irrigation board may construct the necessary dams, reservoirs and works for the storage or transfer of Great Lakes water for the district, and do any lawful act necessary to be done that water may be furnished each landowner in the district for irrigation purposes.

HISTORY: New 1967, p. 293, Act 205, Imd. Eff. Jul. 10.

279.241 Advancement of moneys to pay costs; reimbursement; obligations; evidence of indebtedness.

Sec. 41. Any public or private corporation, firm or individual may advance moneys for the payment of any part of the cost of a project and shall be reimbursed by the irrigation special assessment district, with or without interest as may be agreed, when funds are available therefor. The obligation of the irrigation special assessment district to make the reimbursement may be evidenced by a contract or note, which contract or note may pledge the full faith and credit of the irrigation special assessment district and may be made payable out of the assessments made against properties in the irrigation special assessment district or out of the proceeds of bonds issued by the irrigation special assessment district pursuant to this act or out of any other available funds, but the contract or note shall be deemed to be an obligation within the meaning of the provisions of Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2 of the Compiled Laws of 1948.

HISTORY: New 1967, p. 293, Act 205, Imd. Eff. Jul. 10.

279.242 District accounts; duties of county treasurer; expenditure from district funds; bond interest; funds transfer.

Sec. 42. The county treasurers of the counties in which the irrigation district is located shall carry all accounts and items pertaining thereto as a separate account upon the books of their office. A record shall be kept of the amount of money paid from the irrigation district funds for the use and benefit of any irrigation district and upon payment to the county treasurer of taxes assessed by the irrigation district, the county treasurer shall pay for the outstanding interest on bonds issued out of the taxes received or shall transfer the excess of funds to the irrigation district fund for the use and benefit of the irrigation district.

HISTORY: New 1967, p. 293, Act 205, Imd. Eff. Jul. 10.

279.243 Irrigation district funds; deposit, interest, use.

Sec. 43. The irrigation district funds shall be deposited by the county treasurer in a bank of the county in accordance with the general laws of this state and interest so re-

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ceived shall belong to the irrigation district fund. Money collected or appropriated for an individual irrigation special assessment district fund shall be used solely for the use and benefit of the irrigation district for which it was raised or received.

HISTORY: New 1967, p. 294, Act 205, Imd. Eff. Jul. 10.

279.244 Irrigation district funds; county treasurers as custodians, deputies; bond, orders for payment.

Sec. 44. The county treasurer shall be the custodian of the funds of the irrigation district. He may designate 1 or more of his deputies who may act for him in the performance of any of his duties under this section. The irrigation board may require the county treasurer and any deputy county treasurer, so designated, to furnish a bond payable to the irrigation district, in addition to any bond payable to the county, conditioned upon the faithful discharge of his duties in respect to moneys belonging to the irrigation district, the premium thereon to be paid by the irrigation district. Moneys held by the treasurer shall be paid out only upon order of the irrigation board, except that no such order shall be required for the payment of principal and interest on bonds.

HISTORY: New 1967, p. 294, Act 205, Imd. Eff. Jul. 10.

279.245 Revolving drain funds to pay preliminary costs; assessment of costs; notice of hearing; repayment of funds.

Sec. 45. The county board of supervisors in which any irrigation district is proposed to be formed may provide for an appropriation to create a revolving fund to pay for the preliminary costs of irrigation improvement projects within the county. The preliminary costs shall be assessed to the property owners in the assessment district by the irrigation board after notice of the hearing is given pursuant to Act No. 162 of the Public Acts of 1962, and shall be repaid to the fund where the project is not finally constructed. It shall be repaid to the fund when a project is constructed out of the first bond proceeds, taxes or assessments received.

HISTORY: New 1967, p. 294, Act 205, Imd. Eff. Jul. 10.

279.246 Borrowing money; issuing bonds; anticipating collection of special assessments, amount, interest, funds for payment; applicability of law.

Sec. 46. The irrigation board may borrow money and issue the bonds of the special assessment district therefor in anticipation of the collection of special assessments to defray the cost of any improvement made under this act after the special assessment roll has been confirmed. The bonds shall not exceed the amount of the special assessments in anticipation of the collection of which they are issued and shall bear interest at a rate not exceeding 6% per annum. Collections on special assessments to the extent pledged for the payment of bonds shall be set aside in a special fund for the payment of the bonds. The issuance of special assessment bonds shall be governed by the provisions of the general laws of the state applicable thereto and in accordance with Act No. 202 of the Public Acts of 1943, as amended. Bonds may be issued in anticipation of the collection of special assessments levied in respect to 2 or more public improvements but no special assessment district shall be compelled to pay the obligation of any other special assessment district.

HISTORY: New 1967, p. 294, Act 205, Imd. Eff. Jul. 10.

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CHAPTER 280. DRAIN CODE OF 1956

Act 40 of 1956

CHAPTER 1

DRAINS

280.1 Drain code of 1956; short title.
280.2 Drains; location, establishment, alteration.
280.3 Drain; definition.
280.4 Commissioner; definition.
280.5 Drainage district; body corporate.
280.6 Drains; public easements and rights of way; use; release, notice, protest.
280.10 Drains; location.
Meetings, adjournment by public announcement.
Drains entirely within municipality; jurisdiction of commissioner, consent.
Same; payment of bonds, drain orders, deficiency.
280.11 Easement; right of way; release of damages; recording.
280.12 Specified times; construction.

CHAPTER 2

COUNTY DRAIN COMMISSIONER

280.21 Drain commissioner; election, term, oath, bond; abolition of office.
280.22 Drain commissioner; establishment of office.
280.23 Drain commissioner; jurisdiction; drains in more than one county; outlet only in another county.
280.24 Deputy drain commissioners; appointment, revocation, assignment of duties; death of drain commissioner.
280.25 Deputy drain commissioner; liability of commissioner and bondsmen; liability of drainage district.
Public liability or other insurance.
280.26 Deputy drain commissioner; salary, expenses, reports to drain commissioner.
280.27 Supplies; blank applications, office, location, hours.
280.28 Drain commissioner; salary, expenses, payment.
280.29 Surveys; use of books, equipment, field notes, profiles, blueprints, specifications, estimates, engineers.
280.30 Drainage district; financial statement, records, prerequisites to tax spread.
280.31 Annual report; financial statement to supervisors; reports to director of agriculture; liability on bond.
280.32 Drain commissioner; social security; agreement for coverage; appropriation.

CHAPTER 3

COUNTY DRAINAGE DISTRICTS

280.51 County drainage districts; application, signers, eligibility, sufficiency; deposit for costs.
280.52 County drainage districts; practicability of drainage; survey, determination; tax delinquency.
280.53 County drains; surveyor, duties; route.
280.54 Order designating county drainage district; contents, notice of filing, publication.
Same; amendment of name or number of drain, procedure.

CHAPTER 4

COUNTY DRAINS

280.71 Petitions to establish drainage districts; filing, signers, certificate of county treasurer; municipality-signed petition.
280.72 County drain; board of determination; appointment; meeting, successors, compensation, notice to legislators.
Meeting; notice, mailing, affidavit; expense.
Determination of necessity; costs; appeals; first order.
280.72a Judicial determination of necessity; filing of action.
280.73 Proposed drain; plans, specifications and cost estimates; route, approval; easements on rights of way.
280.74 Release of right of way; acknowledgments, oaths, form, area, signature of wife, resolution covering street or public place; open drain.
280.75 Condemnation proceedings; special commissioners, application for appointment, contents.
280.76 Condemnation proceedings; hearing, waiver of errors, lands of minors and incompetent persons.
280.77 Condemnation proceedings; citation, contents, addressed to owners.
280.78 Condemnation citations; notices and orders; methods of service.
280.79 Condemnation proceedings; hearing of objections; special commissioners, determination of necessity and damages; meeting; amendment of application.
280.80 Special commissioners; notice of appointment; meeting, adjournment, substitutes; oath; record; view of premises.
280.81 Default of interested parties for nonappearance; compensation after determination of necessity.
Meetings of court commissioners; adjournments, witnesses.
Appraisal of damages.
Property descriptions.
Setting aside the report; amendments; filling vacancy; setting aside defective proceedings; adjournments.
280.82 Condemnation proceedings; drains, special commissioners; return, examination, correction, filing, conveyance of easements, vesting of fee, damages.
280.83 Release of right of way and damages; proceedings discontinued.
280.84 Setting off damages and benefits; drain order for excess, holding by county clerk.
280.85 Owner's use of land of right of way.
280.86 Special commissioners; compensation.

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280.87 Certificates, reports and determinations as prima facie evidence.
280.88 Review upon superintending control; procedure.

CHAPTER 5

INTERCOUNTY DRAINAGE DISTRICTS

280.101 Intercounty drainage districts; application; signers, eligibility.
280.102 Intercounty drainage districts; copies; joint drainage board, meeting, time, location, notice.
280.103 Chairman of board; determination of practicability; survey.
280.104 Surveyor; duties as to intercounty drain, delivery of papers to board; route.
280.105 Order designating intercounty drainage district; contents, notice of filing, copies furnished commissioners.
Same; amendment of name or number of drain, procedure; apportionment of costs.
280.106 Review of apportionment; arbitration board, members, claim for review, filing, copies, meeting of board, notice, review.

CHAPTER 6

INTERCOUNTY DRAINS

280.121 Intercounty drains; petition to establish; filing, signers; certificate of county treasurer.
280.122 Drainage board; notice of meeting; first order of determination; apportionment of costs; arbitration.
280.122a Judicial determination of drain necessity; filing of action.
280.123 Apportionment of benefits; assessment, correction, appeal.
280.124 Meetings of drainage board to receive bids and review apportionment of benefits; notice.
280.125 Meetings of drainage board; review, appeal, computation of costs.
280.126 Receipt of bids and letting of contracts; abandonment of petition.
280.127 Releases of right of way and damages.
280.128 Condemnation proceedings; appointment of special commissioners, qualifications.
280.129 Special commissioners; meeting, view of line of drain.
280.130 Computation of construction cost; certification of special assessment rolls, filing; levy and collection of taxes.
280.131 Drain record; certified copies furnished other commissioners, filing.
280.132 Drainage bonds; issuance, terms; moneys, disposition.
280.133 Interstate drain; application and petition, drainage district, proceedings; release of right of way, obstruction agreement.
280.134 Intercounty drain; venue of actions; appointment of outside circuit judge.
280.135 Intercounty drain; extension into county not in original district; procedure, apportionment of cost; addition of lands by expanded board.

CHAPTER 7

APPORTIONMENT AND REVIEW

280.151 Final order of determination; filing; contracts for sections or whole; apportionment of costs, benefits; review, appeal.
280.152 Apportionment of benefits; description of lands.
280.153 Order to contain description of special assessment district; designation.
280.154 Intercounty drain; bids; apportionment of benefits; review, notices, contents, first class mail, exception.
Notices, contents; minutes of survey, table of cuttings, filing, inspection.
Review of apportionment; computation of cost; adjournment; appearances, equalization of apportionment.
Apportionment of benefits; state trunk line highways, review.
280.155 Bids; appeal; application for board of review, bond.
280.156 Bids; board of review, appointment, meeting, time, notice, duties.
280.157 Bids; board of review, powers, added lands, procedure; decision in writing final, delivery to commissioner.
280.158 Appeal cost and expenses; liability on bond.
280.159 Board of review; vacancies, adjournment.
280.160 Liability for costs; only one board of review, adjournment.
280.161 Certiorari to review drain proceedings and taxes; issues of fact, costs, postponement of proceedings.
280.162 Village or city; incorporation or annexation; reapportionment of cost of drain.

CHAPTER 8

CLEANING, WIDENING, DEEPENING, STRAIGHTENING AND EXTENDING DRAINS

280.191 County drain; maintenance and improvements; petition; determination of necessity; apportionment of costs; review.
280.192 Intercounty drain; cleaning out, petition; drainage board; survey; procedure.
280.193 Drains; apportionment for cleaning, widening, deepening, straightening, and extending; review; notice; consolidated districts.
280.194 Petitions and proceedings; description of drain, relief drains.
280.195 Further right of way; damages.
280.196 Inspections; maintenance and repair, expense, reassessment; emergency.
Reassessment; notice; emergency.
Excess expenditures upon request.
State and federal funds.
280.197 Survey of drain or district; filing of data, addition to district; notice, publication, first class mail, affidavit of mailing, service, expense.

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Hearing by reconvened board of determination; determination; construction.
280.198 Drain taxes; subsequent assessment.
280.199 Cleaning out drain; apportionment of cost; use of surplus in drain fund.
280.200 Cleaning out drain; cost of maintenance and repair; public contracts.

CHAPTER 9

LETTING OF CONTRACTS

280.221 Construction of drain; bids; contracts; readvertisement; installment bonds.
Abandonment of petition; litigation.
Road commissioners, bid.
280.222 Letting contracts; rejection of bids; adjournment.
280.223 Deposit with bid; execution of contracts; forfeited deposits; performance bond; indemnity bond.

CHAPTER 10

INSPECTION AND APPROVAL OF CONSTRUCTION AND PAYMENT FOR THE DRAIN

280.241 Inspection of drain; order of approval, payments on contract.
280.242 Extension of time on contract; forfeiture; reletting unfinished portion; recovery of excess cost.
280.243 Deficiency; assessment, collection, review, appeal; embezzlement; payment from county general fund, conditions.
280.244 Drain orders; drawing and payment, restrictions; payment from county general fund, reimbursement.
280.245 Drain orders; contents, recording; payment; insufficient funds, interest; drain order redemption fund; payment of drainage taxes; reports to commissioner by county treasurer.
280.246 Advertising rates; fees of judge of probate and other officers.
280.247 Attorney; employment; legal expenses, payment; prosecuting attorney.
280.248 Expenses of state director of agriculture or deputy; payment.

CHAPTER 11

LEVY AND COLLECTION OF DRAIN TAXES

280.261 Computation of cost; items included; contingent expenses.
280.262 Special assessment rolls; filing.
Current assessment roll; permanent assessment roll.
Installment payments.
280.263 Spread of drain taxes on rolls; time.
280.264 Statement of assessments upon township at large furnished township treasurer.
280.265 Drain taxes; general tax law applicable, payment under protest, action, lien, personal claim.
280.266 Return of delinquent drain taxes; general tax law applicable.
280.267 Injunction after assessment.
280.268 Perpetual injunction not allowed for informalities; plaintiff may show injury.
280.269 Invalidation proceedings; proofs, correction of damages or assessment, order, costs.
280.270 Tax lien; proceeding to compel spread of tax; established drains.
280.271 Tax collection suits; tax reassessment.
280.272 Tax collection suits; assumpsit; prima facie evidence, judgment based on benefits; authority to sue.
280.273 New proceedings when tax set aside; report of defects to supervisors, reassessment.
280.274 Invalidation proceedings; commissioner as party.
280.275 Drainage district bonds; issuance, terms, sale, premium; application of act; limitation on payment from county general fund.
280.276 County drainage district bonds or notes; intracounty drains; faith and credit; advancement by county, reassessment.
280.277 Drainage district bonds; delinquent assessments, advancements by municipalities, reimbursement, reassessment, validation of drain orders or bonds.
280.278 Drainage district bonds; interest on taxes; moneys, disposition; bank deposits.
280.279 Special assessments; payment in full; notice to commissioner; deficiency assessment.
280.280 Drainage district bonds; deficiency assessment, surplus.
Lands exempted from deficiency assessments; invalid bonds or obligations.
280.281 Special drain assessment; definition of municipal corporation.
280.282 Drainage district fund; investment of surplus, interest.
280.283 Surplus construction funds; contract provisions; disposition; use.

CHAPTER 12

REVOLVING FUNDS FOR DRAINS

280.301 Revolving drain fund; creation, use.
280.302 Revolving drain fund; use; intercounty drains; expenses after date of letting drain contracts.
280.303 Revolving drain fund; accounting records; reimbursement.
280.304 Revolving drain fund; deposit in bank; interest.
280.305 Revolving drain fund; transfer to particular drain fund of moneys under former law, use.
280.306 Revolving drain fund; expenditures or obligation before completion of improvement; apportionment.
280.307 Revolving drain fund; intercounty drain, apportionment, recovery of moneys.

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CHAPTER 13
HIGHWAYS

280.321 Drains in public highways; permit; release of right of way.
280.322 Drains in public highways; cost of construction; contract; maintenance, bridges or culverts to farms.
280.322b Drains; highways, crossing; expenses.
280.323 Drains in public highways; open, consent, restrictions, assessments for state trunk line highways.
Drains constructed prior to 1923.
280.324 Drainage across lands adjacent to highways; right of way.
Approval of purchase of right of way by township board.
280.325 Cost to township for highway drainage; report by county road commission, drain fund.
280.326 Construction report; restriction on county road commission.
280.327 Highway drain; petition, procedure, jurisdiction of commissioner.

CHAPTER 14

RAILROADS

280.341 Drains along railroad; release of right of way; consent.
280.342 Drains across public utility right of way; mandamus to compel opening; costs.
280.343 Violation of act; penalty.

CHAPTER 15

DAMS IN DRAINS

280.351 Dams in drains to control flow, water levels and seepage; removal of drainage by pumps.
280.352 Dams in drains; petition, signers, contents, examination, finding.
280.353 Dams in drains; first order of determination, contents.
280.354 Dams in drains; construction contract with owners of lands benefited; default, contract for completion, costs and expenses.
280.355 Dams in drains; supervision of work; governing provisions.
280.356 Dams in drains; intercounty drains; governing provisions.

CHAPTER 16

SPECIAL COUNTY COMMISSIONER

280.381 Disqualification of commissioner; petition filed with probate judge.
280.382 Disqualification of commissioner; appointment of disinterested commissioner; duties as to county drain.
280.383 Disqualification of commissioner; appointment in case of intercounty drain.
280.384 Disinterested commissioner; salary and expenses, assessment.

CHAPTER 17

ABANDONED AND VACATED DRAINS—DISPOSAL OF FUNDS

280.391 Abandoned and vacated drains; procedure; private rights; new drain.
280.392 Abandoned and vacated drains; notices; disposal of money in drain funds.
280.393 Abandoned and vacated drains; duties of township treasurer in distribution of funds.
280.394 Abandoned and vacated drains; disposal of funds, payments by township treasurer.
280.395 County drainage district wholly within township, city or village; transfer of jurisdiction, approval.
Distribution of drain fund.
280.396 Transfer of drain project to county department of public works.

CHAPTER 18

OBSTRUCTIONS IN DRAINS; SEWAGE; MISCELLANEOUS PROVISIONS

280.421 Obstructions; removal; expenses, notice; livestock; criminal complaint.
280.422 Obstructions; public utility companies; removal, mandamus.
280.423 Use of drain for sewage disposal; construction to purify flow; apportionment of costs; acquisition of land; unlawful use; service fee.
Penalty.
280.424 Inadequate disposal or filtration plant; abatement of nuisance; estimate of annual cost, appeal, notice, posting.
Review of apportionment; notice of appeal, board of review, appointment, meeting.
Same; notice of meeting, service, return.
Same; certiorari; roll of apportionments; payment by municipalities.
Same; payment for services; costs; annual assessments; reapportionment.
Municipal assessments added to water rates.
280.425 Additional drains at expense of petitioner; construction, consent, supervision; open drain, tiling.
280.426 Drain orders received for drain taxes.
280.427 Corporation or land contract vendee as freeholder; corporate agent or officer as signer of petition.
280.428 Drainage district including state lands; assessment, payment.
280.429 Flood control projects; easements to United States; approval.
280.430 Sanitary sewage; contracts for use of drains, charges.
Lien for charges, collection, discontinuance of service.
Costs includable in charges.
280.431 Contracts for drain projects; federal government; public corporations; relief from assessments.

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Flood control projects; conservation and utilization of soil and water.
Public corporation; definition.
280.432 Obstruction of drain commissioner; drainage board or agents; misdemeanor.
280.433 Agreements to enlarge drainage; procedure; special assessments; dedication of lands, easements; approval by public corporations or municipalities.
280.434 Drain project cost; advances by corporation or individual, evidence, payment.

CHAPTER 19

CONSOLIDATED DISTRICTS

280.441 County drainage districts; consolidation; petition, proceedings, signers; board of determination, residence, meeting, compensation.
Meeting; notice, service, first class mail, affidavit of mailing, expense.
Determination as to conduciveness to public health, convenience or welfare, filing of funds.
280.441a Intercounty drainage districts; consolidation; petition; drainage board.
Meeting, notice, first class mail, affidavit of mailing, expense.
Determination as to conduciveness to public health, convenience or welfare; filing of order.
280.442 Drainage districts; consolidation; surveys.
280.443 Drainage districts; consolidation; existing drain, recognition and credit, exemption from special assessment.
280.444 Drainage districts; consolidation; indebtedness, retirement; special assessment.
280.445 Drainage districts; consolidation; bonds and contracts, assumption by consolidated district.
280.446 Drainage districts; consolidation; abandonment or vacation of included drain; proration of moneys.
280.447 Drainage districts; consolidation; rights and powers, validation of bonds.
280.448 Drainage districts; consolidation; consent of county auditors or comptroller.

CHAPTER 20

INTRACOUNTY DRAINS; PUBLIC CORPORATIONS

280.461 Intracounty drains; definitions.
280.462 County drains; public health, assessment against public corporations.
280.463 County drains; public health; petition; contents; notice.
280.464 Drainage board; members; compensation; records.
280.465 Drainage board; meetings, notice, waiver, quorum, adjournment; orders.
280.466 Drainage board; first meeting, notice.
280.467 Drainage board; tentative determination; name; district assessed; hearing of objections, notice, form; final order of determination.
280.468 Drainage board; plans, specifications, estimates, approval of route, designation of area served; apportionment.
280.469 Drainage board; hearing of objections, notice, contents; confirmation or readjustment of apportionments; final order of apportionment.
280.470 Drainage board; lands and rights of way, condemnation; procedure, federal government participation; costs.
280.471 Drainage board; contracts with federal government or corporations; bids.
280.472 Funds; county treasurer, deputies; bonds; expenditures.
280.473 Special assessment roll; installments, payment, interest.
280.474 Special assessment roll; contents, approval; certification to public corporation assessed; annual notice; advancements.
Deductions for advancements; assessments against state; spread of tax; corrections.
280.475 Assessments and taxes not subject to statutory or charter debt and tax limitations.
280.476 Bonds; issuance, maturity, signatures; collection of assessments.
280.477 Additional assessment; apportionment.
280.478 Drainage board; continuation; responsibility; expenses; relinquishment; moneys, disposition, consent.
280.479 Advancements by corporations; reimbursement.
280.480 Costs; items.
280.481 Assessments against townships and villages.
280.482 Cleaning out and other improvements for public health; procedure; backfilling.
280.483 Certiorari; time; legal establishment of drain.
280.484 Procedures; incorporation of other chapters in drainage board orders.
280.485 Relief drains.
280.486 Drain located entirely within or serving one municipality.
280.487 Drainage board; absence of members, deputies, vice-chairman.
280.488 Additional grant of power; prior projects.
280.489 New cities; service of notice on township clerks or de facto city officer.
280.490 Special assessment proceedings; initiating resolution, assessment roll, installments, hearing, objections; connection charges.
280.491 River, creek or watercourse; petition for inclusion within jurisdiction.
280.492 Petition; content, deposit to pay cost; drainage board hearing and notice.
280.493 Final order of determination; contents, recording, effect.
280.494 Final order of determination; recording effect on private rights.
280.495 Assessment of cost; hearing; powers.
280.496 Drainage board funds; investment of surplus, interest.
280.497 Surplus construction funds; contract provisions; dispositions; use.

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CHAPTER 21

INTERCOUNTY DRAINS; PUBLIC CORPORATIONS

280.511 Intercounty drains; definitions.
280.512 Public health; assessment against public corporations.
280.513 Public health; petition; filing; contents; certified copy of resolution.
280.514 Drainage board; members, chairman.
280.515 Augmented drainage board; members, compensation; expenses.
280.516 Minutes of meetings; secretary's duties, records, filing.
280.517 Preliminary finding; first meeting of boards, time and place, notice, selection of secretary.
280.518 Meetings of boards; notice, quorum, orders, signatures.
280.519 Augmented board; tentative determination; name of drain and district; hearing; notice, publication; final order of determination; corrections.
280.520 Drainage board; plans, specifications, estimates, approval of route, designation of area served; apportionments.
280.521 Hearing of objections; notice, contents; confirmation or readjustment of apportionments; final order of apportionment.
280.522 Lands and rights of way; condemnation; procedure, federal government participation; prior agreement as to highways; costs.
280.523 Contracts with federal government or corporations; bids.
280.524 Designation of a county treasurer; deputies, bonds; expenditures.
280.525 Special assessment roll; installments, payment, interest, city tax levy.
280.526 Special assessment roll; contents, approval; certification to public corporation assessed; annual notice; advancements.
Deductions for advancements; assessments against state; spread of tax; corrections.
280.527 Intercounty drain assessments and taxes; not subject to statutory or charter debt and tax limitations.
280.528 Bonds; issuance, maturity, signatures; collection of assessments.
280.529 Additional assessment; apportionment.
280.530 Drainage board; continuation; responsibility; expenses; relinquishment; moneys, disposition; consent.
280.531 Advancements by corporations; reimbursement.
280.532 Venue of actions; appointment of circuit judge.
280.533 Costs; items.
280.534 Deputy for director of agriculture; powers.
280.535 Cleaning out and other improvements for public health; procedure, back filling.
280.536 Certiorari; time; legal establishment of drain.
280.537 Procedures; incorporation of other chapters in drainage board orders.
280.538 New cities; service of notice on township clerk or de facto city officer.
280.539 Special assessment proceedings; initiating resolution, assessment roll, installments, hearing, objections; connection charges.
280.540 Relief drains.
280.541 River, creek, or watercourse; petition to inclusion in jurisdiction.
280.542 River, creek, or watercourse; petition; content, deposit to pay costs, filing; drainage board, hearing and notice.
280.543 River, creek, or watercourse; board determination, final order, contents, recording, effect.
280.544 River, creek, or watercourse; final order of determination; recording effect on private rights.
280.545 River, creek, or watercourse; assessment of costs, hearing; powers.
280.546 Drainage board funds; investment of surplus, interest.
280.547 Surplus construction funds; contract provisions; disposition; ; use.

CHAPTER 22

WATER MANAGEMENT

DISTRICTS AND SUBDISTRICTS

280.551 Water management; definitions.
280.552 Water management; petition for flood control or drainage project, filing, signatures, contents, map.
280.553 Water management commission; members, appointment, compensation, expenses, approval of plans, orders and assessments.
280.554 Water management board; members, term, vacancy, qualification, chairman, procedure.
Employees; treasurer, bond; secretary; annual audit.
280.555 Water management board or commission; meetings, notice, quorum, adjournment; orders, signatures; minutes, filing, certified copies, meetings open to public; records, inspection.
280.556 Water management commission; petitions, review; notice of first meeting.
280.557 Water management commission; temporary secretary, by-laws, tentative determination, amendment of petition, notice of adjourned meeting; dismissal of petition; name of district; board; tentative determination; preliminary plans.
280.558 Water management board; hearing on objections to project, notice, publication, form; preliminary order of determination.
280.559 Assessment; basis.
280.560 Preliminary plans; approval; detailed plans, contents, approval; official plans, filing.
280.561 Tentative percentage of cost for assessment; apportionment.

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280.562 Tentative percentage of cost for assessment; apportionment; hearing on objections to apportionment, notice, publication; report of findings.
280.563 Water management commission; review of board's apportionment; final order of apportionment; annual meeting; work plan, advisory committees.
280.564 Lands and rights of way; condemnation, procedure, federal governmental participation; costs.
280.565 Contracts with federal government or corporations; bids.
280.566 Special assessment roll; installments, payment, interest.
280.567 Special assessment roll; contents, approval; certification to corporation assessed; annual notice of installment and interest; advancement by county; assessment against state; correction of assessment.
280.568 Assessments and taxes not subject to statutory or charter debt or tax limitations.
280.569 Bonds; issuance, maturity, signatures; collection of assessments.
280.570 Additional assessment; apportionment.
280.571 Water management board; continuation, responsibility; budget, hearing, adoption.
280.572 Advancements by corporations; reimbursement.
280.573 Costs; items, contingent expenses.
280.574 Water management commission; powers.
280.575 Subdistrict; petition; official plan, final order of apportionment of cost; assessment.
280.576 Water management district in interstate river basin; powers of commission.
280.577 Venue of actions; appointment of circuit judge.
280.578 Deputy for director of agriculture; powers.
280.579 Intercounty drain; construction or improvement for flood control project.
280.580 Public and private construction in works owned by water management district; plans, approval.
280.581 Certiorari; time; legal establishment of project.
280.582 Provisions applicable.
280.583 Validation of prior bonds.

CHAPTER 23

PENALTIES

280.601 Drain commissioner; interest in contract prohibited; penalty.
280.602 Removal of stakes; injury to drain; penalty.

CHAPTER 24

REPEALS AND SAVING CLAUSES

280.621 Repeal.
280.622 Amendment of act during progress of drain proceedings; applicable law.
280.623 Saving clause.

Act 40, 1956, p. 48; Imd. Eff. Mar. 28.

AN ACT to codify the laws relating to the laying out of drainage districts, the consolidation of drainage districts, the construction and maintenance of drains, sewers, pumping equipment, bridges, culverts, fords and such structures and mechanical devices as will properly purify the flow of such drains; to provide for flood control projects; to provide for water management, water management districts and subdistricts, and for flood control and drainage projects within such districts; to provide for the assessment and collection of taxes; to provide for the investment of funds; and to prescribe penalties for violations of the provisions of this act. Am. 1970, p. 144, Act 144, Imd. Eff. Aug. 1.

The People of the State of Michigan enact:

CHAPTER 1.

DRAINS.

280.1 Drain code of 1956; short title.

Sec. 1. This act shall be known and may be cited as "the drain code of 1956".

HISTORY: New 1956, p. 48, Act 40, Imd. Eff. Mar. 28.

CITED IN OTHER SECTIONS: Sections 280.1 to 280.623 are cited in §§ 135.8, 281.66, 281.748, and 560.192.

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280.2 Drains; location, establishment, alteration.

Sec. 2. Drains including branches may be located, established, constructed and maintained, and drains, creeks, rivers and watercourses including branches or tributaries may be cleaned out, straightened, widened, deepened, extended, consolidated, relocated, tiled and relocated along a highway, or there may be provided for the same structures or mechanical devices that will properly purify or improve the flow of the drain or pumping equipment necessary to assist or relieve the flow of the drain, or 1 or more branches may be added thereto, whenever the same shall be conducive to the public health, convenience and welfare.

HISTORY: New 1956, p. 48, Act 40, Imd. Eff. Mar. 28;—Am. 1956, Ex. Ses., p. 9, Act 5, Imd. Eff. Jun. 23;—Am. 1965, p. 309, Act 154, Imd. Eff. Jul. 15;—Am. 1969, p. 176, Act 90, Imd. Eff. Jul. 24.

280.3 Drain; definition.

Sec. 3. The word "drain", whenever used in this act, shall include the main stream or trunk and all tributaries or branches of any creek or river, any watercourse or ditch, either open or closed, any covered drain, any sanitary or any combined sanitary and storm sewer or storm sewer or conduit composed of tile, brick, concrete, or other material, any structures or mechanical devices, that will properly purify the flow of such drains, any pumping equipment necessary to assist or relieve the flow of such drains and any levee, dike, barrier, or a combination of any or all of same constructed, or proposed to be constructed, for the purpose of drainage or for the purification of the flow of such drains, but shall not include any dam and flowage rights used in connection therewith which is used for the generation of power by a public utility subject to regulation by the public service commission.

HISTORY: New 1956, p. 48, Act 40, Imd. Eff. Mar. 28;—Am. 1958, p. 95, Act 87, Imd. Eff. Apr. 11;—Am. 1969, p. 176, Act 90, Imd. Eff. Jul. 24.

280.4 Commissioner; definition.

Sec. 4. Whenever the word "commissioner" is used in this act it is intended and shall refer to the county drain commissioner.

HISTORY: New 1956, P. 49, Act 40, Imd. Eff. Mar. 28.

280.5 Drainage district; body corporate.

Sec. 5. Any drainage district heretofore or hereafter established shall be a body corporate with power to contract, to sue and to be sued, and to hold, manage and dispose of real and personal property, in addition to any other powers conferred upon it by law. The foregoing provision shall apply to all drainage districts including those established under chapters 20 and 21 of this act or under chapters 18 and 18a of Act No. 316 of the Public Acts of 1923, as amended.

HISTORY: Add. 1960, p. 96, Act 96, Imd. Eff. Apr. 26.

280.6 Drains; public easements and rights of way; use; release, notice, protest.

Sec. 6. All established drains regularly located and established in pursuance of law existing at the time of location and establishment and visibly in existence, which were established as drains, and all drains visibly in existence in written drain easements or rights of way on file in the office of the commissioner, shall be deemed public drains located in public easements or rights of way which are valid and binding against any owners of any property interest who became or hereafter become such owners after the location and establishment of the drain or the existence of the drain became visible or the written drain easement or right of way was executed, and the commissioner or drainage board may use, enter upon and preserve such easement or right of way for maintenance of the visible drain and any other lawful activity with respect to the same not requiring a larger or different easement or right of way and may exercise any rights granted in the written easement or right of way on file in the office of the com-

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missioner. Easements or rights of way, or portions of easements or rights of way, no longer necessary for drainage purposes may be conveyed or released to the fee owners by the commissioner or drainage board on behalf of the drainage district. The drain commissioner or drainage board shall give at least 30 days' notice of the intention to release the excess easements by publishing a notice in a newspaper of general circulation in the county or a newspaper of general circulation where the drainage district boundaries are located. This notice shall give a general description of the excess easements to be released and the date any taxpayers may appear to protest said release. After said date if no protests are received, the drain commissioner or drainage board may release said excess easements or portions thereof not necessary for drainage purposes.

HISTORY: Add. 1968, P. 305, Act 208, Imd. Eff. Jun. 24.

280.10 Drains; location.

Sec. 10. Drains may be laid or extended into or along or from any lake or other body of water surrounded wholly or in part by a swamp, marsh or other low lands for the general purpose of drainage contemplated by this act, but not so as to impair the navigation of any navigable river.

Meetings, adjournment by public announcement.

Any meeting called pursuant to the provisions of this act, unless otherwise provided, may be adjourned from time to time by public announcement thereof and no advertisement of the time of said adjournment shall be required.

Drains entirely within municipality; jurisdiction of commissioner, consent.

The commissioner shall have jurisdiction over all established county drains within his county, heretofore established and now in the process of being established except that in the case of a drain located or to be located entirely within a single city or village, such jurisdiction shall be consented to by resolution of the governing body of such city or village.

Same; payment of bonds, drain orders, deficiency.

If any drainage project lies entirely within the limits of a municipality less than a county, such municipality, by its governing body, shall have the power to pledge the full faith and credit of the municipality for the payment of bonds or drain orders issued in connection with such project, and if a deficiency exists in the drain fund or sinking fund for said drain 1 year after the last installment of the deficiency assessment provided for in section 280 of this act, shall have become delinquent, such municipality shall forthwith advance to the county drain fund the amount of such deficiency and thereafter all receipts of such drain fund from the sale of delinquent tax lands, which had been assessed for said drain, shall be paid to the municipality within 90 days after receipt by the county treasurer.

HISTORY: New 1956, p. 49, Act 40, Imd. Eff. Mar. 28;—Am. 1963, p. 368, Act 228, Eff. Sep. 6.

280.11 Easement; right of way; release of damages; recording.

Sec. 11. Any easement, right of way or release of damages obtained in connection with any proposed drain or drains shall, following the expiration of 30 days after the day of review, be recorded in the office of the register of deeds: Provided, That in any drain proceeding in which an injunction or a writ of certiorari has been issued but not determined within 30 days after the day of review, the recording shall be within 30 days after a determination sustaining the drain.

All easements, rights of way or releases of damages hereafter obtained in connection with any existing drain shall be recorded in the office of the register of deeds when said drain is being cleaned, relocated, deepened, widened, straightened, extended, tiled or consolidated pursuant to law.

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The recording required by this section shall be made by the drain commissioner or the drainage board, as the case may be, and the cost of such recording paid by the drainage district.

HISTORY: New 1956, p. 49, Act 40, Imd. Eff. Mar. 28.

280.12 Specified times; construction.

Sec. 12. Whenever a time is specified in this act in which the drain commissioner or a drainage board shall take a specified administrative action or take a procedural step, such specification of time shall be deemed directory and not mandatory and failure to take such action or step within the time specified shall not affect the legality and validity of any drain proceedings. Where the specification of time relates to the giving of notice, the filing of objections, the taking of an appeal, the commencement of actions in any court, the taking of actions or steps in the assessment, levy or collection of drain assessments, taxes or other charges, or to any requirement of due process, such specification of time shall be deemed mandatory if so provided in this act.

HISTORY: Add. 1969, p. 176, Act 90, Imd. Eff. Jul. 24.

CHAPTER 2.

COUNTY DRAIN COMMISSIONER.

280.21 Drain commissioner; election, term, oath, bond; abolition of office.

Sec. 21. (1) At the general election to be held in November, 1968, and every fourth year thereafter, a county drain commissioner shall be elected in every county having a drain commissioner by the qualified electors thereof. The term of office of the commissioner shall begin on January 1 next following his election and continue for a period of 4 years thereafter and until his successor is elected and qualified.

(2) The county drain commissioner before entering upon the duties of his office shall execute and file with the county clerk a bond to the people of the state in the penal sum of $5,000.00, issued by a surety company licensed to do business in this state, conditioned upon the faithful discharge of the duties of his office. The board of supervisors of any county may fix the bond to be required of the commissioner at a different amount when, in its judgment, the same may be desirable. The board of supervisors of any county now or hereafter having a population of less than 12,000, by resolution of a majority of the members elect, may abolish the office of county drain commissioner and transfer the powers and duties of such office to the board of county road commissioners.

HISTORY: New 1956, p. 50, Act 40, Imd. Eff. Mar. 28;—Am. 1963, 2nd Ex. Sess., p. 23, Act 13, Imd. Eff. Dec. 27;—Am. 1965, p. 11, Act 9, Eff. Mar. 31, 1966;—Am. 1968, p. 436, Act 252, Eff. Nov. 15.

280.22 Drain commissioner; establishment of office.

Sec. 22. All commissioners holding such office when this act takes effect shall continue to be such commissioners until their respective successors are elected and qualified in accordance with the provisions of the foregoing section. The majority of the board of county commissioners may establish or reestablish the office of county drain commissioner in counties not having a county drain commissioner by resolution of a majority of members elect.

HISTORY: New 1956, p. 50, Act 40, Imd. Eff. Mar. 28;—Am. 1970, p. 363, Act 111, Eff. Apr. 1, 1971.

280.23 Drain commissioner; jurisdiction; drains in more than one county; outlet only in another county.

Sec. 23. The commissioner shall have jurisdiction over all drains within his county, including those heretofore established and now in process of construction. Drains extending into more than 1 county, or affecting lands in more than 1 county, shall be established and constructed in accordance with the provisions of this act regulating the establishment and construction of drains traversing more than 1 county or affecting

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lands in more than 1 county. Nothing in this act shall be construed as depriving a drain commissioner of jurisdiction or as making any drain an intercounty drain, merely because a drain extends into another county for the purpose of securing a proper outlet and not for the purpose of draining any lands in the other county: Provided, such extension is approved by the drain commissioners and the board of supervisors of each affected county. The portion of any such drain extending into another county shall not be considered in determining the number of signers required to a petition to locate, establish and construct.

HISTORY: New 1956, p. 50, Act 40, Imd. Eff. Mar. 28;—Am. 1958, p. 70, Act 64, Imd Eff. Apr. 11.

280.24 Deputy drain commissioners; appointment, revocation, assignment of duties; death of drain commissioner.

Sec. 24. Any commissioner may appoint a deputy or deputies, as the board of supervisors may approve, and revoke such appointment at pleasure, such appointment to be made in writing and filed with the clerk of the county; and whenever the commissioner shall be unable to execute the duties of his office, the deputy or deputies shall execute or assist in the execution of the duties of the county drain commissioner assigned to him by the county drain commissioner. The deputy or deputies, when so appointed, shall file a bond with and to be approved by the commissioner in a sum not to exceed $5,000.00, conditioned upon the faithful discharge of his duties. In the event of the death of the commissioner during his term, the deputy commissioner shall be vested with all of the powers and charged with all of the duties of a commissioner until one is duly appointed or elected.

HISTORY: New 1956, p. 50, Act 40, Imd. Eff. Mar. 28;—Am. 1963, p. 296, Act 209, Eff. Sep. 6.

280.25 Deputy drain commissioner; liability of commissioner and bondsmen; liability of drainage district.

Sec. 25. The commissioner and his bondsmen shall be liable for all the acts and defaults of the deputy or deputies when appointed as herein provided. After entry of the order designating drainage districts as provided in section 54 and section 105 of this act, the drainage district as designated shall be responsible for and liable for all acts and defaults of such commissioner and his deputy or deputies, except for acts of malfeasance or misfeasance.

Public liability or other insurance.

The board of supervisors may adopt resolutions providing that public liability or other insurance may be purchased at the expense of the county to cover such potential liabilities of the various drainage districts under the supervision of the county drain commissioner.

HISTORY: New 1956, p. 50, Act 40, Imd. Eff. Mar. 28;—Am. 1962, p. 151, Act 152, Imd. Eff. May 9.

280.26 Deputy drain commissioner; salary, expenses, reports to drain commissioner.

Sec. 26. Each deputy commissioner shall receive such salary or compensation as the board of supervisors shall allow and all traveling expenses actually and necessarily spent by him in the discharge of his duties as prescribed in this act; he shall make a report to the commissioner of all work performed by him on or before the first Saturday of each month and an annual report on or before the second Wednesday in September of each year.

HISTORY: New 1956, p. 51, Act 40, Imd. Eff. Mar. 28.

280.27 Supplies; blank applications, office, location, hours.

Sec. 27. County clerks, or the board of auditors in counties having such boards, shall be authorized, and it shall be their duty to procure, at the expense of their respective counties, the necessary books, blanks and stationery for the use of said commissioners;

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and each commissioner shall furnish upon request blank applications or petitions to any person who may desire to file the same under this act. The office of the commissioner shall be furnished at the expense of the county by the board of supervisors, or by the board of auditors in counties having such boards, and shall be maintained at the county seat, in which said office said commissioner shall be and remain at least 1 day per week, such day to be painted on the door of the commissioner's office and printed or stamped on his stationery.

HISTORY: New 1956, p. 51, Act 40, Imd. Eff. Mar. 28.

280.28 Drain commissioner; salary, expenses, payment.

Sec. 28. Each commissioner shall receive an annual salary to be paid as other county officers are paid, the amount thereof to be fixed by the board of supervisors on or before October 31 of each year in the same manner as the salaries of other county officers are fixed and may be increased but shall not be decreased during his term of office, and in addition thereto shall be allowed his actual necessary expenses, including traveling expenses incurred in the discharge of the duties of his office, and also including all actual and necessary expense for clerk hire and recording by the board of supervisors or board of county auditors to be paid by the county. Such expense account shall be an itemized account and verified by his oath taken before a proper officer. The amounts paid to the commissioner for his salary and expenses shall be in full for all services rendered by him and all expenses incurred in the performance of the duties of his office.

HISTORY: New 1956, p. 51, Act 40, Imd. Eff. Mar. 28;—Am. 1965, p. 11, Act 9, Eff. Mar. 31, 1966;—Am. 1968, p. 129, Act 78, Imd. Eff. Nov. 15.

280.29 Surveys; use of books, equipment, field notes, profiles, blueprints, specifications, estimates, engineers.

Sec. 29. The county shall furnish the commissioner with all necessary books and papers for use in the survey, and such office equipment as shall be necessary in making profiles, blueprints and specifications in any drainage district. The surveyor or engineer shall file with the commissioner all field notes, blueprints, profiles, estimates and all other papers in his possession relating to said drain. The board of supervisors of any county may employ an engineer who shall perform under this act the services required to be performed by an engineer or surveyor.

HISTORY: New 1956, p. 51, Act 40, Imd. Eff. Mar. 28.

280.30 Drainage district; financial statement, records, prerequisites to tax spread.

Sec. 30. It shall be the duty of each commissioner to make and keep a full financial statement of each drainage district. The commissioner shall also make and keep in his office in a book to be provided for that purpose a complete record of each drainage district, which record shall include a copy of the application for laying out and designating such district, of the petition for the drain, of the minutes of the survey, of the releases of the right of way where the same have been released, of the orders of determination of the necessity for and of the establishment of the drain, and of the apportionment and assessment of benefits therefor. Where special commissioners have been called, it shall also contain a copy of the application to the probate court, of the return of the special commissioners and of all other papers in his office necessary to show a complete history of each drainage district, all of which said original papers shall then be enrolled and filed in the office of the county drain commissioner. No drain tax shall be spread until all the records required have been deposited and filed in the office of the county drain commissioner.

HISTORY: New 1956, p. 51, Act 40, Imd. Eff. Mar. 28.

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280.31 Annual report; financial statement to supervisors; reports to director of agriculture; liability on bond.

Sec. 31. Every commissioner shall make a report to the board of supervisors at their annual meeting in October of each year of all drainage districts laid out, all drains constructed, finished or begun under his supervision during the year ending October first, and he shall also render to them a full financial statement of each drainage district. He shall also make such reports and furnish such information as the director of agriculture shall request. The reports required by this section shall include an itemized statement of all orders issued on account of each and every drainage district and a debit and credit balance of such district fund. The commissioner shall be liable on his bond for any gross neglect of duty or any misapplication of moneys coming under his control as commissioner.

HISTORY: New 1956, p. 52, Act 40, Imd. Eff. Mar. 28.

280.32 Drain commissioner; social security; agreement for coverage; appropriation.

Sec. 32. The board of supervisors of each county having a drain commissioner may adopt a resolution authorizing the county to enter into an agreement with the secretary of health, education and welfare pursuant to the provisions of Act No. 205 of the Public Acts of 1951, as amended, being sections 38.851 to 38.870 of the Compiled Laws of 1948, to allow the drain commissioner and all the employees of the drain commissioner's office to obtain the benefits provided by the federal social security act. The funds necessary for this coverage shall be appropriated from the county general fund or from the revolving drain fund.

HISTORY: Add. 1966, p. 130, Act 109, Imd. Eff. Jun. 22.

CHAPTER 3.

COUNTY DRAINAGE DISTRICTS.

280.51 County drainage districts; application, signers, eligibility, sufficiency; deposit for costs.

Sec. 51. Before a commissioner takes any action on any application to locate, establish and construct any drain, there shall first be filed with him an application to lay out and designate a drainage district with reference to a proposed drain therein; such application shall tentatively describe the location and route of such proposed drain. The application shall be signed by not less than 10 freeholders of the township or townships in which such proposed drain or the proposed lands to be drained thereby may be situated: Provided, That 5 or more of said signers shall be the owners of land liable to an assessment for the construction of such proposed drain: Provided further, If it shall appear to the drain commissioner on filing an application to lay out and designate a drainage district that said district might not include 20 freeholders whose lands would be liable for such assessment, in such case such application shall be received if any one of the signers is a freeholder liable to an assessment for the construction of such proposed drain. The eligibility of the signers to such application shall be determined by the drain commissioner according to their interest of record in the office of the register of deeds, in the probate court or in the circuit court of the county in which such lands are situated at the time such application is filed. The board of supervisors, by resolution, may instruct the drain commissioner to refuse any application to lay out a drainage district unless a cash deposit, sufficient to cover the preliminary costs, accompanies the application. If the drain is completed, the cost advanced shall be returned to the depositor or his personal representative out of the first tax collections on the drain. If uncompleted, any excess above costs shall be so returned. In lieu of an application signed by freeholders as aforesaid, such an application may be signed solely

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by the board of health of the county if the proposed drain is necessary for the public health of any part of the county, or may be signed solely by any city, village or township when duly authorized by its governing body, if the proposed drain is necessary for the public health of such municipality and if such municipality will be liable for an assessment at large against it for a percentage of the cost of the proposed drain. The entry of an order designating a drainage district, as hereinafter provided, shall be deemed a determination of the sufficiency of such application.

HISTORY: New 1956, p. 52, Act 40, Imd. Eff. Mar. 28;—Am. 1957, p. 135, Act 119, Imd. Eff. May 24.

280.52 County drainage districts; practicability of drainage; survey, determination; tax delinquency.

Sec. 52. Upon filing of such application for a new drainage district, the commissioner shall immediately cause a survey to be made by a competent surveyor or engineer to determine the area which would be drained by the proposed drain, and the route and type of construction of the drain or drains most serviceable for that purpose. He shall not be limited in such determination to the route described in the application. In any county having a board of county auditors, no survey shall be ordered without the approval of such board but if the application shows, or it is determined thereafter, that any such proposed drainage district will affect lands in more than 1 county, the commissioner shall proceed under the portions of chapter 5 of this act relating to intercounty drains, and in such case the approval of the board of county auditors shall not be required. If upon the survey, or if before the survey is made, the commissioner determines that the proposed drain is impractical, he shall take no further action thereon but shall, in writing, notify the persons who delivered the application to him, of that fact, and his reasons for making his determination. If upon the survey the commissioner determines the proposed drain to be practical, he shall lay out a drainage district, prepare and file in the office of the drain commissioner a description of the drainage district, which may be described by its boundaries of highways and streets and tracts and parcels of land including therein all highways and streets, townships, cities and villages or by a description of all tracts or parcels of land, highways, townships, cities and villages which would be benefited by the construction of the proposed drain, and which would be liable to an assessment therefor, should the drain be constructed as hereinafter provided. The commissioner shall obtain from the county treasurer a statement showing as near as may be the amount of taxes and special assessments levied against the lands in the proposed drainage district on the tax rolls for the 3 years next preceding, and the amount of such taxes and assessments remaining unpaid, and if it appears from the statement that 33 ⅓ or more of the lands in the proposed drainage district have been returned as tax delinquent and still remain delinquent, no further action shall be taken.

HISTORY: New 1956, p. 52, Act 40, Imd. Eff. Mar. 28;—Am. 1961, p. 352, Act 212, Imd. Eff. Jun. 6.

280.53 County drains; surveyor, duties; route.

Sec. 53. The surveyor or engineer authorized to make the survey shall ascertain the size and depth of the drains and he shall preserve all minutes with reference thereto. He shall prepare preliminary plans, drawings and profiles thereof, together with a computation of the yards of earth to be excavated, the amount of tile or pipe to be used and the necessary bridges and culverts or fords to be built in constructing such proposed drain, and his estimate of the cost of such construction, and where practicable shall recommend the leveling of the spoil banks. He shall thereupon lay out a drainage district, which district may be described by its boundaries of streets or highways or tracts or parcels of land, or by a description of all tracts or all parcels of land, including therein all highways, townships, counties, cities and villages which would be benefited by the construction of the proposed drain, all of which he shall deliver to the

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commissioner. The surveyor or engineer shall not be limited to the route described in the application but may recommend a route and type of construction for the drains he considers most serviceable for draining the area involved.

HISTORY: New 1956, p. 53, Act 40, Imd. Eff. Mar. 28;—Am. 1961, p. 353, Act 212, Imd. Eff. Jun. 6;—Am. 1968, p. 130, Act 79, Eff. Nov. 15.

280.54 Order designating county drainage district; contents, notice of filing, publication.

Sec. 54. The commissioner shall prepare and file in his office his order designating a drainage district and give it a name or number and describe therein the boundaries of the district by streets or highways or parcels of land for each of the several tracts or parcels of land included therein and the counties, townships, cities, villages and state trunk line highways which would be benefited by the construction of the drains and would be liable to assessment therefor, also a description of the drains as determined by him, showing the beginning, route, terminus, type of the proposed construction and the estimated cost of such proposed construction. The commissioner shall give notice of filing the order designating a drainage district by publishing a notice in a newspaper of general circulation in the county, or a newspaper of general circulation in the area where the drainage district boundaries are located, which notice shall give a general description of the route of the proposed drain or drains and of the drainage district as shown by the order.

Same; amendment of name or number of drain, procedure.

At any time after the order designating a drainage district and giving it a name or number has been filed in the office of the drain commissioner, the order may be amended as to the name or number of the drain at any time by presenting to the drain commissioner of the county a petition signed by no less than 5 land owners whose land is traversed by the drain, which petition shall state the then present name or number of the drain and the change or changes to be made in the name or number. Upon receipt of such petition, and if in the drain commissioner's opinion it is to the best interest of all concerned that the name or number be changed, he shall make his order amending the name or number, and thereafter the drainage district shall be known by such name or number. The drain commissioner shall forthwith post such signs upon the drain as he may deem advisable for public notice of the new name or number.

HISTORY: New 1956, p. 53, Act 40, Imd. Eff. Mar. 28;—Am. 1961, p. 353, Act 212, Imd. Eff. Jun. 6.

CHAPTER 4.

COUNTY DRAINS.

280.71 Petitions to establish drainage districts; filing, signers, certificate of county treasurer; municipality-signed petition.

Sec. 71. After a drainage district has been established and the order therefor filed with the county drain commissioner, a petition to locate, establish and construct a drain may be filed with the commissioner having jurisdiction of the lands designated in such order as constituting the drainage district. Such petition shall ask for the location, establishment and construction of the drain or drains, or any part thereof, as described in said order. The petition shall be signed by a number of freeholders in said drainage district whose lands would be liable to an assessment for benefits, equal to 1/2 the number of freeholders whose lands would be traversed by the drain or drains applied for or abut on any highway or street along the side of which such drain extends, between the point where such drain enters such highway and the point where it leaves such highway and which lands are within the drainage district. Such petition shall be accompanied by a description of the land in said district owned by each signer and by a certificate of the county treasurer as to payment of taxes and special assessments against such lands. Such certificate shall be in substantially the following form:

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I hereby certify that there are no taxes or special assessments unpaid against any of the lands described in the annexed list according to the records of the county treasurer's office for the past 3 years, except as follows:

Description	Year	Tax or assessment	Amount
.....	.....	.....	.....

The name of any signer as to whose land such certificate shows taxes or assessments unpaid for 3 years shall not be counted. The eligibility of the signers to such petition shall be determined by the commissioner according to their interest of record in the office of the register of deeds in the probate court or the circuit court of the county in which such lands are situated at the time such petition is filed. In determining the number of owners whose lands are traversed by such drain, or abut thereon as hereinbefore prescribed, the drain commissioner shall investigate the records of the register of deeds, of the probate court and of the circuit court of the county, and shall make diligent inquiry in the community, including inquiry of anyone in possession of all of such lands so traversed or so abutting as to the ownership thereof. In lieu of a petition signed by freeholders as aforesaid, the petition may be signed solely by a city, village or township when duly authorized by its governing body, or by any combination of such municipalities, if such petitioning municipality or municipalities will be liable to assessments at large for at least a percentage of the total amount to be assessed for the cost of the proposed drain. In the event of such a municipally signed petition, then the foregoing provisions of this section, other than the first 2 sentences thereof, shall not be applicable.

HISTORY: New 1956, p. 54, Act 40, Imd. Eff. Mar. 28;—Am. 1967, p. 308, Act 214, Imd. Eff. Jul. 10.

280.72 County drain; board of determination; appointment; meeting, successors, compensation, notice to legislators.

Sec. 72. (1) As soon as practicable after the filing of such petition, the commissioner authorized to act thereon, if not disqualified under section 381 to make the apportionment of benefits, may appoint a board of determination composed of 3 disinterested freeholders. If the commissioner is disqualified or chooses not to appoint the board of determination, he shall forthwith file a copy of the petition with the chairman of the county board of commissioners, together with a statement signed by him, showing that he is disqualified or chooses not to act in appointing a board of determination. Upon receiving a copy of the petition and certificate, the chairman of the county board of commissioners, if not privately interested, as soon as practicable, shall appoint a board of determination composed of 3 disinterested freeholders and shall immediately notify the drain commissioner of the names and addresses of those appointed. If the chairman of the board of commissioners has a private interest in the proceedings, the drain committee of the board of commissioners shall then appoint the board of determination. All members of boards of determination shall be residents of the county but not of any township affected by the drain, and any one or more may not be members of the board of commissioners of the county. A meeting thereof shall be called within the drainage district at some convenient place to be designated by the drain commissioner, but if any of those so appointed to the board of determination fail or refuse to serve the drain commissioner shall appoint successors. The compensation, mileage and expenses of each member of the board of determination shall be fixed by the board of commissioners of the county except that such compensation shall not exceed $25.00 per diem exclusive of mileage and expenses for attendance at board of determination meetings. The members of the board of determination shall not receive more than $25.00 per diem for any 1 day no matter how many separate matters were considered on that day. The county drain commissioner shall inform, when appointed in writing,

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all state legislators of the county who represent that portion of the area wherein the proposed drain improvement is to be constructed of the names and addresses of all persons appointed to each board of determination.

Meeting; notice, mailing, affidavit; expense.

(2) The drain commissioner shall give notice of the time and place of such meeting by publication in a newspaper of general circulation in the county at least 10 days before the meeting. Notices shall also be served on the county clerk and on the clerk of each township, city and village in the district personally or by registered mail at least 10 days before the meeting. The drain commissioner also shall send notice by first class mail of the time and place of the meeting, at least 10 days before the date thereof, to each person whose name appears upon the last city or township tax assessment roll as owning land within the special assessment district, at the address shown on the roll, and if no address appears thereon, then no notice need be mailed to such person. The drain commissioner shall make an affidavit of the mailing and shall recite therein that the persons to whom the notice was mailed, constitute all of the persons whose names and addresses appear upon the tax rolls as owning land within the particular special assessment district, which affidavit shall be conclusive proof that notice was mailed to each person to whom notice is required to be mailed by the terms of this section. The failure to receive any notice by mail shall not constitute a jurisdictional defect invalidating a drain proceeding or tax, or both, if notice has been sent by first class mail as provided in this section. All expense of notification shall be paid by the drainage district when created.

Determination of necessity; costs; appeals; first order.

(3) At the time and place fixed in the notice the board shall meet, elect a chairman and secretary and proceed to determine the necessity of the proposed drain and whether the same is necessary and conducive to public health, convenience or welfare. At the meeting all persons owning lands liable to assessment for benefits, or whose land shall be crossed by the drain or any district or municipality affected may appear for or against the drain proceeding. The board of determination, if they deem it necessary, shall require the county drain commissioner to obtain from the county treasurer a statement showing as near as may be the amount of taxes and special assessments levied against the lands in the proposed drainage district on the tax rolls for the 3 years next preceding, and the amount of such taxes and assessments remaining unpaid, and if it shall appear from the statement that 25% or more of the taxes are unpaid on the lands, no further action shall be taken. After hearing the evidence so offered, the board shall make their determination upon the necessity of the drain and whether the same is necessary and conducive to public health, convenience or welfare. If the board shall find by a majority vote of the whole number of members that the drain is not necessary and conducive to public health, convenience or welfare, they shall file with the commissioner an order dismissing the petition, and no further petition for the drain shall be entertained within 1 year after the determination. If the board by a majority vote, shall find the drain so proposed to be necessary and conducive to the public health, convenience or welfare, they shall make their order to that effect and file the same with the commissioner. If the board shall find that any portion of the construction of the proposed drain is necessary for the protection of the public health in 1 or more cities, villages and townships, the order shall set forth such determination giving the names of the municipalities receiving benefit for health. If the board determines that the whole cost, except that to be levied against state or county highways for highway benefits, is necessary for the public health then all costs shall be levied against the townships, villages and cities at large, and it shall not be necessary, in any subsequent order or notice to describe or refer to any lands included in or comprising the drainage district. Upon filing of the order of determination by the board of

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determination, the drain commissioner within 10 days of such filing shall notify each municipality or municipalities that they shall be liable to pay a percent of the cost of construction of such drain by reason of benefits at large for public health. The governing body of the township, city or village may within 20 days of receipt of such notification by registered mail from the drain commissioner appeal from the order of the board to the probate court having jurisdiction in the county wherein the township, city or village is located. Upon receipt of the order of the board, and if no appeal has been taken by any municipality or municipalities to the probate court, the commissioner, after 20 days shall make his first order of determination in writing, giving the name or number of the drainage district, and shall establish the commencement, route, terminus and type of construction of the drain, a copy of which order he shall within 15 days file in his office. If an appeal is taken to the probate court by any municipality or municipalities the commissioner shall file his first order of determination after all such appeal procedures are terminated.

HISTORY: New 1956, p. 54, Act 40, Imd. Eff. Mar. 1957, p. 64, Act 61, Imd. Eff. May 20;—Am. 1963, p. 312, Act 215, p. 312, Act 215, Imd. Eff. May 17;—Am. 1963, p. 369, Act 228, Imd. Eff. Sep. 6;—Am. 1965, p. 219, Act 138, Eff. Mar. 31, 1966;—Am. 1969, p. 523, Act 285, Eff. Mar. 20, 1970;— Am. 1970, p. 363, Act 111, Eff. Apr. 1, 1971.

280.72a Judicial determination of necessity; filing of action.

Sec. 72a. Whenever the board of determination finds by majority vote of the whole number of members that the drain is or is not necessary, any person feeling aggrieved by the determination may institute an action in the circuit court for the county in which the real property is located for a determination of necessity. The action shall be filed by the person aggrieved within 10 days after the determination of necessity or no necessity by the board of determination.

HISTORY: Add. 1968, p. 498, Act 291, Imd. Eff. Jul. 1;—Am. 1970, p. 365, Act 111, Eff. Apr. 1, 1971.

280.73 Proposed drain; plans, specifications and cost estimates; route, approval; easements on rights of way.

Sec. 73. The commissioner shall secure from a professional engineer, plans, specifications and an estimate of cost of the proposed drain and descriptions of the lands or rights of way needed for the proposed drain. In approving the route of the drain as furnished by the engineers the commissioner shall not be limited to that described in the petition or in the first order of determination, if the new route is more efficient and serviceable. The commissioner shall endeavor to secure from the owners of each parcel or tract of land to be traversed or damaged by the proposed drain or drains an easement or release of right of way and all damages on account thereof.

HISTORY: New 1956, p. 55, Act 40, Imd. Eff. Mar. 28;—Am. 1968, p. 130, Act 79, Eff. Nov. 15.

280.74 Release of right of way; acknowledgments, oaths, form, area, signature of wife, resolution covering street or public place; open drain.

Sec. 74. Commissioners may take acknowledgments of releases of right of way and administer oaths in all proceedings in any way pertaining to drains under this act. A simple form of release of right of way and damages that shall set forth by reference to the survey of the drain, or by other convenient description, the particular land to be conveyed and signed and acknowledged by the person having the right to convey, shall be deemed a sufficient conveyance under the provisions of this act. All releases for rights of way shall be deemed to include sufficient ground on each side of the center line of such drain for the deposit of the excavations therefrom. It shall not be necessary for the wife to sign the release of right of way unless she has an interest in the land other than her inchoate right of dower. Whenever a portion of a drain shall be located within any street, highway or public place, then a resolution adopted by a majority vote of the governing body having jurisdiction over such street, highway or public place granting leave to construct such drain therein, designating the place to be traversed by said drain, shall be a sufficient release of the right of way, and shall be

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deemed a sufficient conveyance under this act, and said governing body may permit the construction of an open drain if such consent be set forth in such resolution.

HISTORY: New 1956, p. 56, Act 40, Imd. Eff. Mar. 28.

280.75 Condemnation proceedings; special commissioners, application for appointment, contents.

Sec. 75. If all persons whose lands would be traversed or damaged by the proposed drain or drains shall not have executed a release of the right of way, and all damages on account thereof, within 60 days after the entry of the first order of determination, the commissioner shall, as soon as practicable, make application to the probate court of the county in which such lands are situated, for the appointment of 3 special commissioners, who shall be disinterested resident freeholders of the county, but not of the township or townships affected by such drain, to determine the necessity for the taking of private property for the use and benefit of the public, and the just compensation to be made therefor. Such application shall be in writing, and shall set forth:

First, The fact that a petition for a drain was made and when, filing with said court a certified copy of such petition, also giving the route, survey and specifications of said drain as set forth in the first order of determination;

Second, That an order determining the necessity for such drain was made by the commissioner or drainage board, giving the time when such order was made, in accordance with such route, survey and specification, as above set forth;

Third, (1) The several descriptions or tracts of land with the names of the owner or owners of every such tract who have refused or neglected to execute a release of right of way and damages in any way arising or incident to the opening or maintaining the said proposed drain (2) the several descriptions or tracts of land owned by any minor, incompetent person, unknown persons or nonresidents of the township or townships, the execution of a release of right of way and damages for which have been neglected or refused; (3) it shall not be necessary to set forth in said application to the probate court the names of the several owners nor the description of the several tracts or parcels of land liable to an assessment for benefits, in case the drain applied for should be located and established, except those who have not released the right of way and through whose lands the drain passes; nor shall the same be included in the citation issued from the probate court.

HISTORY: New 1956, p. 56, Act 40, Imd. Eff. Mar. 28.

CITED IN OTHER SECTIONS: Sections 280.75 to 280.84 are cited in § 279.204.

280.76 Condemnation proceedings; hearing, waiver of errors, lands of minors and incompetent persons.

Sec. 76. The court to whom such application is made shall make an examination at the time of such application of all the proceedings of the commissioner so far as had, and if such proceedings be found to be in accordance with the statute, such court shall at once appoint a time and place of hearing upon the application, which time shall be fixed not less than 15 nor more than 40 days thereafter, and the court shall issue a citation to all persons whose lands are traversed by such drain, who have not released the right of way, and all damages on account thereof, to appear at the time and place designated in said citation, and be heard with respect to such application, if they so desire, and show cause, if any there be, why said application should not be granted, and any error or errors that may have been made in any of the proceedings thus far had shall be raised and taken advantage of at such time and before such court, and if not so raised and taken advantage of at such time and before such court shall be deemed to have been waived by all persons cited to appear under this notice. If any person on whom such service is to be made is a minor, under the age of 14 years, or an incompetent person, and resides in this state, such service shall be made as herein provided on

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his guardian, or if none, then on the person who may for such purpose be appointed special guardian and also on the person who has the care of, or with whom such minor or incompetent person resides. In case any person whose lands are traversed by said drain is a minor or an incompetent person and has no guardian, the said court or the judge of said court shall appoint a special guardian, to appear for and attend to the interests of such minor or incompetent person, and all notices to be served in the progress of the proceedings shall be served on such special guardian.

HISTORY: New 1956, p. 56, Act 40, Imd. Eff. Mar. 28.

280.77 Condemnation proceedings; citation, contents, addressed to owners.

Sec. 77. The citation shall recite so much of the premises as will show jurisdiction, giving a description of the land traversed by such drain, and in the case of resident owners who reside upon the premises traversed by said drain shall be addressed to such owners by name; in the case of nonresident owner or owners not residing upon the land traversed, it shall be addressed to the nonresident owner or owners, but it shall not be necessary to name such owner or owners. It shall describe the drain by its commencement, terminus and general course, and shall set forth that land owned by the persons to whom it is addressed will be crossed by such drain and may be subject to assessment for its construction, and that a description and survey of such drain is on file with the court issuing such citation and describe the land to be taken.

HISTORY: New 1956, p. 57, Act 40, Imd. Eff. Mar. 28.

280.78 Condemnation citations; notices and orders; methods of service.

Sec. 78. (1) All citations, notices and orders relative to condemnation proceedings, unless otherwise provided, shall be served as follows:

(a) Personally; or

(b) By leaving a copy at the residence of the person or persons interested; or

(c) By mailing a copy thereof by registered mail at the last known post office address of each person or persons, so far as is known; and

(d) By publication in some newspaper printed or circulated in the county in which such lands are located at least 7 days prior to the date of hearing.

(2) Nonresidents of the county may be served in any of the above methods.

HISTORY: New 1956, p. 57, Act 40, Imd. Eff. Mar. 28;—Am. 1967, p. 308, Act 214, Imd. Eff. Jul. 10.

280.79 Condemnation proceedings; hearing of objections; special commissioners, determination of necessity and damages; meeting; amendment of application.

Sec. 79. The court to whom such application is made shall at the time and place fixed in the citation, or at any time to which it may adjourn not exceeding 60 days, and upon proof of service and publication when required, proceed to hear all persons whose lands are to be traversed by said proposed drain, and such persons may show cause against the prayer set forth in the application, and may disprove any of the facts alleged therein, except the necessity of the drain, and may raise any and all objections to any errors or irregularities made in the proceedings had thus far, if any, and the said court shall hear the proofs and allegations of the parties, and the objections so made to the proceedings, if any there be, and if no sufficient cause is shown against granting the prayer set forth in said application, the said court shall make an order appointing 3 disinterested and competent resident freeholders of said county, not residents of the township or townships to be traversed by the drain, as special commissioners to determine the necessity for using such property and the just compensation to be paid therefor to the owners or parties interested in the real estate proposed to be taken for the right of way for such drain. Such court shall immediately upon the appointment of

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such commissioners, and with the concurrence of the county drain commissioner, appoint a time and place, such time to be not less than 5 nor more than 15 days thereafter, at which time such special commissioners shall meet the commissioner and other parties, who have not released the right of way, to consider the matters and things with respect to which they have been appointed, and the said court shall make public announcement thereof, and thereupon the proceedings shall be deemed a continuing proceeding, and no further notice of the time and place of hearing shall be required, and such appointment and announcement shall be made a part of the record in the case: Provided, That if it shall appear at such hearing that all parties have not been duly notified, the court may adjourn such hearing for a period sufficiently long, not exceeding 30 days, to enable the commissioner to duly notify such parties in the manner heretofore provided, and it shall not be necessary to again notify the parties who have received legal notice in the first instance. The probate court shall, if necessary, allow the commissioner to amend his application at any time before the appointment of special commissioners; and in case there is shown to be error in the proceedings of the commissioner, the probate court shall adjourn the hearing for sufficient time to allow the said commissioner to correct such error or errors: Provided, The petition to establish the drain is shown to be sufficient under the statute.

HISTORY: New 1956, p. 58, Act 40, Imd. Eff. Mar. 28.

280.80 Special commissioners; notice of appointment; meeting, adjournment, substitutes; oath; record; view of premises.

Sec. 80. If the court shall have granted the prayer set forth in the application, such court shall proceed to deliver to the commissioner a copy of the order appointing the special commissioners, and the commissioner shall notify such special commissioners of their appointment and the time and place they are required to meet with him and the other parties who have not released the right of way for said proposed drain. In case any or all of such special commissioners neglect or refuse to meet at such time and place with said commissioner, the said commissioner shall adjourn such day of meeting for a period not to exceed 30 days, and he shall give public notice by proclamation of the date, time and place of such adjourned meeting, and he shall, as soon as practicable, make application to the judge of probate, who shall appoint other special commissioners without further notice or citations. They shall be sworn by the drain commissioner to faithfully discharge the duties of special commissioners in the matter in which they are called to act, and to well and truly determine the necessity of taking private property for the use or benefit of the public for the purpose thereof, and the just compensation to be paid therefor. The special commissioners shall elect a chairman and secretary from their number, who shall keep a complete record of all their proceedings. The said special commissioners, with the commissioner and the other parties in interest who may be present, who have not released the right of way for said proposed drain, shall meet at the time and place ordered by said court and proceed at that time, or at any time to which they may adjourn, to view such premises, and for such purpose they shall have the right to enter upon any lands traversed by the route of the proposed drain.

HISTORY: New 1956, p. 58, Act 40, Imd. Eff. Mar. 28.

280.81 Default of interested parties for nonappearance; compensation after determination of necessity.

Sec. 81. (1) On the day fixed, the court shall enter the default of all persons interested in the property described who have not appeared, and shall direct the payment to such persons of the sums stated in the determination, as compensation for the taking the pieces or parcels of property in which they are interested only after necessity is determined under the provisions of section 81.

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Meetings of court commissioners; adjournments, witnesses.

(2) The court commissioners shall meet at the time and place ordered by the court and shall be sworn faithfully to discharge their duties. If all do not then appear, a less number may adjourn to a time certain, but no adjournment shall be made to a day later then the time allowed by the court. All adjournments shall be publicly announced. The court may issue subpoenas to compel the attendance of witnesses before the court or before the court commissioners. Either of the court commissioners may administer oaths to witnesses.

Appraisal of damages.

(3) The court commissioners shall appraise the damages to be paid as compensation for each such piece or parcel of property, and shall report such decision in writing, signed by them or a majority of them, at or before the time fixed for that purpose, but it shall not be necessary for the court commissioners to report on all of the property at one time.

Property descriptions.

(4) It shall not be necessary for the board or commissioner to include in 1 determination the descriptions of all of the property necessary to be taken for any single project, or to include in 1 petition, the descriptions of all of the property described in the determination upon which the petition is based.

Setting aside the report; amendments; filling vacancy; setting aside defective proceedings; adjournments.

(5) At the time of the filing of the report or at such other time to which it may adjourn the proceedings, on cause shown, the court may set aside the report and refer it back to the court commissioners or appoint other commissioners to re-try the questions involved, whereupon such proceedings shall be had as are hereinbefore provided for. The court may permit the amendment of any determination, petition, affidavit, order, report or proceeding filed or had in the premises in such manner as shall be just and proper; it may fill any vacancy that shall occur among the court commissioners, by reason of death, resignation, removal or inability to act; at any time, it may remove any or all of the commissioners and fill the vacancies thereby created; it may permit a defective proceeding to be set aside and other proceedings in compliance with law to be had in place thereof; it may determine the division of any award among the several claimants thereto; it may adjourn the proceedings or any part thereof from time to time, and may make all orders in the premises as may be just and proper to further and accomplish the purpose thereof.

HISTORY: New 1956, p. 59, Act 40, Imd. Eff. Mar. 28;—Am. 1967, p. 309, Act 214, Imd. Eff. Jul. 10.

280.82 Condemnation proceedings; drains, special commissioners; return, examination, correction, filing, conveyance of easements, vesting of fee, damages.

Sec. 82. The special commissioners shall within 60 days from the date of their first meeting make a return in writing of their hearing, determination and of their several awards. To assist the special commissioners in arriving at their verdict, the probate court may allow the special commissioners, when they retire, to take with them the petition filed in the case and a map showing the location of the proposed improvement and each and all of the parcels of property to be taken and may also submit to them a blank return which may be as follows: "We, the undersigned, having been appointed by the probate court of the county of ....., state of Michigan, as special commissioners, to ascertain and to appraise and determine the damages or compensation to be allowed to the owners or parties interested in the real estate proposed to be taken for the right of way for a certain drain, known as the '..... drain' to be located in the..... of .....

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..... in said county, and we find that it is ..... necessary to take the private property described in the petition in this cause, for the use or benefit of the public, for the proposed public improvement. The just compensation to be paid for such private property we have ascertained and determined, and hereby award as follows:

Parcel No.	Description Of Property	Center Line of Drain	Right of Way Required or Easement Taken Private Property Taken	Owners-Occupants Others Interested	Compensation To Whom Payable

. . . . . ."

The different descriptions of the property and the names of the occupants, owners and others interested therein, may be inserted in said blank verdict, under the direction of the court, before it is submitted to the special commissioners, or it may be done by the special commissioners. The special commissioners shall file said return with the probate court, it shall examine the same, and if it shall find such return not to be in substantial conformity with the statute, it shall return the same to the special commissioners for correction, with its objections in writing. The special commissioners shall thereupon proceed to correct their return, and file the same with the probate court within 5 days. When the probate court shall find such return to be without material error, it shall enter an order confirming the awards and an order dismissing any lis pendens filed with the register of deeds by the drain commissioner. A certified copy of said return shall be immediately recorded by the drain commissioner in the office of the register of deeds, and a copy filed in the office of the drain commissioner. A return by special commissioners with respect to any easement taken shall be deemed a sufficient conveyance to vest in the drainage district an easement in the land for the uses and purposes within the scope of its powers, together with such rights of entry upon, passage over, deposit of excavated earth and storage of material and equipment on such lands as may be necessary or useful for the construction, maintenance, cleaning out and repair of said drain. A return of special commissioners with respect to private property taken in fee shall vest the fee of the property taken in the drainage district for the use or benefit of the public for the proposed public improvement. The amount of compensation that may have been awarded therefor shall have been paid or tendered, or secured to the persons entitled thereto. The time during which proceedings are pending in the probate court shall not be counted as part of the 5-year period relative to abandonment of a petition as provided in section 221, and the time mentioned in sections 75, 79, 80, 81 and 82 relative to completion of certain procedural steps in condemnation proceedings shall be deemed to be directory and not mandatory and shall not constitute a material defect in such proceedings.

HISTORY: New 1956, p. 59, Act 40, Imd. Eff. Mar. 28;—Am. 1962, p. 420, Act 191, Eff. Mar. 28, 1963;—Am. 1965, p. 140, Act 108, Imd. Eff. Jun. 30.

280.83 Release of right of way and damages; proceedings discontinued.

Sec. 83. If at any time before the appointment of special commissioners provided for in this act or at any time before the filing of their return and award of damages, all of

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the parties through whose lands the proposed drain is to pass shall execute a release of right of way, and all damages on account thereof, then all proceedings for the appointment of special commissioners, and all actions taken by them after their appointment, shall be discontinued and void, and the county drain commissioner shall proceed as if no application for special commissioners had been made.

HISTORY: New 1956, p. 59, Act 40, Imd. Eff. Mar. 28.

280.84 Setting off damages and benefits; drain order for excess, holding by county clerk.

Sec. 84. The commissioner shall deduct the award of damages from the assessment of benefits, when made, on the tract which includes the right of way of said drain. In case the award of damages shall exceed the assessment of benefits, the commissioner shall draw his orders for the amounts awarded in the return of the special commissioners in excess of assessments for benefits, describing in each order the lands in payment whereof it is drawn, and before such drain shall be constructed such order shall be tendered by the commissioner to the party entitled thereto: Provided, That if the owner of any lands upon which damages have been awarded in excess of apportionment of benefits be a nonresident of the township or townships traversed by said drain, or be unknown, or in case of a minor or otherwise incompetent person, such order shall be deposited with the county clerk, payable to the owner of such description of land upon which such damages were awarded. Such order shall be held by such clerk and be delivered by him to the owner of such lands when called for or otherwise legally demanded, and the same shall thereby be deemed to have been lawfully tendered to the owner of such lands. It shall be the duty of such county treasurer at any time upon presentation to him of any such drain order drawn for the payment of such right of way or damages to pay the same out of any moneys in his hands belonging to the general fund of such county and refund such amount out of the first moneys collected by him on account of such drain. If the owner of any lands upon which such damages have been awarded in excess of the apportionment for benefits shall, upon the tender of such order to him, refuse to accept the same, the commissioner shall deliver such order to the county clerk and give notice to such owner of that fact. Such order shall be held by such clerk and be delivered by him to the owner of such lands when called for or otherwise legally demanded.

HISTORY: New 1956, p. 60, Act 40, Imd. Eff. Mar. 28.

280.85 Owner's use of land of right of way.

Sec. 85. The owner of any land over, through or across which a district has acquired a right of way for the construction and maintenance of an open or covered drain by grant, dedication, condemnation or otherwise, may use the land occupied by such right of way in any manner not inconsistent with the easement of the district. Any use of the right of way which will interfere with the operation of the drain or will increase the cost to the district of performing any of its work thereon is deemed to be inconsistent with the district's easement. Any landowner who violates any of the above provisions shall be subject to the penalties provided in section 421 of this act.

HISTORY: Add. 1962, p. 421, Act 191, Eff. Mar. 28, 1963.

280.86 Special commissioners; compensation.

Sec. 86. The court shall fix the compensation of the special commissioners, not to exceed $50.00 per day, and determine the amount of necessary expenses incurred in connection with such proceedings, and the whole cost thereof.

HISTORY: Add. 1965, p. 141, Act 108, Imd. Eff. Jun. 30.

280.87 Certificates, reports and determinations as prima facie evidence.

Sec. 87. Any certificate, report or determination authorized or required by this chapter, or the record thereof, or a certified copy of any certificate, report, determina-

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tion or record, shall be prima facie evidence of the facts recited therein and of the title to the property therein described or referred to, and of the right of the drainage board or commissioner to take the same for drain purposes.

HISTORY: Add. 1967, p. 309, Act 214, Imd. Eff. Jul. 10.

280.88 Review upon superintending control; procedure.

Sec. 88. Any proceeding taken under the provisions of this chapter shall be subject to review upon superintending control. The procedure therefor shall be the same as is required in case of certiorari to review judgments rendered by judges of the circuit courts. The application for superintending control must be filed within 20 days after the report of the special commissioners shall have been confirmed. The determination of necessity provided in this act may be reviewed by superintending control only within 10 days after such determination of necessity, by the court of appeals.

HISTORY: Add. 1967, p. 310, Act 214, Imd. Eff. Jul. 10.

CHAPTER 5.

INTERCOUNTY DRAINAGE DISTRICTS.

280.101 Intercounty drainage districts; application; signers, eligibility.

Sec. 101. Before any action is taken on any petition to locate, establish and construct any drain, which proposed drain will traverse lands in more than 1 county, or affect more than 1 county, there shall first be filed with the commissioner having jurisdiction of any such lands an application to lay out and designate a drainage district with reference to a proposed drain therein; such application shall tentatively describe the location and route of such proposed drain. The application shall be signed by a number of freeholders in said drainage district whose lands would be liable to an assessment for benefits, equal to 50% of any of the freeholders whose lands would be traversed by the drain or drains applied for or abut on any highway or street along the side of which such drain extends, between a point where such drain enters such highway and the point where it leaves such highway and which lands are within the drainage district. The eligibility of the signers to such application shall be determined by their interest of record in the office of the register of deeds, in the probate court or in the circuit court of the county in which such lands are situated at the time such petition is filed.

HISTORY: New 1956, p. 60, Act 40, Imd. Eff. Mar. 28;—Am. 1957, P. 135, Act 119, Imd. Eff. May 24.

280.102 Intercounty drainage districts; copies; joint drainage board, meeting, time, location, notice.

Sec. 102. Upon filing of such application the commissioner shall within 20 days send a copy of such application by registered mail to the state director of agriculture and also to the drain commissioner of each county in which lie lands liable for assessment for benefits for the construction of such proposed drain. The drain commissioners of such counties and the director of agriculture or any deputy designated by him shall be and constitute the drainage board.

The state director of agriculture shall call a meeting of such drainage board, which meeting shall be held not less than 15 and not more than 60 days from the receipt of such notice. Such meeting shall be held in the immediate locality of the proposed drainage district. Notices of such meeting shall be posted in 5 public places within the proposed drainage district within each county, and served on the county clerk of each county and the supervisor of each township within the proposed drainage district per-

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sonally or by registered mail at least 10 days before such public meeting. A notice of such meeting shall be published in each county affected once a week for 2 consecutive weeks before such meeting in a newspaper of general circulation in such county, if there is one, the first publication to be at least 10 days before the meeting.

HISTORY: New 1956, p. 60, Act 40, Imd. Eff. Mar. 28.

280.103 Chairman of board; determination of practicability; survey.

Sec. 103. Upon convening said meeting the state director of agriculture or any deputy selected by him shall act as chairman. The said drainage board shall consider such application, and determine the sufficiency of the signatures thereto, and shall go over the route of said proposed drain and take testimony to determine its practicability. All persons owning lands liable to assessment for benefits or whose lands shall be crossed by said drain or any municipality affected may appear for or against said drain proceedings. If at said meeting or at any subsequent time before the entry of the order designating a drainage district, they shall determine that the drainage of the proposed drain area is not practical, no further action shall be taken thereon within 1 year. If said proposed drain is determined to be practical, then the drainage board shall cause a survey thereof to be made by a competent surveyor or engineer to ascertain the area which would be drained by the proposed drain, and the route and type of construction of drain or drains most serviceable for that purpose.

HISTORY: New 1956, p. 61, Act 40, Imd. Eff. Mar. 28.

280.104 Surveyor; duties as to intercounty drain, delivery of papers to board; route.

Sec. 104. The surveyor or engineer authorized to make the survey shall ascertain the size and depth of the drains, and shall preserve all minutes with reference thereto. He shall prepare plans, drawings and profiles thereof, together with a computation of the yards of earth to be excavated, and where practicable the leveling of the spoil banks or the amount of tile or pipe to be used and the necessary bridges and culverts or fords to be built in constructing the proposed drains, and his estimate of the cost of such construction. He shall thereupon lay out a proposed drainage district, which district may be described by its boundaries of streets and highways or tracts or parcels of land or by a description of all tracts or parcels of land, including therein all highways, townships, counties, cities and villages which would be benefited by the construction of the proposed drain, all of which he shall deliver to the drainage board. The surveyor or engineer shall not be limited to the route described in the application, but may recommend a route and type of construction for the drains he considers most serviceable for draining the area involved.

HISTORY: New 1956, p. 61, Act 40, Imd. Eff. Mar. 28;—Am. 1957, p. 136, Act 119, Imd. Eff. May 24;—Am. 1961, p. 354, Act 212, Imd. Eff. Jun. 6.

280.105 Order designating intercounty drainage district; contents, notice of filing, copies furnished commissioners.

Sec. 105. The chairman of the drainage board shall thereupon prepare an order designating a drainage district, giving it a name or number and describe therein the drainage district by its boundaries of streets and highways or tracts or parcels of land or by a description of all tracts or parcels of land included therein and the counties, townships, cities, villages and state trunk line highways including therein all highways, townships, counties, cities and villages, which would be benefited by the construction of such drain and would be liable to an assessment therefor; also a description of the drain according to the plans and specifications prepared by the surveyor or engineer and determined by the drainage board, showing the beginning, route, terminus, type of construction and the estimated cost of the construction. Notice of filing of the order shall be given by the state director of agriculture by publishing a notice in a newspa-

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per in each county affected, once in each week for 2 successive weeks, which notice shall give a general description of the route of the drain and of the drainage district as shown by the order. A copy of the order shall within 10 days be filed by the state director of agriculture in the office of the county drain commissioner of each county in which lie lands included in the district.

Same; amendment of name or number of drain, procedure; apportionment of costs.

At any time after the order designating an intercounty drainage district, giving it a name or number, has been filed in the offices of the county drain commissioners of the counties within the district, the order may be amended as to the name or number of the drain by a written request of a drain commissioner of 1 of the counties traversed by the drain, which request shall state the then present name or number of the drain and the change to be made in the name or number. Upon filing of the request, the drain commissioner shall mail a copy of the request, to the state director of agriculture and also to the drain commissioner of each county in which lie lands liable for assessments for the drain. The state director of agriculture shall call a meeting of the drainage board and if, in the opinion of the drainage board, it is found advisable to change the name or number of the drain, they shall file an order designating such change. The drainage board shall also designate the number of signs to be posted upon the drain as they may deem advisable for public notice of the new name or number. Copies of the order changing the name or number of the drain shall be filed with the drain commissioner and the county treasurer of each county liable for assessments of such drain. If the commissioners of the counties affected cannot agree as to the apportionment of costs for laying out a drainage district, the director of agriculture or any deputy appointed by him shall apportion the costs and the counties affected shall pay the same as provided in section 302 of this act.

HISTORY: New 1956, p. 61, Act 40, Imd. Eff. Mar. 28;—Am. 1961, p. 354, Act 212, Imd. Eff. Jun. 6.

280.106 Review of apportionment; arbitration board, members, claim for review, filing, copies, meeting of board, notice, review.

Sec. 106. If the drain commissioner of any county involved shall deem the apportionment between the counties to be unfair, he shall have the right to have the same reviewed by an arbitration board to be composed of drain commissioners from any unaffected counties in the state of Michigan. He shall, within 20 days after the order of apportionment provided in section 105 of this act, file with the department of agriculture a "claim for review by arbitration" in which he shall state briefly in what respect he considers the apportionment unfair and request, over his official signature, a review by arbitration and he shall nominate any disinterested drain commissioner as his choice for the arbitration board. Upon receipt of such "claim for review by arbitration" the director of agriculture or his deputy shall within 10 days forward to each county drain commissioner involved, except the claimant, a copy of the "claim for review by arbitration" and such commissioners shall within 10 days notify the department of agriculture of their selection to the arbitration board; whereupon the director of agriculture shall at the earliest opportune date, but not later than 30 days thereafter, notify the chosen drain commissioners of a date and time they shall meet in his office in the city of Lansing. At such meeting they shall select 1 or 2 more unaffected drain commissioners in the state to complete the board of review. Only 1 shall be selected if the board members selected by the drain commissioners affected constitute an even number and 2 shall be selected if the board members selected by the drain commissioners affected constitute an odd number. Upon selection of the final members of the board of review, those members present shall set a date, time and place in any of the affected counties for a first full meeting of the board of review. Notice of

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such meeting shall be posted in 5 public places in each county affected and served on the county clerk of each county and the supervisor of each township in every county traversed by said drain personally or by registered mail at least 10 days before such meeting and a notice of such meeting shall be published once a week for 2 consecutive weeks before such meeting, in a newspaper published and of general circulation in each of the counties affected, if there is one, the first publication to be at least 10 days before the meeting. The director of agriculture shall notify the 1 or 2 drain commissioners selected of their appointment and of the date, time and place of the next meeting of the full board. Such board of arbitration shall convene at the time and place specified, elect a chairman and secretary and review the fairness of the apportionment between the counties. All interested persons shall be heard and the board may adjourn from day to day until their review is completed, whereupon the findings shall be made and signed by all the members attesting the determination of the majority of the board and such determination by the majority of the board shall be final and conclusive as to the fairness of the apportionment.

HISTORY: New 1956, p. 62, Act 40, Imd. Eff. Mar. 28.

CHAPTER 6.

INTERCOUNTY DRAINS.

280.121 Intercounty drains; petition to establish; filing, signers; certificate of county treasurer.

Sec. 121. After an intercounty drainage district has been established and the order therefor filed as hereinbefore provided, a petition to locate, establish and construct a drain may be filed with any commissioner having jurisdiction of any of the lands designated in such order as constituting the drainage district. Such petition shall ask for the location, establishment and construction of the drain or drains, or any part thereof, as described in said order. The petition shall be signed by a number of freeholders in said drainage district, whose lands would be liable to an assessment for benefits, equal to 1/2 of the number of freeholders whose lands would be traversed by the drain or drains applied for, or abut on the part of any highway or street along the side of which such drain extends, between the point where such drain enters such highway and the point where it leaves such highway and which lands are within the drainage district. Such petition shall be accompanied by a description of the land in said district owned by each signer and by a certificate of the county treasurer as to payment of taxes and special assessments against such lands; such certificate shall be in substantially the following form:

I hereby certify that there are no taxes or special assessments unpaid against any of the lands described in the annexed list according to the records of the county treasurer's office for the past 3 years, except as follows:

Description	Year	Tax or assessment	Amount
.....	.....	.....	.....

The name of any signer as to whose land such certificate shows taxes or special assessments unpaid for 3 years shall not be counted. The eligibility of the signers to such petition shall be determined by their interest of record in the office of the register of deeds, in the probate court or the circuit court of the counties in which such lands are situated at the time such petition is filed. In determining the number of owners whose lands are traversed by such drain, or abut thereon as hereinbefore prescribed, the drain commissioner shall investigate the records of the register of deeds, of the probate court and of the circuit court of the county, and shall make diligent inquiry in the community, including inquiry of anyone in possession of all of such lands so traversed

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or so abutting, as to the ownership thereof. In lieu of a petition signed by freeholders, the petition may be signed solely by a city, village or township in each county involved, when duly authorized by its governing body, or by any combination of such municipalities, if each petitioning municipality will be liable to assessment at large for public health for any part of the cost of the proposed drain. In the event of a municipally signed petition, then the foregoing provisions of this section, other than the first 2 sentences and these last 2 sentences thereof, shall not be applicable.

HISTORY: New 1956, p. 63, Act 40, Imd. Eff. Mar. 28;—Am. 1968, p. 130, Act 79, Eff. Nov. 15.

280.122 Drainage board; notice of meeting; first order of determination; apportionment of costs; arbitration.

Sec. 122. Upon filing of such petition the commissioner receiving same shall, within 20 days, notify by registered mail the drain commissioners interested and the state director of agriculture, who shall call a meeting within the time and in the manner set forth in section 102 of this act. The said commissioners and the state director of agriculture, or any deputy selected by him, who constitute the drainage board shall thereupon and thereafter jointly take all steps and perform all acts and sign all papers as commissioners are required to do singly in the case of other drains, except as herein otherwise provided: Provided, however, That in all meetings of said board the state director of agriculture, or his deputy, shall have no vote, except as he may cast the deciding vote in case of a tie. At such meeting all persons owning land liable to assessment for benefits, or any district or municipality affected, may appear for or against said drain proceedings. Said board shall consider said petition and any evidence offered, and if it is determined that said drain is necessary for the good of the public health, convenience or welfare, it shall then proceed to determine the just per cent of the whole cost of construction which each county shall bear, and also determine the number of installments in which the drain taxes shall be collected. In case the commissioners cannot agree on the apportionment between counties or the number of installments, the chairman shall determine the same. An order shall then be prepared, signed by the chairman, and to be known as the first order of determination, showing the determination of necessity, determination of per cent, and determination of number of installments, and a copy thereof shall be filed in the office of the county drain commissioner of each county into which said drainage district extends. The drainage board shall be the board of determination and shall determine the question of necessity for any drains located, established and constructed under this chapter. If the drainage board cannot agree unanimously on the apportionment between counties, then the matter shall be submitted to the board of arbitration in the manner prescribed in section 106 of this act and that board's decision shall be final.

HISTORY: New 1956, p. 63, Act 40, Imd. Eff. Mar. 28.

280.122a Judicial determination of drain necessity; filing of action.

Sec. 122a. Whenever the drain board finds by majority vote of the whole number of members that the drain is or is not necessary, a person feeling aggrieved by the determination may institute an action in the circuit court for the county in which the real property is located for a determination of necessity. The action shall be filed by the person aggrieved within 10 days after the determination of necessity or no necessity by the drain board.

HISTORY: Add. 1970, p. 365, Act 112, Imd. Eff. Jul. 23.

280.123 Apportionment of benefits; assessment, correction, appeal.

Sec. 123. After securing releases of right of way as herein provided, the commissioner of each county affected shall apportion the benefits for the construction of such drain to each tract or parcel of land to any county, township, city or village and to any state trunk line highway within said drainage district, in the manner provided in chap-

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ter 7, being sections 151 to 161, inclusive, of this act. Such per cent so apportioned when finally approved shall be assessed against such townships, cities, highways and lands according to such apportionment of benefits, as herein provided. The apportionment of benefits so made shall be subject to review and correction and may be appealed from as provided in said chapter 7.

HISTORY: New 1956, p. 64, Act 40, Imd. Eff. Mar. 28.

280.124 Meetings of drainage board to receive bids and review apportionment of benefits; notice.

Sec. 124. After such apportionment shall have been made by each of the commissioners, the chairman of the drainage board shall prepare and have printed notice of a meeting to be held at some convenient place, not less than 20 days from the date of such notice, for the purpose of receiving bids for the construction of such drain, and also for the holding of a public meeting not less than 5 nor more than 30 days after the date set for receiving bids, at which a review will be held of the apportionment of benefits made as aforesaid.

HISTORY: New 1956, p. 64, Act 40, Imd. Eff. Mar. 28.

280.125 Meetings of drainage board; review, appeal, computation of costs.

Sec. 125. At such meeting the respective commissioners shall hear the proofs and allegations offered and shall reconsider and review the descriptions of land in that county forming a part of the drainage district, the apportionment of benefits, and define and equalize the same as may seem just and equitable. The persons entitled to appear and offer proof may appeal from such review and the manner of taking such appeal shall be as prescribed in chapter 7 of this act, being sections 151 to 161, inclusive.

Bids shall be received and computation of the total cost of the drain shall be made, as hereinafter provided, before the time set for review of the apportionment, and such computation shall be open to inspection at the time of review. If such computation shall not be completed before the day of review, such review may be adjourned from time to time, not more than 20 days in all for the completion of such computation, or a new hearing may be called with like notice by publication, posting and service at least 10 days before such hearing. If for any reason the contracts on which such computation was based shall not be executed and new contracts shall be let at a higher price, a corrected computation shall be made and a new review held with like notice.

HISTORY: New 1956, p. 64, Act 40, Imd. Eff. Mar. 28.

280.126 Receipt of bids and letting of contracts; abandonment of petition.

Sec. 126. At the time and place fixed in said notice, or at an adjourned date, the drainage board shall receive bids and let contracts for the construction of the drain in the manner prescribed in chapter 9, being sections 221 to 223, inclusive, of this act. If no contract shall be let within 5 years after the date of filing the petition to locate, establish and construct the drain, the petition shall be deemed abandoned and no further action shall be taken to construct said drain unless a new petition shall be filed: Provided, That time during which any litigation shall be pending to contest the validity of such proceedings shall not be counted as a part of such 5-year period.

HISTORY: New 1956, p. 64, Act 40, Imd. Eff. Mar. 28.

280.127 Releases of right of way and damages.

Sec. 127. Within 60 days next succeeding the entry of the first order of determination the said commissioners shall within their respective counties endeavor to secure

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from the owner of each parcel or tract of land which would be traversed or damaged by said proposed drain a release of the right of way and all damages on account thereof.

HISTORY: New 1956, p. 65, Act 40, Imd. Eff. Mar. 28.

280.128 Condemnation proceedings; appointment of special commissioners, qualifications.

Sec. 128. In case all the persons whose lands are to be traversed or damaged by such drain or drains, as proposed in this chapter, shall not within 60 days after the issue of the first order of determination have voluntarily released the right of way therefor, and all damages on account thereof, the drainage board shall apply to the judge of probate of the county in which such lands are situated for the appointment of 3 special commissioners. When such application shall be made and when all papers shall have been found to be in conformity with the provisions of this act, the court to whom such application has been made shall, within 60 days from the filing of said application, appoint such special commissioners and shall deliver to each drain commissioner a certified copy of the order of the appointment of such special commissioners. Such special commissioners shall be resident freeholders of the county and not residents of the township or townships to be affected by the proposed drain in which they are appointed. All proceedings had in the appointment of special commissioners, the issuance of service of citations, hearings by the probate court and by the special commissioners and the return of special commissioners under the provisions of this chapter shall be similar to those provided in chapter 4, being sections 71 to 84.

HISTORY: New 1956, p. 65, Act 40, Imd. Eff. Mar. 28;—Am. 1965, p. 141, Act 108, Imd. Eff. Jun. 30.

280.129 Special commissioners; meeting, view of line of drain.

Sec. 129. When such special commissioners shall have been notified of their appointment in the manner provided in chapter 4, being sections 71 to 84, they shall meet at the time and place fixed by the probate court and meet with the drainage board and view the whole line of such drain, or such portion thereof as shall be deemed sufficient, and shall under the same oath and condition perform their services in the same manner and with like effect as provided in this act for other special commissioners.

HISTORY: New 1956, p. 65, Act 40, Imd. Eff. Mar. 28;—Am. 1965, p. 141, Act 108, Imd. Eff. Jun. 30.

280.130 Computation of construction cost; certification of special assessment rolls, filing; levy and collection of taxes.

Sec. 130. The commissioners of each county affected shall within the time limited in chapter 11, being sections 261 to 280, inclusive, of this act, and in the manner therein prescribed compute the cost of construction of said drain, prepare and certify the special assessment rolls and file the same with the county drain commissioners. Each and everything necessary to be done in the levy and collection of drain taxes under this chapter shall be done within the time limited and in the manner prescribed in said chapter 11 of this act.

HISTORY: New 1956, p. 65, Act 40, Imd. Eff. Mar. 28.

280.131 Drain record; certified copies furnished other commissioners, filing.

Sec. 131. A full record of such drain shall be made and entered by the several commissioners in the drain record books of their respective counties, and a certified copy of all the papers relative to the construction of such drain shall be delivered to the

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other commissioners by the commissioner having the original application or petition which certified copies shall be filed in the office of the county drain commissioner of their respective counties as original papers are required to be filed and with the same force and effect.

HISTORY: New 1956, p. 65, Act 40, Imd. Eff. Mar. 28.

280.132 Drainage bonds; issuance, terms; moneys, disposition.

Sec. 132. In cases where it is determined that the assessments shall be collected in more than 2 installments, the drainage board, acting on behalf of the drainage district, may borrow money and may issue bonds therefor as provided in the case of drains lying wholly within 1 county. Such bonds shall be signed by the members of the drainage board and shall be countersigned by the clerks of the counties affected. Bonds issued under this chapter shall be payable at the office of the county treasurer of the county to which the larger per cent of the cost of construction is apportioned, and such bonds shall be deposited and safely kept by such treasurer until sold and delivered. All installments, with interest thereon, of the special assessments shall be transmitted as collected by the treasurer or treasurers of the other county or counties concerned to the treasurer of such county, who shall issue his receipt therefor and shall place the moneys in the fund of the drain to be disbursed solely for the retirement of the bonds at maturity and the payment of interest thereon.

HISTORY: New 1956, p. 66, Act 40, Imd. Eff. Mar. 28.

280.133 Interstate drain; application and petition, drainage district, proceedings; release of right of way, obstruction agreement.

Sec. 133. Whenever any proposed drain lies wholly or partly in an adjoining state, or the lands to be drained thereby lie partly in an adjoining state, application to lay out a drainage district and a petition for the construction of such drain may be made to any commissioner representing any county in this state in which any portion of such proposed drain or lands to be affected thereby lie, and the same proceedings shall be had touching the portion of such drain or the lands to be drained or affected thereby, lying within this state as are provided in this chapter in the case of drains and lands lying wholly within this state: Provided, That before any expense shall be incurred in relation to any such proposed drain, a voluntary release of the right of way to construct such portion of such drain as may lie without this state and an agreement to keep the same or permit the same to be kept clear from obstruction shall first be obtained from the parties owning lands outside of this state through which such drain or portion thereof is to pass, and such release and agreement shall be filed with the said drain commissioner and shall form a part of the record of his proceedings in the premises.

HISTORY: New 1956, p. 66, Act 40, Imd. Eff. Mar. 28.

280.134 Intercounty drain; venue of actions; appointment of outside circuit judge.

Sec. 134. Any action involving intercounty drains, except such actions as may be brought directly in the supreme court, may be brought in the circuit court of any county in which any part of the intercounty drain is located: Provided, That on request by any party to said action made prior to the time said action is instituted or within 30 days after receipt of process, the presiding circuit judge of Michigan shall appoint a circuit judge of any judicial circuit not wholly or partially located within any county in which any part of the intercounty drain is located to hear said action.

HISTORY: New 1956, p. 66, Act 40, Imd. Eff. Mar. 28.

280.135 Intercounty drain; extension into county not in original district; procedure, apportionment of cost; addition of lands by expanded board.

Sec. 135. If at any time after an intercounty drainage district has been established and a drain has been located, established and constructed therein, it appears that it is

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necessary to extend the drain or drainage district into a county which was not a part of the original intercounty drainage district, the lands in the county may be added to the district by presenting to the drain commissioner of one of the counties traversed or affected by the drain, a petition signed by 50% of the land owners whose land is traversed by the drain or proposed extended drain, which petition shall state the name or number of the drain, and the lands which it is desired to have added to the drainage district. Upon receipt of the petition, the drain commissioner shall mail a copy of the petition to the state director of agriculture and also to the drain commissioner of each county in which lie lands liable for assessments for the proposed extended drain or proposed extended drainage district. The state director of agriculture shall call a meeting of the drainage board including the commissioner of any county in which lie lands that have been added to the drainage district. Notices of such meeting and all other proceedings shall be in accordance with the provisions of section 197 of this act, as amended. At the meeting all persons owning lands liable to assessment for benefits, or any district or municipality affected, may appear for or against the addition of such lands. The board shall consider the petition and any evidence offered, and if it is determined that the extension of the drain or drainage district is necessary for the good of the public health, convenience or welfare, it shall then proceed to determine the just percentage of the whole cost of construction which each county shall bear, and also determine the number of installments in which the drain taxes shall be collected. In case the commissioners cannot agree on the apportionment between counties or the number of installments, the chairman shall determine the same. If, in the opinion of the expanded drainage board, it is found necessary to add the lands to the drainage district, they shall also enter an order adding the lands. Copies of the order adding the lands to the drainage district shall be filed with the drain commissioner of each county liable for assessments of the extended drain or extended drainage district. Copies of the order adding the lands to the drainage district shall also be served upon all persons whose lands have been added to said drainage district according to section 154 of this act, as amended. After the order is filed the expanded drainage board shall constitute the drainage board for the expanded drainage district and shall have all the powers which are given to drainage boards by this act, as amended.

HISTORY: Add. 1957, p. 118, Act 97, Imd. Eff. May 24.

CHAPTER 7.

APPORTIONMENT AND REVIEW.

280.151 Final order of determination; filing; contracts for sections or whole; apportionment of costs, benefits; review, appeal.

Sec. 151. Upon the release of the right of way and damages, or upon the determination and return of the special commissioners, the commissioner shall make his final order of determination establishing the drain, which drain shall be divided into convenient sections for the letting of contracts: Provided, That the commissioner may let the drain in sections or as a whole. Said order of determination shall be filed with the county drain commissioner within 5 days after such order is made. He shall, before the day of letting and review, fix the number of installments for the collection of drainage taxes and apportion the per cent of the cost of construction of such drain which any township, city or village traversed or benefited thereby shall be liable to pay by reason of the benefit to the public health, convenience or welfare, or as the means of improving any highway under the control of such township, city or village. He shall apportion the per cent of the cost of construction of such drain which any highway then under the control of the county or district road commissioners, shall be liable to pay by reason of benefits therefor, and as the means of improving such highway. He shall also apportion the per cent of the cost of construction of such drain which any state trunk

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line highway, under the control of the state highway commissioner, shall be liable to pay by reason of benefits therefor and as the means of improving said highway. He shall also apportion the per cent of benefits to accrue to any piece or parcel of land by reason of the construction of such drain over and above the per cent apportioned to any township, city or village at large or to any highway as above provided. Such per cent so apportioned when finally approved shall be assessed against such townships, cities and villages and against the county at large by reason of the improvement of the highways within the drainage district, and against the state by reason of the improvement of the state trunk line highways within such drainage district, and against all parcels of land therein according to such apportionment of benefits as herein provided. The apportionment of benefits so made shall be subject to review and correction and may be appealed from as in this act provided. The board of supervisors at its October meeting each year shall make provision by proper assessment of the amounts apportioned against any highway under the control of the county and district highway commissioners.

HISTORY: New 1956, p. 66, Act 40, Imd. Eff. Mar. 28.

280.152 Apportionment of benefits; description of lands.

Sec. 152. All apportionments of benefits under the provisions of this act shall be upon the principle of benefits derived. All descriptions of land under the provisions of this act shall be made by giving the legal subdivision thereof, whenever practicable, and when the tract of land which is to be benefited or affected by such drain is less than such legal subdivision it may be described by designation of the lot or other boundaries, or in some way by which it may be known.

HISTORY: New 1956, p. 67, Act 40, Imd. Eff. Mar. 28.

280.153 Order to contain description of special assessment district; designation.

Sec. 153. Such order of determination shall contain a description of the district to be assessed for benefits in the construction of said drain, either by boundaries or by description of the several tracts or parcels of land to be assessed, which said tracts or parcels and the county, townships, cities, villages and highways therein shall constitute the special assessment district, and which district shall in said order be designated by name or number.

HISTORY: New 1956, p. 67, Act 40, Imd. Eff. Mar. 28.

280.154 Intercounty drain; bids; apportionment of benefits; review, notices, contents; first class mail, exception.

Sec. 154. The commissioner shall give notice for the receiving of bids for the construction of the drain and also for the holding of a public meeting, at which a review will be had of the apportionment of benefits. The notice shall specify the time and place of receiving bids, and the time and place of the meeting for review of apportionment, which shall be not less than 5 nor more than 30 days after the date set for receiving bids. The notice shall be given by publication for at least 2 insertions in some newspaper published and of general circulation in the county if there is one, the first publication to be at least 10 days before the date set for receiving bids. The drain commissioner also shall send notice by first class mail of the time and place of the meeting, at least 10 days before the date thereof, to each person whose name appears upon the last city or township tax assessment roll as owning land within the special assessment district, at the address shown on such roll, and if no address appears thereon, then no notice need be mailed to such person. The drain commissioner shall make an affidavit of the mailing and shall recite therein that the persons to whom the notice was mailed, constitute all of the persons whose names and addresses appear upon the tax rolls as owning land within the particular special assessment district, which affidavit shall be

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conclusive proof that notice was mailed to each person to whom notice is required to be mailed by the terms of this section. The failure to receive any notice by mail shall not constitute a jurisdictional defect invalidating a drain proceeding or tax, if notice has been sent by first-class mail as provided in this section. If the board of determination has determined that the drain is necessary for the protection of the public health and that the whole cost thereof, except that part which may be apportioned for benefits to highways, shall be apportioned to municipalities, then mailing of individual notices to persons owning land within the special assessment district as above prescribed shall not be required.

Notices, contents; minutes of survey, table of cuttings, filing, inspection.

The notice shall also contain the names of all counties, cities, townships or villages to be assessed at large, and shall be personally served on the county clerk and 1 or more members of the road commission of any county or road district, the supervisor of any township, the mayor of any city and the president of any village to be assessed at large. The notice shall contain a description of the land constituting the special assessment district for the drain which description may be stated by designating the boundaries of the special assessment district by streets or highways or parcels or tracts of land or by describing the several tracts or parcels of land constituting the district. It shall not be necessary to subdivide any tract or parcel beyond the point where the whole thereof is within the drainage district or to describe the drain further than by reference to it by its name or number. The notice shall also state the number and length of sections, the average depth and width of each section, and in case of closed drains, the amount and specifications of all tile or pipe required; the location, number, type and size of all culverts and bridges and the conditions upon which the contract will be awarded. The notice need not contain minutes of survey or table of cuttings which shall be kept on file in the office of the drain commissioner and be open for inspection at the time and place of the letting.

Review of apportionment; computation of cost; adjournment; appearances, equalization of apportionment.

Bids shall be received and computation of the total cost of the drain shall be made before the time set for review of the apportionment, and such computation shall be open to inspection at the time of review. If the computation is not completed before the day of review, the review may be adjourned from time to time, not more than 20 days in all, for the completion of the computation, or a new hearing may be called with like notice, by publication and service at least 10 days before the hearing. If for any reason, the contracts on which the computation was based are not executed and new contracts shall be let at a higher price, a corrected computation shall be made and a new review held with like notice. At the time and place fixed in the notice, or at such other time and place to which the county drain commissioner may adjourn the same, the apportionment of benefits and the lands comprised within the special assessment district shall be subject to review for at least 1 day which review shall be held open from 9 a.m. until 5 p.m. On such reviews the county clerk or the county or district road commission may appear on behalf of the county or any road district, the supervisor or commissioner of highways of any township may appear on behalf of a township; the mayor or some officer of the city designated by him may appear for a city; the president may appear in behalf of a village; and any owner of land may appear in his own behalf or by his agent or attorney. At such review the county drain commissioner shall hear the proofs and allegations of all parties interested, and shall carefully reconsider and review the description of land comprised within the special assessment district, the several descriptions and apportionment of benefits, and define and equalize the same as may seem just and equitable.

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Apportionment of benefits; state trunk line highways, review.

Whenever an apportionment of benefits is made against a state trunk line highway, unless the state highway director consents in writing to the apportionment, the drain commissioner, shall, at least 20 days before the review thereon, notify by certified mail the state highway director of the percentage apportioned against the highway and the date and place fixed for a review of all apportionment of benefits. If the state highway director desires to have the apportionment of benefits reviewed by the state director of agriculture, he shall, within 10 days from the receipt of such notice, file with the drain commissioner an objection to the apportionment. The drain commissioner shall then notify the state director of agriculture of the day and place fixed for the review of apportionments, and at such meeting the director of agriculture, or some deputy selected by him, shall review the apportionment made against the state trunk line highway, listen to the proofs and allegations of the parties and may view the highway benefited, and his action and decision thereon, reduced to writing, shall be final.

HISTORY: New 1956, p. 67, Act 40, Imd. Eff. Mar. 28;—Am. 1957, p. 66, Act 61, Imd. Eff. May 20;—Am. 1961, p. 355, Act 212, Imd. Eff. Jun. 6;—Am. 1963, p. 313, Act 215, Imd. Eff. May 17;—Am. 1963, p. 370, Act 228, Eff. Sep. 6;—Am. 1965, p. 221, Act 138, Eff. Mar. 31, 1966.

280.155 Bids; appeal; application for board of review, bond.

Sec. 155. The owner of any land in the drainage district or any city, township, village, district or county having control of any highway which may feel aggrieved by the apportionment of benefits so made by the commissioner, may, within 10 days after the day of review of such apportionments, appeal therefrom and for such purpose make an application to the probate court of the proper county for the appointment of a board of review, by filing with said probate court a notice of appeal and at the same time filing with said court a bond in such sum as the judge of probate may require, with 1 or more sureties to be approved by the judge of probate, conditioned upon the payment of all costs in case the apportionment made by the commissioner shall be sustained. Such appeal may be taken by the county or district road commissioners in behalf of the county, the mayor of any city in behalf of the city, by the supervisor in behalf of any township, or by the president of any village in behalf of the village when authorized by the village or city council, township board or road commission, respectively. Only 1 board shall be appointed by such probate court.

HISTORY: New 1956, p. 68, Act 40, Imd. Eff. Mar. 28.

280.156 Bids; board of review, appointment, meeting, time, notice, duties.

Sec. 156. The probate court upon receipt of any such application as hereinbefore provided for shall forthwith notify the commissioner in writing of such appeal, and shall thereupon make an order appointing 3 disinterested and competent freeholders of such county, not residents of the township or townships affected by said drain, as members of a board of review. The persons so appointed shall constitute the board of review. The court shall thereupon, with the concurrence of the commissioner, immediately fix the time and place when and where said board of review shall meet to review said apportionments, which time shall not be less than 10 nor more than 15 days from the date of filing such appeal. The commissioner shall thereupon give notice to the persons so appointed of their appointment and of the time and place of meeting, and shall give notice of such meeting by posting notices in at least 5 public places in each township forming a part of the drainage district, and shall serve a like notice upon the appellant if he be a resident of any township affected. Such notice shall be made not less than 5 days before the day of hearing and shall be made by personal service. Proof of service of notice of appeal shall be made by the person serving said notice and be

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filed in the office of the judge of probate. At such hearing the board of review shall have the right, and it shall be their duty, to review all apportionments for benefits made by the commissioner on such drain. The persons so appointed shall be sworn by the commissioner to faithfully discharge the duties of such board of review.

HISTORY: New 1956, p. 69, Act 40, Imd. Eff. Mar. 28.

280.157 Bids; board of review, powers, added lands, procedure; decision in writing final, delivery to commissioner.

Sec. 157. The board of review shall proceed at the time and place specified in the notice to hear the proofs and allegations of all the parties in respect to the matter of appeal and shall thereupon proceed to view the lands benefited by such drain and review all the apportionments made by the commissioner on such drain, and if in their judgment there be manifest error or inequality in such apportionments they shall order and make such changes therein as they may deem just and equitable. Should the board of review find upon personal examination that there are lands liable to be assessed for the construction of said drain that are not included in the drainage district made by the commissioner, they shall add such lands to the drainage district of said drain and shall adjourn such review to such other time or place to be by them at the time of such adjournment publicly announced, as shall to them seem proper, but not in all more than 20 days from and after the time of review first advertised and shall serve a notice on all such owners of lands so added living in the county; such notice shall give the time and place of said review, also the description of lands added to said drainage district and shall be served at least 10 days before the adjourned day of review. Should such owners of land liable to an assessment be nonresidents of said county, there shall be a personal notice served on said owners, as required above, or a notice shall be published in some weekly newspaper published in said county, at least 2 insertions, giving the description or descriptions of lands added to said assessment district and also giving the time and place where said board of review shall meet. The action and decision of said board shall be final. The action and decision shall be reduced to writing and signed by a majority of the board making the same, and shall be delivered to the commissioner, together with all other papers relating thereto.

HISTORY: New 1956, p. 69, Act 40, Imd. Eff. Mar. 28.

280.158 Appeal cost and expenses; liability on bond.

Sec. 158. In case the apportionment of the commissioner shall be sustained by such board of review the appellant shall pay the whole costs and expenses of such appeal. Such costs and expenses shall be ascertained and determined by the judge of probate, and if not paid the appellant shall be liable on his bond for the full amount of such costs in an action at law, to be brought by the commissioner on the bond before any court having competent jurisdiction.

HISTORY: New 1956, p. 70, Act 40, Imd. Eff. Mar. 28.

280.159 Board of review; vacancies, adjournment.

Sec. 159. Should any or all of the persons so appointed as a board of review neglect or refuse to serve or be unable to act, the commissioner shall adjourn the hearing for a sufficient length of time, not exceeding in all 10 days, to enable him to apply to the probate court, for the appointment of other persons to act on such board of review and shall make public announcement of the time and place of such adjournment. The review shall thereupon be deemed a continuous proceeding and no further notice shall be required. The probate court shall upon the showing being made, either that any or all the persons appointed as aforesaid have neglected, refused or were unable to act as the case may be and of the adjourned day of meeting, at once by order appoint such other person or persons duly qualified to fill such vacancy. And the commissioner shall notify the person or persons so appointed to fill such vacancy of his appointment and

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of the adjourned day of meeting. The person so appointed shall have the same power and perform the same duties as are herein provided for the board of review in the first instance.

HISTORY: New 1956, p. 70, Act 40, Imd. Eff. Mar. 28.

280.160 Liability for costs; only one board of review, adjournment.

Sec. 160. In case the apportionment made by the commissioner is sustained, the individual, county, township, city or village appealing shall be severally liable for all costs incurred by such appeal and the same proceedings shall be had throughout in all respects in said appeal as to the benefits and liabilities in case of an appeal from an individual apportionment: Provided, That only 1 board of review shall be appointed by such probate court for any one drain. The board of review herein provided for may adjourn any hearing before them from time to time as justice may require, not exceeding in all 20 days from the date of their first meeting.

HISTORY: New 1956, p. 70, Act 40, Imd. Eff. Mar. 28.

280.161 Certiorari to review drain proceedings and taxes; issues of fact, costs, postponement of proceedings.

Sec. 161. The proceedings in establishing any drain and levying taxes therefor shall be subject to review on certiorari as herein provided. A writ of certiorari for any error occurring before or in the final order of determination shall be issued within 10 days after a copy of such final order is filed in the office of the drain commissioner as required by section 151 of this act, and for any error occurring after such final order of determination, within 10 days after the day of review, or if an appeal has been taken within 10 days after the filing of the report of the board of review. Notice of such certiorari shall be served upon the commissioner within 10 days after the day of issue in the same manner as notice is required to be given of certiorari for reviewing judgments rendered by justices of the peace, and the writ shall be issued and served, and bond given and approved and the subject matter brought to issue in the same time and manner, as near as may be, as in such cases provided, except that such certiorari may be heard by the court during term, or at chambers, upon 5 days' notice given to the opposite party; and the circuit court of the county shall hear and determine the same without unnecessary delay, and if any material defect be found in the proceedings for establishing the drain, such proceedings shall be set aside. If issues of fact are raised by the petition for such writ and the return thereto, such issues shall, on application of either party, be framed and testimony thereon taken under the direction of the court. If the proceedings be sustained, the party bringing the certiorari shall be liable for the costs thereof, and if they be not sustained, the parties making application for the drain shall be liable for the costs. If no certiorari be brought within the time herein prescribed, the drain shall be deemed to have been legally established, and the taxes therefor legally levied, and the legality of said drain and the taxes therefor shall not thereafter be questioned in any suit at law or equity: Provided, No court shall allow any certiorari questioning the legality of any drain by any person unless notice has been given to the commissioner in accordance with the provisions of this chapter: Provided further, That when such proceedings are brought the commissioner shall postpone the letting of contracts and all other proceedings until after the determination of the court. And if any error be found in the proceedings, the court shall direct the commissioner to correct such error or errors and then proceed the same as though no error had been made.

HISTORY: New 1956, p. 70, Act 40, Imd. Eff. Mar. 28.

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280.162 Village or city; incorporation or annexation; reapportionment of cost of drain.

Sec. 162. Whenever a village or a city is incorporated out of the territory of a township, or whenever annexations are made to a city or a village from a township, the township, city or village by action of its governing body may petition the drain commissioner in case of a county drain, or the drainage board in case of an intercounty drain, for a reapportionment of the original percent of apportionment at large against the township. Upon receipt of the petition, the drain commissioner or the drainage board, shall reapportion the percent of the original cost to the township between the township, city or village. The reapportionment shall be made in accordance with the provisions of section 152 of this act.

HISTORY: Add. 1962, p. 421, Act 191, Eff. Mar. 28, 1963.

CHAPTER 8.

CLEANING, WIDENING, DEEPENING, STRAIGHTENING AND EXTENDING DRAINS.

280.191 County drain; maintenance and improvements; petition; determination of necessity; apportionment of costs; review.

Sec. 191. Whenever a drain or portion thereof, which traverses lands wholly in 1 county, and lands only in 1 county shall be subject to assessment, needs cleaning out, relocating, widening, deepening, straightening, tiling, extending or relocating along a highway, or requires structures or mechanical devices that will properly purify or improve the flow of the drain or pumping equipment necessary to assist or relieve the flow of the drain, or needs supplementing by the construction of 1 or more relief drains which may consist of new drains or extensions, enlargements or connections to existing drains, or needs 1 or more branches added thereto, any 5 freeholders of the township or townships in which such drain is situated, 2 or more of whom shall be owners of land liable to an assessment for benefits for such work, may make petition in writing to the commissioner setting forth the necessity of such proposed work and the commissioner shall proceed in the same manner as hereinbefore provided for the location, establishment and construction of a drain. If any such project includes a tiled relief drain, or the tiling of an existing open drain or any portion thereof, with a conduit any part of which has an inside diameter in excess of 36 inches or the retiling of an existing drain with a conduit, any part of which has an inside diameter in excess of 36 inches, then such petition shall comply with the provisions of section 71. The preceding sentence shall not be applicable to the construction of bridges, culverts and passageways. The word tiling as used in this and other sections of this act, as amended, shall be deemed to mean the laying of a conduit composed of tile, brick, concrete or other material. Whenever it is necessary for the public health of 1 or more cities, villages and townships, such petition may be signed solely by a city, village or township when duly authorized by its governing body or by any combination of such municipalities, if such municipality or municipalities will be liable to assessments at large for a percentage of the total amount to be assessed for the cost of the proposed work. After the board of determination shall have determined the necessity for such work, as provided in section 72, the commissioner shall, as soon as practicable after the final order of determination prescribed in section 151 has been filed by him, proceed in all respects as provided in sections 151 to 161. In case the apportionment shall be the same as the last recorded apportionments, no day of review shall be necessary, but in other cases the commissioner shall proceed in all respects as provided in sections 151 to 161, including the notice of and the holding of a day of review.

HISTORY: New 1956, p. 71, Act 40, Imd. Eff. Mar. 28;—Am. 1956, Ex. Ses., p. 9, Act 5, Imd. Eff. Jun. 23;—Am. 1957, p. 136, Act 119, Imd. Eff. May 24;—Am. 1959, p. 406, Act 261, Imd. Eff. Aug. 21;—Am. 1965, p. 309, Act 194, Imd. Eff. Jul. 15;—Am. 1968, p. 131, Act 79, Eff. Nov. 15.

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280.192 Intercounty drain; cleaning out, petition; drainage board; survey; procedure.

Sec. 192. Whenever a drain or portion thereof, which traverses lands in more than 1 county, and lands in more than 1 county shall be subject to assessments, needs cleaning out, relocating, widening, deepening, straightening, tiling, extending or relocating along a highway, or requires structures or mechanical devices that will properly purify or improve the flow of the drain or pumping equipment necessary to assist or relieve the flow of the drain, or needs supplementing by the construction of 1 or more relief drains which may consist of new drains or extensions, enlargements or connections to existing drains, or needs 1 or more branches added thereto, freeholders within the drainage district equal to 50% of the number of freeholders whose lands are traversed by said drain or drains in said petition or abut on any highway or street along either side of which such drain extends, between the point where said drain enters such highway and the point where it leaves such highway or street and which lands are within the drainage district, may make a petition in writing to the commissioner of any county having lands in such district setting forth the necessity of such proposed work. Whenever it is necessary for the public health of 1 or more cities, villages or townships, the petition may be signed solely by a city, village or township when duly authorized by its governing body or by any combination of such municipalities if the municipality or municipalities will be liable to assessments at large for a percentage of the total amount to be assessed for the cost of the proposed work. The percentage of cost apportioned to the municipality or municipalities shall be based upon the benefits to accrue to such municipality or municipalities and also the extent to which they contribute to the conditions which makes the drain necessary. Upon receipt of such petition, the commissioner shall notify the state director of agriculture and the commissioners of each county embracing any lands in the drainage district, and the director of agriculture shall call a meeting within the time and in the manner prescribed in section 122. The persons so named shall constitute a drainage board and if such work is then determined to be practicable, they may thereupon appoint a competent surveyor or engineer to make a survey of said drain, and lay out a drainage district according to section 104. After the surveyor or engineer has filed all data with the drainage board the director of agriculture shall call a meeting as provided in section 122, and thereafter take all steps and perform all acts which are required to be done by said board upon a petition for the location, establishment and construction of drains as provided in sections 121 to 135. Such board and the commissioners shall exercise such power and be subject to such limitations as are provided in sections 121 to 135.

HISTORY: New 1956, p. 71, Act 40, Imd. Eff. Mar. 28;—Am. 1957, p. 137, Act 119, Imd. Eff. May 24;—Am. 1959, p. 406, Act 261, Imd. Eff. Aug. 21;—Am. 1963, p. 35, Act 36, Eff. Sep. 6;—Am. 1965, p. 310, Act 194, Imd. Eff. Jul. 15;—Am. 1968, p. 132, Act 79, Eff. Nov. 15.

280.193 Drains; apportionment for cleaning, widening, deepening, straightening, and extending; review; notice; consolidated districts.

Sec. 193. All apportionments hereunder shall be made according to the benefits received and shall be subject to appeal the same as in the first instance. In case the apportionment shall be the same as the last recorded apportionment, no day of review shall be necessary. In case the apportionment shall be changed, or in case an apportionment is made in a consolidated district which apportions benefits between lands which have not been previously assessed by the consolidated district, the procedure shall be in all respects in accordance with the provisions of chapter 7 of this act, including the notice of and the holding of a day of review.

HISTORY: New 1956, p. 72, Act 40, Imd. Eff. Mar. 28;—Am. 1962, p. 90, Act 103, Imd. Eff. Apr. 30.

280.194 Petitions and proceedings; description of drain, relief drains.

Sec. 194. In any petition filed under this chapter it shall not be necessary for the petitioners to describe said drain other than by its name or to describe its commence-

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ment, general route and terminus. For any work necessary to be done in cleaning out, widening, deepening, straightening, consolidating, extending, relocating, tiling or relocating along a highway, or for providing structures or mechanical devices that will properly purify or improve the flow of the drain or pumping equipment necessary to assist or relieve the flow of the drain or needs supplementing by the construction of 1 or more relief drains which may consist of new drains or extensions, enlargements or connections to existing drains, or needs 1 or more branches added thereto, and for any and all such proceedings, only 1 petition and proceeding shall be necessary.

HISTORY: New 1956, p. 72, Act 40, Imd. Eff. Mar. 28;—Am. 1956, 1st Ex. Ses., p. 10, Act 5, Imd. Eff. Jun. 23;—Am. 1957, p. 137, Act 119, Imd. Eff. May 24;—Am. 1967, p. 235, Act 172, Imd. Eff. Jun. 30.

280.195 Further right of way; damages.

Sec. 195. In case it shall be necessary to secure further right of way and allow damages therefor, for any work contemplated by this chapter, the commissioner shall take all the necessary steps to obtain such right of way as are prescribed by chapter 4, being sections 71 to 84, inclusive, of this act.

HISTORY: New 1956, p. 72, Act 40, Imd. Eff. Mar. 28.

280.196 Inspections; maintenance and repair, expense, reassessment; emergency.

Sec. 196. (1) An annual inspection may be made of all drains laid out and constructed under this act. Inspection shall also be made upon the request of the governing body of any public corporation, as defined in section 461, served in whole or in part by the drain to be inspected. In the case of county drains, such inspection shall be made by the drain commissioner, or a competent person appointed by him. In the case of intercounty drains, such inspection shall be caused to be made by the drainage board. Whenever such inspections disclose the necessity of expending money for the maintenance and repair of any drain in order to keep it in working order, the drain commissioner, in the case of a county drain, or the drainage board, in the case of an intercounty drain, may without petition expend an amount not to exceed in any one year $500.00 per mile or fraction thereof or 1% of the original cost of the drain and 1% of extensions thereof for maintenance and repair of any drain. Whenever it shall be found necessary by the drain commissioner or the drainage board to expend funds in excess of $500.00 per mile or fraction thereof or 1% of the original cost of the drain and 1% of extensions thereof in any one year for maintenance and repair of any drain, such additional amounts shall not be expended until approved by not less than 50% of the total number of legislative bodies of all such public corporations, within or partly within the drainage district.

Reassessment; notice; emergency.

(2) In case the fund belonging to the drain is not sufficient to pay for any work authorized by this section, the drain commissioner or the drainage board shall reassess the drainage district therefor according to benefits received, which reassessment shall be made and spread upon the city or township tax assessment roll within 2 years from the completion of the inspection work, and in case the total expenditure is more than $500.00 per mile or fraction thereof or 1% of the original cost of the drain and 1% of extensions thereof, all freeholders subject to assessment shall be notified of such assessment by publication in a newspaper of general circulation within the drainage district and by first class mail to each person whose name and address appears upon the last city or township tax assessment roll as owning land within the drainage district. An affidavit of mailing shall be made by the drain commissioner or chairman of the drainage board which shall be conclusive proof that the notices required by this section were mailed. The failure to receive such notices by mail shall not constitute a jurisdictional defect invalidating a drain proceeding or tax, if notice by publication as required by

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this section were complied with. Whenever an emergency condition exists which endangers the public health, crops or property within their respective districts, the drain commissioner or the drainage board may expend funds for any work contemplated in this chapter subject to the limitations provided in this section for maintenance and repair.

Excess expenditures upon request.

(3) Nothing in this section shall prohibit the drain commissioner or the drainage board from spending funds in excess of $500.00 per mile or fraction thereof or 1% of the original cost of the drain and 1% of extensions thereof in any one year for maintenance and repair of a drain when requested by such a public corporation, if the public corporation pays the entire cost of the maintenance and repair.

State and federal funds.

(4) In computing the amounts which may be expended in accordance with the provisions of this section, the cost of any work to be performed by any state or federal agency which is not chargeable to such county or intercounty drainage district shall not be included, nor shall it be necessary for the drain commissioner or the drainage board to advertise for bids for that portion of the work to be done by such state or federal agency.

HISTORY: New 1956, p. 72, Act 40, Imd. Eff. Mar. 28;—Am. 1959, p. 68, Act 70, Imd. Eff. Jun. 12;—Am. 1960, p. 96, Act 96, Imd. Eff. Apr. 26;—Am. 1962, p. 105, Act 117, Eff. Mar. 28, 1963;—Am. 1968, p. 610, Act 333, Imd. Eff. Jul. 14.

280.197 Survey of drain or district; filing of data; addition to district; notice, publication; first class mail, affidavit of mailing, service, expense.

Sec. 197. Upon receipt of any petition filed under this chapter, the commissioner or the drainage board may, if deemed necessary, require a competent surveyor or engineer to make a survey of the drain or of the district, or any portion thereof, or if necessary lay out a new district including the lands benefited, or to make profiles, plans or estimates of such work and file all data concerning same with the commissioner or the chairman of the drainage board. If upon filing the data it appears that lands have been added to the drainage district, the drain commissioner in the case of a county drain, or the chairman of the drainage board in the case of an intercounty drain, shall notify the board of determination who allowed the petition that lands should be added to the district, and the drain commissioner or chairman of the drainage board shall call a meeting of the board of determination. If any member of the board of determination is disqualified or unable to act, then his place shall be filled by appointment as in the first instance. The notice shall specify the time and place within the drainage district at which the board of determination shall reconvene. The drain commissioner or chairman of the drainage board also shall cause the notice to be published once in a newspaper of general circulation in the county or a newspaper of general circulation in the area where the drain improvement is contemplated at least 10 days before the meeting. He shall also send notice by first class mail of the time and place of the meeting, at least 10 days before the date thereof, to each person whose name appears upon the last city or township tax assessment roll as owning land within the enlarged drainage district, at the address shown on the roll, and if no address appears thereon, then no notice need be mailed to such person. The drain commissioner shall make an affidavit of the mailing and shall recite therein that the persons to whom the notice was mailed constitute all of the persons whose names and addresses appear upon the tax rolls as owning land within the enlarged drainage district, which affidavit shall be conclusive proof that notice was mailed to each person to whom notice is required to be mailed by the terms of this section. The failure to receive any notice by mail shall not constitute a jurisdictional defect invalidating a drain proceeding or tax, if notice has been sent by first-class mail as provided in this section. All expense of notification shall be paid by the drainage district.

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Hearing by reconvened board of determination; determination; construction.

At the time and place designated by the drain commissioner or the chairman of the drainage board the board of determination shall reconvene and any freeholder or any municipality affected in the enlarged drainage district shall have a right to be heard as to the necessity of the proposed improvement and the addition of land to the district. Upon reconvening, if the board of determination by a majority vote of all members finds the proposed addition of such lands to the drainage district necessary and conducive to the public health, convenience or welfare, they shall make their order to that effect and file the same with the drain commissioner, or drainage board in the case of intercounty drains. The drain commissioner or drainage board shall thereafter take all steps and perform all acts which are required to be done for the locating, establishing and constructing of drains as designated in chapter 4 or chapter 6 of this act.

HISTORY: New 1956, p. 73, Act 40, Imd. Eff. Mar. 28;—Am. 1958, p. 95, Act 87, Imd. Eff. Apr. 11;—Am. 1961, p. 356, Act 212, Imd. Eff. Jun 6;—Am. 1963, p. 315, Act 215, Imd. Eff. May 17;—Am. 1963, p. 372, Act 228, Eff. Sep. 6;—Am. 1965, p. 222, Act 138, Eff. Mar. 31, 1966.

280.198 Drain taxes; subsequent assessment.

Sec. 198. The assessment, collection and return of drain taxes for any work done under this chapter shall be made in the same manner and under the same provisions as in this act provided for drain taxes assessed, collected, returned and enforced in the first instance: Provided, That in all proceedings involving subsequent assessments, the drain commissioner shall furnish to the supervisor of each township containing parcels of land subject to such assessment the names of the owners of record of such parcels as of the date of the assessment.

HISTORY: New 1956, p. 73, Act 40, Imd. Eff. Mar. 28.

280.199 Cleaning out drain; apportionment of cost; use of surplus in drain fund.

Sec. 199. In case the necessity for cleaning out any drain arises from the act or neglect of any land owner, said act or neglect shall be taken into consideration by the commissioner in making the apportionment. In case the cost of cleaning out shall be lessened by the tiling of the source of the drain under section 425 of this act, the commissioner may take that into consideration in making the apportionment of benefits against the land so tiled, but in no case shall said benefits be considered to be less than 50% of the benefits to such land if it were not tiled. Should there be a surplus in any drain fund, the commissioner or drainage board, as the case may be, may, in their discretion, without application or notice, pay out of such funds a reasonable compensation for cleaning out any obstruction that may accumulate in the particular drain for which the fund was raised.

HISTORY: New 1956, p. 74, Act 40, Imd. Eff. Mar. 28.

280.200 Cleaning out drain; cost of maintenance and repair; public contracts.

Sec. 200. In lieu of assessing the cost of the maintenance and repair of any drain to parcels of land in the drainage district within any city, village, township, charter township or county, the commissioner or drainage board may contract relative to such cost with any city, village, township, charter township or county in which the drain, or any part thereof, is located, or whose residents use the drain for drainage or for the transportation of sewage. In the contract any city, village, township, charter township or county may agree (1) to pay annually to the commissioner or the drainage board certain sums for the cost of maintenance and repair of any drain and for the creation of a reserve fund therefor, or (2) to provide such sums periodically as needed, or (3) to reimburse the commissioner or drainage board for all sums expended for maintenance and repair, or (4) for any combination of the foregoing. The contract shall be approved

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and its execution authorized by a resolution adopted by the legislative body of the city, village, township, charter township or county and shall be executed by the commissioner or drainage board on behalf of the drainage district. The city, village, township, charter township or county may fulfill its obligation to pay in accordance with the terms of the contract out of its general funds, service charges to its residents, or any other legally available funds. The contract shall specify the manner in which the obligation to pay shall be fulfilled.

HISTORY: Add. 1962, p. 90, Act 103, Imd. Eff. Apr. 30.

CHAPTER 9.

LETTING OF CONTRACTS.

280.221 Construction of drain; bids; contracts; readvertisement; installment bonds.

Sec. 221. At the time and place fixed in the notice therefor, the commissioner shall receive bids for the construction of the drain. The commissioner may in any case, and shall for all drains having an estimated cost exceeding $3,000.00, advertise for sealed proposals, to be opened on the day of letting. All sealed proposals received by the commissioner shall be publicly opened by him in the meeting and may be there examined by any person interested. As soon as practical after the opening of bids for the construction of any drain, the commissioner shall determine the lowest responsible bidder and award contracts, or he may reject all proposals and readvertise as in the first instance, and in cases where the commissioner determined that the taxes assessed for benefits shall be collected in more than 1 installment, he shall, subject to the provisions set forth in section 275 of this act, determine the amount, form, maturity and rate of interest of bonds to be issued. In counties having a board of county auditors no drain bonds shall be sold and no drain contracts let without the written consent and approval of the board of county auditors, but the approval of said board shall not be required in proceedings relative to intercounty drains.

Abandonment of petition; litigation.

If no contract shall be let within 5 years after the date of filing the petition to locate, establish and construct, or deepen, widen, straighten, tile, extend or clean out a drain, the petition shall be deemed abandoned and no further action shall be taken to construct said drain unless a new petition shall be filed. Time during which any litigation shall be pending to contest the validity of such proceedings shall not be counted as a part of such 5-year period.

Road commissioners, bid.

The board of county road commissioners, when authorized by a committee of supervisors appointed by the board of supervisors, is hereby authorized to bid for the construction, cleaning, deepening and widening of drains within the county, and, if such bid is accepted, shall be authorized to perform the work called for therein, and receive payment therefor. A bid tendered by such board of county road commissioners shall not be accepted unless such bid shall be at least 15% lower than any other bid tendered. The moneys received by the county road commission shall be credited to the county road fund, and expenditures incurred by the county road commission shall be proper disbursements therefrom.

HISTORY: New 1956, p. 74, Act 40, Imd. Eff. Mar. 28;—Am. 1960, p. 5, Act 4, Imd. Eff. Mar. 8.

280.222 Letting contracts; rejection of bids; adjournment.

Sec. 222. The commissioner shall first let the section at the outlet of the drain and shall let each remaining section in its order up stream: Provided, That the commissioner may let the drain in sections or as a whole, whichever appears to him the most practical: Provided further, That the commissioner shall reserve the right to reject any

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and all bids or proposals and proceed to let said drain in its entirety, and may adjourn such letting in the whole or in part, from time to time, to such other time or place to be by him at the time of such adjournment publicly announced as shall to him seem proper, but not in all more than 40 days from and after the time of letting as first advertised.

HISTORY: New 1956, p. 75, Act 40, Imd. Eff. Mar. 28.

280.223 Deposit with bid; execution of contracts; forfeited deposits; performance bond; indemnity bond.

Sec. 223. A certified check or its equivalent in such amount as the commissioner may deem reasonable may be required with each bid, whether on opening bidding or sealed proposals, as evidence of good faith and to reimburse the district in the event of failure on the part of the successful bidder to execute the necessary contracts or to furnish the required bond or indemnity insurance. In case the successful bidder shall not execute the proper contracts or furnish the bonds or indemnity insurance required by him within 10 days after the acceptance of his bid, then the commissioner may retain such deposit as stipulated damages for the nonexecution of the contract and proceed to advertise for and let the job anew. If the successful bidder furnishes the bonds or indemnity insurance required and executes the required contracts, then such deposit shall be returned to him. All moneys so forfeited shall be deposited with the county treasurer to the credit of such drainage district fund. The successful bidder shall, within the time above limited, file with the commissioner a surety bond, conditioned for the faithful performance of said contract. Such bond shall be in a sum to be fixed by the commissioner, but shall in no case be less than the contract price. The commissioner shall require the successful bidder in any case to furnish a bond or indemnity insurance in such sum as the commissioner may require and to be approved by him, which said bond or indemnity insurance shall run to the people of the state of Michigan and shall be maintained in full force and effect until such contract is terminated to indemnify the drain commissioner, drainage district, county or other municipality by reason of any injury to any workman on said drain, or against any loss or damage by reason of the negligence or carelessness of said contractor in the construction of said drain. Indemnity insurance which shall terminate by expiration or cancellation shall be replaced prior to termination in such sum as the commissioner shall then require.

HISTORY: New 1956, p. 75, Act 40, Imd. Eff. Mar. 28;—Am. 1960, p. 97, Act 96, Imd. Eff. Apr. 26.

CHAPTER 10.

INSPECTION AND APPROVAL OF CONSTRUCTION AND PAYMENT FOR THE DRAIN.

280.241 Inspection of drain; order of approval, payments on contract.

Sec. 241. No warrant or drain order for the payment of any part of such drain contract shall be drawn until the work has been inspected and approved as herein provided. The commissioner may inspect and approve any tile or open drain, or he may designate any competent surveyor or engineer to make such inspection, but where the construction exceeds $3,000.00, the commissioner shall designate a competent surveyor or engineer to make the inspection. Any person making such inspection shall see that the specifications in the contract are fully complied with, and if the work is not in accordance with the contract, the commissioner shall immediately notify the contractor thereof. If the work so inspected shall conform to the contract, the person making the inspection shall certify in writing to that fact and an order of approval shall thereupon be entered by the commissioner in his drain record, and notice of the approval be given the contractor. The commissioner may issue warrants or orders on the fund of any drain not exceeding 90% of the amount earned on any contract after the certifi-

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cate of inspection and the order of approval is entered as herein provided. The payment of the final 10% or any portion thereof on any contract may be made after the certificate of inspection is made attesting to the completion and is filed in the office of the commissioner.

HISTORY: New 1956, p. 75, Act 40, Imd. Eff. Mar. 28;—Am. 1965, p. 131, Act 98, Eff. Mar. 31.

280.242 Extension of time on contract; forfeiture; reletting unfinished portion; recovery of excess cost.

Sec. 242. The commissioner shall have power to grant a reasonable extension of time for the completion of any contract. When any contract shall not be finished within the time specified, or to which it may be extended, the commissioner shall declare such contract forfeited and shall, within a reasonable time thereafter, relet the unfinished portion thereof to the lowest responsible bidder, by public letting, after not less than 5 days' notice thereof, by posting only, as provided for the letting in the first instance, or by private letting when such can be done, at a price per rod for the uncompleted portion thereof not exceeding the price per rod at which the job was first let; and he shall make contract and take security in each case as herein provided. The cost of completing such part over and above the contract price, if any, and the expense of notice and reletting shall be collected by the commissioner of the parties first contracting or of their bondsman, which moneys, when so collected, shall be deposited with the county treasurer, and placed to the credit of such drain.

HISTORY: New 1956, p. 76, Act 40, Imd. Eff. Mar. 28.

280.243 Deficiency; assessment, collection, review, appeal; embezzlement; payment from county general fund, conditions.

Sec. 243. Whenever the amount assessed for the construction of any drain shall not be sufficient to complete the same, and to pay all the costs and incidental expenses or to pay the principal and interest on bonds if such are issued, a further assessment shall be made to meet the deficit or additional expense. Such further assessment shall be apportioned, assessed, levied and collected as provided in the first instance, and on the same percentage, and shall be collected in 1 year, but there shall be no review of nor appeal from such further assessment: Provided, That whenever by reason of the embezzlement or other wrongful act of any county official or by reason of the conspiracy of any county official with any other person or persons to defraud any drainage district, township or county, there shall be any deficiency as aforesaid, the board of supervisors of any county traversed by the drain may provide for the payment, out of the general fund of the county, of all or any part of such additional assessment as may be apportioned to that part of the drainage district within such county, or for the refunding to taxpayers of any such assessment which may have been paid.

HISTORY: New 1956, p. 76, Act 40, Imd. Eff. Mar. 28.

280.244 Drain orders; drawing and payment, restrictions; payment from county general fund, reimbursement.

Sec. 244. All orders for the payment for services rendered and work performed shall be drawn by the commissioner upon the drain fund of each particular drain. In case of taxes assessed for benefits received which are to be paid in 7 annual installments or less, all orders for the payment for lands for right of way shall be paid out of the first year's taxes, and the balance of such first year's taxes, if any, shall be applied pro rata among the several contractors in the payment of the contracts for the construction of such drain. For the balance due upon such contracts the commissioner shall draw orders payable out of each succeeding year's assessment pro rata among the several contractors: Provided, That no commissioner shall draw orders payable in any one year for a larger amount than said year's assessment, except in cases where bonds are issued and sold as provided by law. All drain orders shall be drawn payable not sooner than

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the fifteenth day of April nor later than the first day of August of the year in which the drain taxes for the payment thereof are required to be paid. If the drain fund is insufficient for such purpose because of delinquency in the payment of drain taxes after the lands on which the said taxes shall have become delinquent have been offered for sale, in any such case where payment is made by the county treasurer out of the general fund and all delinquent drain taxes received by said treasurer thereafter shall be credited to the general fund until the same is reimbursed. In all cases where bonds are issued and sold as herein provided and the proceeds thereof are deposited in the county treasury to the credit of the fund of the particular drain, orders presented on such fund shall be paid out of the proceeds aforesaid, or out of the first annual installment of the taxes. In no case where there are outstanding bonds shall an order be paid out of any installment of taxes collected other than the first.

HISTORY: New 1956, p. 76, Act 40, Imd. Eff. Mar. 28.

280.245 Drain orders; contents, recording; payment; insufficient funds, interest; drain order redemption fund; payment of drainage taxes; reports to commissioner by county treasurer.

Sec. 245. All drain orders made by the commissioner shall state the services rendered in brief form, shall be numbered and recorded and signed by the commissioner. Such order, when due, shall be presented to the county clerk and he shall immediately ascertain from the county treasurer if the particular fund on which said order is drawn is sufficient to pay said order. If such fund is sufficient, the county treasurer shall so certify on the back of said drain order and the county clerk shall thereupon issue the usual county warrant upon the county treasurer for the payment of said order, taking said order so certified as his voucher. If such particular fund is insufficient when such order is presented for payment, the county treasurer shall so certify upon such order and such order shall then draw interest at the rate of 6% per annum from the date of presentation until such particular fund is sufficient to pay the same, said interest to be computed and paid with the principal out of the proper fund on which it was drawn, when there are sufficient funds to pay the same. The county treasurer shall keep a record in which he shall note each drain order presented for payment on a drain account which was insufficient to pay such order on the date of presentation. He shall note in such record the amount, number, drain account and the date of original presentation for payment. When there are sufficient moneys in the particular drain account to pay the order, plus interest, the county treasurer shall note the date of such sufficiency on such record and shall transfer sufficient moneys to pay such order and interest then due from the particular drain account and drain fund to a drain order redemption fund and the drain order shall cease to earn interest as of that date. Transfers to the drain order redemption fund shall be made in the order of priority in which the drain orders were originally presented for payment. Payment of such orders, including interest earned as provided herein, shall thereafter be made by the county treasurer from the drain order redemption fund. Drain orders at any time during the year in which such drain order becomes due and payable and for a period of 30 days prior to such year shall be accepted for the payment of drainage taxes. The county treasurer shall report to the commissioner the amount paid as interest on any and all such drain orders. The county treasurer shall at the first of each month furnish the drain commissioner with a report of all drain orders cashed during the preceding month, including the name of the drain upon which the order was drawn, the amount, the number of the order, and the date of payment.

HISTORY: New 1956, p. 77, Act 40, Imd. Eff. Mar. 28.

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280.246 Advertising rates; fees of judge of probate and other officers.

Sec. 246. Newspaper publishers shall receive legal rates for advertising. The judge of probate shall receive 10 cents per folio for making exemplified copies of any proceedings had in the probate court and $2.00 for the appointment of special commissioners, including certified copy of the order of the appointment. Special commissioners may be appointed to determine the necessity of drains and the necessity of taking property for the use of such improvement and appraise damages therefor. Members of boards of review, boards of determination, surveyors and attorneys employed, shall present their account for services rendered and expenses under oath to the board of county auditors in a county having a board of auditors or to the judge of probate in other counties, and it shall be the duty of said board or judge to audit and allow the said accounts and direct the same to be paid from the revolving drain fund of the county: Provided, That in case the board of determination or special commissioners determine said proposed drain is not necessary, payment for all such service shall be made from the general fund of the county.

HISTORY: New 1956, p. 77, Act 40, Imd. Eff. Mar. 28.

280.247 Attorney; employment; legal expenses, payment; prosecuting attorney.

Sec. 247. The county drain commissioner acting under the provisions of this act may employ an attorney when he deems the same necessary and any legal expense shall be charged to the several drain districts in behalf of which he shall be employed. All such expenses shall be paid out of the revolving drain fund which shall be reimbursed out of the first moneys available: Provided, That the board of supervisors by resolution may cause the prosecuting attorney to give such legal assistance as part of his duties.

HISTORY: New 1956, p. 78, Act 40, Imd. Eff. Mar. 28.

280.248 Expenses of state director of agriculture or deputy; payment.

Sec. 248. The state director of agriculture, or any deputy designated by him, shall be paid all his necessary traveling and subsistence expenses actually and necessarily incurred in the discharge of any duties required by this act.

HISTORY: New 1956, p. 78, Act 40, Imd. Eff. Mar. 28.

CHAPTER 11.

LEVY AND COLLECTION OF DRAIN TAXES.

280.261 Computation of cost; items included; contingent expenses.

Sec. 261. Within 10 days after the letting of contracts, or in case of an appeal, then forthwith after such appeal shall have been decided, the commissioner shall make a computation of the entire cost of such drain, which shall include (1) all the expense of laying out and designating the drainage district, which item of expense shall include the entire cost of the survey; (2) the expense of locating, establishing and constructing the drain; (3) the fees and expenses of special commissioners; (4) the compensation to be paid the board of review; (5) the cost of construction of bridges and culverts; (6) the contracts for the construction of the drain, or other work to be done on said drain; (7) the estimated cost of an appeal in case the apportionment made by the commissioner shall not be sustained; (8) the estimated cost of inspection; (9) the cost of publishing all notices required; (10) all fees of the probate judge; (11) attorney fees for legal services in connection with the drain; and (12) interest on bonds for the first year, if bonds are to be issued, and he shall add the whole into a gross sum and add thereto not less than 10% nor more than 15%, at the discretion of the drain commissioner, of said gross sum to cover contingent expenses, and the entire sum so ascertained shall be deemed to be the cost of construction of such drain.

HISTORY: New 1956, p. 78, Act 40, Imd. Eff. Mar. 28.

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280.262 Special assessment rolls; filing.

Sec. 262. The commissioner shall thereupon make a special assessment roll for such drain for each county, township, city or village and each state trunk line highway affected thereby, which roll shall be designated (giving name or number) "drain special assessment roll", and he shall enter therein a correct description of the tracts, parcels or subdivisions of land benefited by such drain and place opposite each description the amount of the per cent heretofore determined upon by him or by the board of review, as the case may be. He shall also enter thereon the amount of the per cent apportioned to such county (for benefits to any county road), township, city or village and the state highway commissioner (for benefits to any state trunk line highway), and in case such amount be payable in installments he shall also enter thereon a memorandum of the installments thereof and of the year or years when such installments shall be spread; and shall add a certificate in writing of the determination whether the taxes assessed for benefits shall be paid in 1 or more years. Such rolls shall be dated and signed by said commissioner and filed on or before the last Wednesday in September in each year, in the office of the county clerk.

Current assessment roll; permanent assessment roll.

The commissioner shall prepare a tax assessment roll in each year for the collection of taxes for the current year, and shall certify the same to the county clerk on or before the first day of the annual meeting of the board of supervisors. In each such roll he shall add to the amount to be collected, interest on all unpaid installments to the date of tax collection. To the roll for the last year he shall add such further amount, if any, as may be necessary together with outstanding uncollected taxes, to pay all outstanding bonds and interest thereon to maturity. In case such roll is made payable in more than 1 installment, a permanent assessment roll may be maintained in the office of the county treasurer, subject to the direction of the board of county auditors, in counties having such a board, and of the board of supervisors in other counties, showing the total cost, the number of installments and the amount of each annual assessment, together with interest charges thereon, which shall be carried in a separate column.

Installment payments.

In case such roll is made payable in more than 1 installment, and the total amount of any assessment is $10.00 or less, exclusive of interest, then such assessment shall be payable in 1 installment; but if the assessment exceeds the sum of $10.00 and is made payable in more than 1 installment, then no such installment, exclusive of interest, shall be less than the sum of $10.00, excepting the final installment, which shall be payable in the amount of the actual balance.

HISTORY: New 1956, p. 78, Act 40, Imd. Eff. Mar. 28;—Am. 1963, p. 94, Act 82, Eff. Sept. 6.

280.263 Spread of drain taxes on rolls; time.

Sec. 263. It shall be the duty of the supervisor, village or city assessor, to spread on his roll the total amount of all drain taxes determined upon by the county drain commissioner to be assessed upon the county, township, city or village at large by adding to the county, township, city or village tax for the year in which the same was assessed and extending said tax in the same column with the general county, township, city or village tax: Provided, That in such villages or cities of this state, where the municipal taxes therefor are assessed and collected prior to the October meeting of the board of supervisors, all taxes ordered to be spread against such municipalities shall be spread during the calendar year following such action by the board of supervisors: Provided further, That in lieu of the addition of such tax to the county, township, city or village tax, the legislative body thereof may in any year provide for the payment thereof from the general or contingent fund of such county, township, city or village. Such supervi-

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sor or assessor shall also spread upon said roll, separately, and immediately following the other descriptions, all tracts or parcels of land specified by the commissioner to be assessed for benefits, and shall place opposite each description, in a column marked "(giving the name or number) ..... drain taxes," the amount of taxes apportioned thereon, as certified to him by the county clerk.

HISTORY: New 1956, p. 79, Act 40, Imd. Eff. Mar. 28.

280.264 Statement of assessments upon township at large furnished township treasurer.

Sec. 264. The supervisor shall, at the time of the delivery of his assessment roll to the township treasurer, also furnish him with an itemized statement of the several amounts assessed upon the township at large for each particular drain, naming the drain.

HISTORY: New 1956, p. 79, Act 40, Imd. Eff. Mar. 28.

280.265 Drain taxes; general tax law applicable, payment under protest, action, lien, personal claim.

Sec. 265. All drain taxes assessed under the provisions of this act shall be subject to the same interest and charges, and shall be collected in the same manner as state and other general taxes are collected, and collecting officers are hereby vested with the same power and authority in the collection of such taxes as are or may be conferred by law for collecting general taxes. Drain taxes, when collected, shall be returned to the county treasurer to be disbursed by him. In all cases where suit is brought against the collector arising out of the collection of any drain tax, the county shall defend such officer in the same manner that he has now the right to be defended in the collection of general taxes. No suit shall be instituted to recover any drain tax or money paid or property sold therefor, or for damages on account thereof, unless brought within 30 days from the time of payment of such money to, or sale of such property by, the collecting officer; and if such tax shall be paid under protest the reasons therefor shall be specified, and the same procedure observed as is or may be required by the general tax law. All taxes levied under the provisions of this act, with all lawful costs, interest and charges, shall be and remain a perpetual lien upon the lands upon which they are assessed, and a personal claim against the owner or owners of such lands until they are paid.

HISTORY: New 1956, p. 79, Act 40, Imd. Eff. Mar. 28.

280.266 Return of delinquent drain taxes; general tax law applicable.

Sec. 266. If the taxes levied for the construction, cleaning out, widening, deepening, straightening or extending of any drain are not collected by the township, city or village treasurer, they shall by him be returned, together with the lands upon which they were levied, to the county treasurer in the same return, at the same time, and in the same manner, in every respect (naming in each case the particular drain), as lands are returned for state, county and township taxes, and such taxes shall follow such lands the same as all such other taxes, and all the general provisions of law now existing, or that may be hereafter enacted for enforcing the payment of township, county and state taxes, shall apply to such drain taxes, and to the lands returned delinquent therefor, in the same manner and with like effect.

HISTORY: New 1956, p. 80, Act 40, Imd. Eff. Mar. 28.

280.267 Injunction after assessment.

Sec. 267. After any taxes have been assessed for the construction, location or establishment of any drain, no injunction shall issue to restrain the spreading of the same upon the tax roll nor to restrain the collection thereof, nor shall the same be in any manner stayed, unless the amount of such assessment shall first be paid into the town-

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ship treasury to be applied upon such tax, in case the court in which the suit upon which injunction is tried shall so order.

HISTORY: New 1956, p. 80, Act 40, Imd. Eff. Mar. 28.

280.268 Perpetual injunction not allowed for informalities; plaintiff may show injury.

Sec. 268. The collection of no tax levied or ordered to be levied for the payment of the location or construction of any drain laid out under this act shall be perpetually enjoined or declared absolutely void in consequence of any error or informality of any officer in the location and establishment thereof, nor by reason of any error or informality appearing in the record of the proceedings by which any such drain shall have been located and established, nor on account of any irregularity or informality in the condemnation of right of way, nor for want of any record thereof; but the court in which any action may be brought to recover any tax or assessment paid, or to declare void the proceedings to locate and establish any drain, or to enjoin any tax or assessment levied or ordered to be levied for the payment of the labor and expense thereof, shall, if there be manifest error in the proceedings, allow the plaintiff in action to show that he has been injured thereby.

HISTORY: New 1956, p. 80, Act 40, Imd. Eff. Mar. 28.

280.269 Invalidation proceedings; proofs, correction of damages or assessment, order, costs.

Sec. 269. The court in which such proceedings are begun shall allow proof that the drain was necessary and conducive to the public health, convenience or welfare, and that all the steps required by law have been substantially complied with, notwithstanding the record required to be kept by the commissioner. In case substantial error is found, the court may correct any gross injustice in the award of damages, or assessment of benefits as may appear after hearing the proofs and allegations of both sides and shall make such order in the premises as shall be just and equitable, and may order that such tax or assessment remain on the tax roll for collection, or order the same to be relevied, or may perpetually enjoin the same, or any part thereof, or if the same has been paid under protest, may order the whole, or such part thereof as is just and equitable, to be refunded. In all cases where assessments shall be set aside after contracts have been let or bonds sold, the decree shall make full provision for payment of work done and materials furnished under said contracts before the commencement of suit, and for payment of such bonds and interest thereon, by reassessment according to benefits, or otherwise as equity may require. The cost of such proceedings, if error or injustice be shown, shall be apportioned among the parties, or if no manifest error or injustice be shown, such costs shall be collected of the party bringing the action.

HISTORY: New 1956, p. 80, Act 40, Imd. Eff. Mar. 28.

280.270 Tax lien; proceeding to compel spread of tax; established drains.

Sec. 270. Whenever any drain has been located and established, and contracts let for its construction, and the work of construction has been completed, or partly completed, and the commissioner has made his order establishing the drain, his apportionment of benefits and special assessment roll and filed the same in the office of the county drain commissioner, as provided by this act, and such taxes remain a perpetual lien upon the lands assessed, and filed all of said papers in the office of the county drain commissioner, and no person or municipality affected by the proceedings has taken any action by virtue of section 161 of this act to test the validity of the proceedings, or to set the same aside, and it shall further appear that the tax has not been spread on the tax roll of the municipalities affected and the lien of said tax still remains against such lands, on the application in writing of any person or corporation who is now or were owners of the land assessed at the time of the apportionment of

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benefits by the commissioner or any person or corporation who were the owners of land at said time and who were assessed therefor, and who sold such land with covenants of warranty, may make an application in writing to the county drain commissioner setting forth such facts, and upon the filing of such application it shall be the duty of the county drain commissioner to make a certified copy of the assessment roll filed in his office by the commissioner and present to and lay it before the board of supervisors at the first October session thereafter of said board, and thereupon it shall be the duty of said board at said session to order and direct such taxes spread upon the tax roll of the municipalities affected thereby, according to the said assessment filed as aforesaid, and as appears by such special assessment roll, so certified to said board. The provisions of this section shall also apply to drains laid out and established and wholly or partly constructed under the provisions of all drain laws in force prior to the passage of this act, where such laws have made such drain tax a perpetual lien upon the lands upon which they are assessed.

HISTORY: New 1956, p. 81, Act 40, Imd. Eff. Mar. 28.

280.271 Tax collection suits; tax reassessment.

Sec. 271. Any drain taxes that may have been assessed and returned upon any lands under and by virtue of the provisions of any drain law heretofore enacted and remaining unpaid, may be sued for by the commissioner of the county in which such delinquent lands are situated in an action of assumpsit before any court of competent jurisdiction and collected from the owner of such lands or such taxes, if properly returned to the county treasurer, may be ordered charged back by the board of supervisors and reassessed upon such lands in the same manner that unpaid or rejected taxes may be charged back by the auditor general and reassessed under the general provisions of law.

HISTORY: New 1956, p. 81, Act 40, Imd. Eff. Mar. 28.

280.272 Tax collection suits; assumpsit; prima facie evidence, judgment based on benefits; authority to sue.

Sec. 272. In any suit brought for the collection of any unpaid drain taxes by virtue of section 271, the commissioner bringing such suit may declare in an action of assumpsit against the defendant; proof of the amount of the tax, and that it is unpaid, either oral or by the production of the tax roll, shall be prima facie evidence of the plaintiff's right to recover; but the defendant may plead the general issue and give evidence in reduction of damages, and the plaintiff may offer evidence in rebuttal, and if it shall appear from such evidence that the actual benefits to the land by reason of the construction of the drain were less than the amount of the tax, judgment shall be only for the amount of the benefits as proven, with interest and costs: Provided, That no such proceedings shall be instituted by the commissioner at the expense of the county unless he shall be authorized to do so by the board of supervisors.

HISTORY: New 1956, p. 81, Act 40, Imd. Eff. Mar. 28.

280.273 New proceedings when tax set aside; report of defects to supervisors, reassessment.

Sec. 273. In case any drain tax heretofore or to be hereafter assessed shall be set aside, except for causes that would deprive the commissioner of jurisdiction to construct the drain, the commissioner may begin proceedings anew at the stage where they shall be correct. In case a drain tax can or may be set aside for error in description or other defect in the commissioner's or township treasurer's roll, the commissioner shall report the same to the board of supervisors at their October session, who shall order the same reassessed upon the proper description. Such report may be made at any time before the sale of the land for such tax.

HISTORY: New 1956, p. 82, Act 40, Imd. Eff. Mar. 28.

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280.274 Invalidation proceedings; commissioner as party.

Sec. 274. In any suit brought to set aside any drain tax, or in any way attacking the legality of any drain proceedings, the commissioner shall be made a party to said suit.

HISTORY: New 1956, p. 82, Act 40, Imd. Eff. Mar. 28.

280.275 Drainage district bonds; issuance, terms, sale, premium; application of act; limitation on payment from county general fund.

Sec. 275. In cases where the issuing of bonds shall have been determined upon, as herein provided, and subject to the provisions of section 221 of this act, the commissioner may borrow money in anticipation of the collection of such installments and may issue as evidence thereof the bonds of the drainage district as herein defined. Such obligations shall specify on their face that they are payable out of the installments of drain taxes to be thereafter collected, and the amount thereof shall not exceed the aggregate of the installments levied. Bonds issued hereunder shall be signed by the commissioner on behalf of the drainage district, shall be countersigned by the county clerk and shall be payable in annual installments equal in number to the installments of taxes, shall mature not earlier than March first nor later than June first of the year following the due dates of the respective installments of taxes. The number of installments shall not exceed 20: Provided, however, That in any drainage district containing a closed drain, any part of whose cross-section has an area exceeding 60 square feet, the number of installments may be, but shall not exceed, 30, and the amount of each installment shall be fixed to correspond as near as may be to the drain commissioner's estimate of the amount of taxes actually collectible each year, and in no case shall bonds mature more than 2 ½ years after the corresponding installment of taxes. The commissioner shall therein pledge the credit of the drainage district, including the lands embraced within such district and the townships, cities, villages, counties and state trunk line highways assessed at large, in the proportion that they are taxed for the benefits received thereby. Such bonds shall be advertised and sold by the drain commissioner after the manner provided for the advertisement and sale of municipal bonds by Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2, inclusive, of the Compiled Laws of 1948. If any premium is received thereon, such premium shall belong to the fund of the drain. The proceeds derived from the sale of such bonds shall be deposited with the county treasurer to the credit of the drain fund. The county treasurer shall safely keep all such bonds until sold as above provided: Provided, however, That this act shall not be considered to affect any bonds or refunding bonds issued prior to the effective date hereof and subsequent to the effective date of Act No. 331 of the Public Acts of 1927, or any refunding bonds hereafter issued to replace the same: Provided further, That no county shall advance or pay out of its general funds any moneys for or on account of principal or interest of any drain bonds issued prior to the effective date of Act No. 331 of the Public Acts of 1927, or any refunding bonds issued to replace the same.

HISTORY: New 1956, p. 82, Act 40, Imd. Eff. Mar. 28.

280.276 County drainage district bonds or notes; intracounty drains; faith and credit; advancement by county, reassessment.

Sec. 276. If bonds or notes are to be issued in respect to an intracounty drain, the county board of commissioners may, by resolution adopted by a majority of its total membership, pledge the full faith and credit of the county for the prompt payment of the principal of and interest on any bonds or notes hereafter issued pursuant to this act. This shall not validate any bonds or notes heretofore issued. In the event the county shall be required to advance any money by reason of such pledge, and if the collections from special assessments shall not be sufficient to reimburse the county therefor, the drain commissioner of such county shall, within a 2-year period from the

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date of advancement, reassess the drainage district as in the first instance in order to provide for the repayment to the county of the sums so advanced. The provisions of this section shall not permit the advancement or any moneys out of the general funds of any county to meet any deficiency in the collection of drain assessments confirmed prior to May 1, 1953.

HISTORY: New 1956, p. 82, Act 40, Imd. Eff. Mar. 28;—Am. 1957, p. 43, Act 37, Imd. Eff. May 14;—Am. 1959, p. 9, Act 10, Imd. Eff. May 20;—Am. 1970, p. 365, Act 112, Imd. Eff. Jul. 23.

280.277 Drainage district bonds; delinquent assessments, advancements by municipalities, reimbursement, reassessment, validation of drain orders or bonds.

Sec. 277. Whenever lands in any city, village or township or combination thereof shall be assessed for all or any part of the cost of a drain, the governing body of each such cities, villages or townships by resolution adopted prior to the issuance of drain orders and/or bonds in anticipation of the payment of the assessments for such drain may agree that in the event of any delinquency in the collection of the assessments against lands in such cities, villages or townships, the cities, villages or townships shall advance the amount of such delinquency from unobligated funds in the general fund to the extent necessary to pay principal and interest on such drain orders and/or bonds as the same mature. In the event that moneys are so advanced, then the cities, villages or townships shall be reimbursed from the collection of the said delinquent assessments against lands within its boundaries. If the collections from special assessments shall not be sufficient to reimburse the cities, villages or townships, the drain commissioner of such county shall, within a 5-year period from the date of advancement, reassess the drainage district as in the first instance in order to provide for the repayment of the sums so advanced: Provided, That this act shall not validate any drain orders or bonds issued prior to the effective date of this act.

HISTORY: New 1956, p. 83, Act 40, Imd. Eff. Mar. 28.

280.278 Drainage district bonds; interest on taxes; moneys, disposition; bank deposits.

Sec. 278. In cases where bonds are issued and sold by the commissioner, all installments of the drain taxes shall bear interest not to exceed the rate of 6% per annum from the date of the preparation of the assessment roll until due. Such bonds may provide, if the commissioner so determines, for the payment of interest semiannually. All of said installments and the interest thereon shall, as collected, be paid into the county treasury and there placed to the credit of the fund of the drain, to be used solely for the payment of bonds as the same shall mature. All moneys thus collected in anticipation of the maturity of the bonds shall be deposited by the county treasurer in a bank or banks to be designated by the board of supervisors of such county and the interest received shall belong to the fund.

HISTORY: New 1956, p. 83, Act 40, Imd. Eff. Mar. 28;—Am. 1962, p. 421, Act 191, Eff. Mar. 28, 1963;—Am. 1965, p. 426, Act 249, Imd. Eff. Jul. 21.

280.279 Special assessments; payment in full; notice to commissioner; deficiency assessment.

Sec. 279. Any person liable to the payment of special assessments for benefits received from the construction of a drain hereunder may pay the same in full with interest to date at any time, subject to the right of reassessment in case of deficiency as herein provided. The foregoing right of prepayment shall extend to the state or any political subdivision thereof, assessed at large for a portion of the cost of a drain. Such

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payment may be made to the township treasurer, who shall give his receipt therefor and who shall transmit the same to the county treasurer. The latter official shall, on receipt of the same, give notice to the commissioner, who shall make the necessary changes in the rolls covering subsequent installments.

HISTORY: New 1956, p. 83, Act 40, Imd. Eff. Mar. 28.

280.280 Drainage district bonds; deficiency assessment, surplus.

Sec. 280. If there is not sufficient money in the fund in a particular drain at the time of the maturity of the bonds last to mature, or any drain orders, to pay all outstanding bonds or drain orders with interest, or to reimburse the county for money which it has been obliged to advance pursuant to section 275 of this act, whether such insufficiency is due to the anticipation of installments as provided in section 279, or to failure to sell any lands for delinquent taxes, or to any other cause, it shall be the duty of the commissioner to at once levy an additional assessment as hereinbefore provided in such an amount as will make up the deficiency which shall be spread in not to exceed 7 annual installments; and if the commissioner determines that the entire amount, if spread in 1 year, would be an undue burden or create unnecessary hardship, he may order it spread over any number of years up to but not exceeding 7; and in case bonds or other evidences of indebtedness are issued pursuant to Act No. 13 of the Public Acts of 1932, First Extra Session, as amended, and Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2, inclusive, of the Compiled Laws of 1948, to refund the outstanding indebtedness of a drain district, the governing body of such drain district shall provide, subject to the directions of the municipal finance commission, for such additional levies of assessments prior to the maturity of such refunding obligations as it shall deem necessary to prevent default in payment of interest on such obligations, and the maintenance of a sinking fund for their retirement, and it shall be the duty of every officer charged with the determination of the amount of taxes to be raised, or the levying of such taxes, to make or cause to be made the additional levies as provided. Any surplus remaining after the payment of the bonds and interest shall remain in the county treasury and be used for the maintenance of the drain.

Lands exempted from deficiency assessments; invalid bonds or obligations.

Such additional assessments shall only apply to drain orders or bonds issued after the effective date of this act and shall be apportioned, assessed, levied and collected as provided in the first instance. As to deficiency assessments levied for drain orders or bonds issued after the date of this act there shall be no lands exempted therefrom, except those which at the time of such additional assessments are owned or used as follows: First, lands owned by the United States; second, lands owned by the state of Michigan, except licensed homestead lands, and except lands held under land contracts issued pursuant to Act No. 155 of the Public Acts of 1937, as amended, being sections 211.351 to 211.364, inclusive, of the Compiled Laws of 1948; third, lands owned by any county, city, village, township or school district and used for public purposes; fourth, lands used exclusively for burial grounds; fifth, lands dedicated to the public and actually used as a highway or alley, and not used for gain: Provided, That no such additional assessment shall be levied or collected for the purpose of paying the principal or interest upon any bonds or obligations which have heretofore been held to be invalid, nor shall any such additional assessment be apportioned, assessed, levied or collected for the purpose of paying any bonds, interest or obligations for the payment of which assessments have heretofore been made.

HISTORY: New 1956, p. 84, Act 40, Imd. Eff. Mar. 28.

280.281 Special drain assessment; definition of municipal corporation.

Sec. 281. Any municipal corporation may contract to pay all or any part of a special drain assessment for drain improvements made by any county agency or drainage dis-

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trict benefiting property of the municipal corporation, but in no event shall such payment exceed its proportionate share of the expenses of the improvements. For the purposes of this section, "municipal corporation" means any county, township, charter township, city, village, metropolitan district, public authority or a drainage district.

HISTORY: Add. 1961, p. 43, Act 41, Imd. Eff. May 18.

280.282 Drainage district fund; investment of surplus, interest.

Sec. 282. The drain commissioner or drainage board may direct the treasurer of any drainage district to invest any surplus funds belonging to and under the control of the drain commissioner or drainage board, in bonds and other direct obligations of the United States or in certificates of deposit or depository receipts of any bank which is a member of the federal deposit insurance corporation in such amounts and issues as shall be directed by the drain commissioner or drainage board. The interest earnings from such investments shall be credited by the county treasurer to such drainage district funds.

HISTORY: Add. 1970, p. 475, Act 144, Imd. Eff. Aug. 1.

280.283 Surplus construction funds; contract provisions; disposition; use.

Sec. 283. The drain commissioner or drainage board shall use any surplus construction funds remaining in the construction fund after completion of the project for the maintenance of the drain but not to exceed the cost of maintaining the drain for 1 year or authorize the transfer of such funds to the bond and interest account, if bonds were issued, in such amounts as they deem proper. The drainage board or drain commissioner shall contract with any public corporation, which term as used in this section includes any city, village, township, county or the state whenever they have been assessed for all or part of the cost of the drain or whenever lands in any city, village, township or combination thereof has been assessed for all or any part of the cost of a drain. The contract shall provide that after all outstanding drain orders or bonds are paid on a drainage district project, the drain commissioner or drainage board shall authorize the respective county treasurers to pay over any portion of the surplus not needed for more than the cost of 1 year's maintenance of the drain to the county, township, city or village in which the drain was located or in which assessments for benefits have been assessed and collected. The payments shall be on a pro rata basis in direct proportion to the amounts assessed and collected from each such local unit. The contract shall also provide that upon receipt of such surplus fund the county, city, village or township shall utilize such surplus funds to alleviate drainage problems in their respective jurisdictions: Provided, however, Whenever state highway funds are involved in a project, the drain commissioner or drainage board, upon completion of a construction project, shall return, on a pro rata basis, surplus construction funds in excess of 1 year's maintenance to the department of state highways for the construction, maintenance and administration of state highways.

HISTORY: Add. 1970, p. 475, Act 144, Imd. Eff. Aug. 1.

CHAPTER 12.

REVOLVING FUNDS FOR DRAINS.

280.301 Revolving drain fund; creation, use.

Sec. 301. At the October session of the board of supervisors, each board shall appropriate and collect by general taxation from the taxable property within their respective counties for the purpose of creating a revolving drain fund, such sum as said board may deem necessary. Said revolving fund when so created shall be used and disposed of solely as provided in this chapter.

HISTORY: New 1956, p. 84, Act 40, Imd. Eff. Mar. 28;—Am. 1969, p. 176, Act 90, Imd. Eff. Jul. 24.

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280.302 Revolving drain fund; use; intercounty drains; expenses after date of letting drain contracts.

Sec. 302. The revolving fund may be used for paying the engineer or surveyor for his services in laying out a drainage district, also any necessary assistance therefor and to pay any and all other services to the date of letting the drain contract for paying members of boards of determination for services performed under this act, for necessary repairs on old drains, and also for paying drain orders that are due not in excess of $2,000.00 if authorized by the board of supervisors. Orders drawn by the commissioner on the revolving fund may be made payable upon the performance of services herein defined. From said revolving fund may be paid the services herein mentioned on any drain or drainage district affecting more than 1 county. Such total expense is prorated among the several counties affected according to the amount apportioned to be paid by and in said counties respectively for said drain. Any and all orders for services rendered or expenses incurred after the date of letting the drain contract shall be paid in the manner prescribed in chapter 10, being sections 241 to 248.

HISTORY: New 1956, p. 85, Act 40, Imd. Eff. Mar. 28;—Am. 1963, p. 316, Act 215, Imd. Eff. May 17;—Am. 1963, p. 372, Act 228, Eff. Sep. 6;—Am. 1967, p. 310, Act 214, Imd. Eff. Jul. 10.

280.303 Revolving drain fund; accounting records; reimbursement.

Sec. 303. The county treasurers shall carry as a separate account upon the books of their office a revolving fund and all accounts and items pertaining thereto. A record shall be kept of the amount of money paid from the revolving fund for the use and benefit of any particular drainage district and upon payment to the county treasurer of the taxes assessed in the particular drainage district, the county treasurer, out of the moneys received, shall transfer to the revolving fund pro rata according to the number of installments of taxes the sum expended.

HISTORY: New 1956, p. 85, Act 40, Imd. Eff. Mar. 28;—Am. 1969, p. 124, Act 66, Imd. Eff. Jul. 21.

280.304 Revolving drain fund; deposit in bank; interest.

Sec. 304. The said revolving fund shall be deposited in the bank of the county offering the highest rate of interest on daily balances, final determination to be made by the board of supervisors of the particular county, the interest so received to be paid into and become a part of said fund.

HISTORY: New 1956, p. 85, Act 40, Imd. Eff. Mar. 28.

280.305 Revolving drain fund; transfer to particular drain fund of moneys under former law, use.

Sec. 305. When the moneys for the revolving fund shall have been appropriated, the county treasurer shall immediately transfer back to each particular drain fund any unexpended moneys due in such fund then on hand and carried in any revolving fund by virtue of any pre-existing law, said moneys when so transferred to be used solely for the use and benefit of the particular drain for which they were raised.

HISTORY: New 1956, p. 85, Act 40, Imd. Eff. Mar. 28.

280.306 Revolving drain fund; expenditures or obligation before completion of improvement; apportionment.

Sec. 306. Whenever revolving fund moneys have been expended or a drainage district has become obligated to pay expenses for engineering, legal and administrative services, by action of the drain commissioner or drainage board and no improvement has been completed subsequent to the commissioner's order designating a drainage district or entry of the first order of determination as prescribed in section 72 where an intracounty drain is involved, the drain commissioner of such county which has expended such revolving fund moneys may report such fact to the board of supervisors. If no improvement has been completed within a period of 5 years subsequent to the commissioner's order designating a drainage district or entry of the first order of deter-

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mination as prescribed in section 72, the drain commissioner of such county shall report such fact to the board of supervisors. If the sum involved is too small to justify spreading the same over the designated district above referred to, such board of supervisors may order the sum to be spread against the property of the original petitioners according to such percentage as the commissioners shall deem just and equitable, based on the same benefit theory as if the improvement had been completed. If the sum involved is large enough to, in the opinion of the board of supervisors, create undue hardship on the original petitioners, the board of supervisors may order the same spread over such designated district and the commissioner shall apportion the cost thereof to the parties benefited in the district as provided in chapter 7 for the purpose of permitting a review of the roll as to fairness of the apportionment only.

HISTORY: New 1956, p. 85, Act 40, Imd. Eff. Mar. 28;—Am. 1969, p. 192, Act 105, Eff. Mar. 20, 1970.

280.307 Revolving drain fund; intercounty drain, apportionment, recovery of moneys.

Sec. 307. Whenever revolving fund moneys have been expended and no improvement has been completed subsequent to the order designating a drainage district as prescribed in section 105 of this act where an intercounty drain is involved, within a period of 5 years, the drainage board created in section 102 of this act shall apportion the cost as between counties. Any drain commissioner feeling aggrieved by such apportionment may request review by the board of review provided in section 106 of this act, and such board shall proceed to review the same as provided in this act. The decisions of the board of review shall be final. Thereafter the amount apportioned to each county shall be recovered by each county as above outlined for the recovery of revolving fund moneys expended for an intracounty drain in section 306 of this act.

HISTORY: New 1956, p. 86, Act 40, Imd. Eff. Mar. 28.

CHAPTER 13.

HIGHWAYS.

280.321 Drains in public highways; permit; release of right of way.

Sec. 321. Drains may be laid within or across the right of way of any highway, provided it shall be necessary for the county drain commissioner to obtain first a permit from the highway authority having jurisdiction. If title in fee simple be not in the highway authority, said commissioner shall also obtain a release of right of way for the purposes of such drain from the owner of the land, as provided in sections 73, 74 and 75 of this act.

HISTORY: New 1956, p. 86, Act 40, Imd. Eff. Mar. 28.

280.322 Drains in public highways; cost of construction; contract; maintenance, bridges or culverts to farms.

Sec. 322. When any drain crosses a highway, the necessary bridge or culvert shall be constructed on the center line of the highway as located by survey, and in accordance with plans and specifications which shall be approved by the county road commission having jurisdiction, or by the state highway commissioner if such highway is a state trunk line. The cost of constructing the necessary bridge or culvert shall be charged in the first instance as part of the cost of construction of such drain. The board of county road commissioners or the state highway commissioner shall assume and bear such portion of the cost of construction, based upon benefits, as may be agreed upon with the drain commissioner. In such case, the contract for the construction of the bridge shall not be let by the drain commissioner without the written consent of the state highway commissioner or the board of county road commissioners. Thereafter such bridge or culvert constructed under the provisions of this act shall be maintained by the county road commission or state highway commissioner. Any such expense

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charged to the state highway commissioner shall be met out of any funds appropriated for the state highway department that may be available therefor; and any such expense to be borne by the board of county road commissioners shall be paid out of moneys in the county road fund not otherwise appropriated. As part of such drain, there shall be constructed at least 1 bridge or culvert across such drain connecting the highway (except limited access highways established under Act No. 205 of the Public Acts of 1941, as amended, being sections 252.51 to 252.64 of the Compiled Laws of 1948), with each farm entrance, and when a drain crosses a farm or any portion thereof there shall be constructed 1 bridge, culvert or ford across the drain connecting the portions of the farm disconnected by the drain, which bridge, culvert or ford shall also be charged in the first instance as a part of the construction of such drain, after which such bridge, culvert or ford shall be maintained by the owner of the land. If the drain commissioner shall make future improvements such as widening, deepening, straightening or relocating such drain, but not clean out alone, there shall be constructed the necessary bridges, culverts and fords as parts of such improvements.

HISTORY: New 1956, p. 86, Act 40, Imd. Eff. Mar. 28;—Am. 1965, p. 139, Act 107, Imd. Eff. Jun. 30.

280.322b Drains; highways, crossing; expenses.

Sec. 322b. If any person desires during construction or reconstruction of a highway to install a drain for agricultural benefits in lands adjacent to any highway, and if a satisfactory outlet cannot be secured on the upper side of the highway right of way and the drain must be projected across the right of way to reach an outlet which may be legally utilized as an outlet and is suitable for such purpose, the expense of both material and labor used in installing the drain across the right of way shall be paid from funds available for the highway affected if the highway authority is notified of the necessity of the drain sufficiently in advance of the construction or reconstruction of the highway so that the drain may be installed and the highway constructed or reconstructed in the same operation.

HISTORY: Add. 1968, p. 485, Act 283, Imd. Eff. Jul. 1.

280.323 Drains in public highways; open, consent, restrictions, assessments for state trunk line highways.

Sec. 323. Before an open drain shall be laid along a public highway, the highway authorities having jurisdiction over the road shall be consulted and his or their consent as to the proposed location of the drain shall be obtained in writing, stipulating that no excavation may be made nearer than 26 feet to the center line of the highway and stating what disposition shall be made of all material excavated. It shall be the duty of the commissioner to level down all materials placed in the roadway. Whenever an apportionment is made against a state trunk line highway, the amount of the assessment based on such apportionment shall be paid out of any state trunk line highway funds on hand in the state treasury. On or before December first of the year when such assessment is made, the drain commissioner shall certify to the auditor general the amount due from the state to such drainage district by reason of the assessment of benefits, and the auditor general shall, if satisfied of the correctness of such certificate, cause the same to be paid within 30 days thereafter.

Drains constructed prior to 1923.

When a ditch or drain has been constructed prior to 1923 primarily for drainage of private lands, and constructed along a public highway, and the records including the original survey of such drain are not of public record nor turned over to the county drain commissioner, or have not been entered in the records of the county drain commissioner as a county drain, then the actual location of such drain shall be sufficient to make such drain comply with the provisions of this act with respect to the location thereof, and such drain shall be a county drain upon compliance with the other provi-

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sions of this act with respect to county drains: Provided, however, That no proceedings shall be instituted for the widening of such drain or the deepening thereof below its original bottom.

HISTORY: New 1956, p. 87, Act 40, Imd. Eff. Mar. 28.

280.324 Drainage across lands adjacent to highways; right of way.

Sec. 324. Whenever it is necessary or more convenient for the proper drainage of any highway in this state that the surplus water be taken onto or across the land adjacent thereto, the county road commission of the county in which said highway is situated may secure the right of way and may open such drain or outlet for the water, and for these purposes may use any highway moneys of the township in which said highway is situated, not otherwise appropriated, and such sums as may be voted for that use by the electors of the townships. The county road commission shall secure the right of way for any such drain by gift or purchase from the owners of the land to be crossed by such drain; but in case of purchase the purchase price must be approved by the township board whenever township funds are involved, before any money be paid thereon. Such right of way shall be acquired by deed duly executed by the owner or owners of the lands sought to be crossed by the said drain, and shall be taken in the name of the township wherein the same is located, and filed in the office of the register of deeds of the county before any highway money shall be expended in opening such drain outside the highway limits.

Approval of purchase of right of way by township board.

Before the township board approves the purchase price of any drain right of way under this section, the county road commission shall submit to the board for its approval details of the proposed drain, with specifications that the drain shall be constructed in accordance with good health and sanitation standards and in such a manner as not to constitute a hazard to health or safety and that in construction of the drain the township board shall approve the use of the land upon which the drain is to be located.

HISTORY: New 1956, p. 87, Act 40, Imd. Eff. Mar. 28;—Am. 1962, p. 83, Act 94, Eff. Mar. 28, 1963.

280.325 Cost to township for highway drainage; report by county road commission, drain fund.

Sec. 325. The county road commission shall report to the electors of the township at their annual meeting the amount of money expended by him during the year for such highway drainage, specifying the amount expended on each drain. The commission shall also recommend the raising of such sums as it may deem necessary for opening drains from the highway during the coming year, specifying each proposed drain and the probable amount needed for securing the right of way and opening the same. The money voted for this purpose by the electors of the township shall constitute a special highway drain fund, and shall be used for no other purpose. In case any money be left in the fund, after opening the drain for which it was raised, it may be used in opening any other highway drain in the township, or in cleaning out, when necessary, those already opened.

HISTORY: New 1956, p. 87, Act 40, Imd. Eff. Mar. 28.

280.326 Construction report; restriction on county road commission.

Sec. 326. On the completion by the county road commission of any drain constructed under the provisions of this act, it shall be the duty of said county road commission to file in the office of the drain commissioner a detailed report of the construction of such drain, giving the date of construction, the termini and general course thereof, together with a copy of the deed by which the right of way therefor was secured. Nothing in the provisions of the preceding sections shall be construed as giving

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to the county road commission power to lay out and construct drains having any other purpose than the drainage of highways.

HISTORY: New 1956, p. 88, Act 40, Imd. Eff. Mar. 28.

280.327 Highway drain; petition, procedure, jurisdiction of commissioner.

Sec. 327. In case it becomes necessary for the construction or maintenance of any highway to take the surplus water across adjacent lands, the state, county or township highway commissioner or county road commissioners may make under his or their name of office an application or petition to the drain commissioner of the county in which such highway is situated to lay out and designate a drainage district, locate and establish a drain, clean out, widen, deepen, straighten or extend an established drain. Such application or petition shall conform to the law regulating applications or petitions for the laying out and designating a drainage district, locating and establishing of drains, and cleaning out, widening, deepening, straightening and extending established drains, and shall require no other signature than his own as highway commissioner or county road commissioners. Such application or petition shall have the same force and effect, and be subject in other respects to the same laws and regulations that govern other such applications or petitions and shall confer the same jurisdiction and authority on the county drain commissioner to lay out and designate a drainage district, locate and establish a drain, or clean out, widen, deepen, straighten or extend an established drain: Provided, That in cases where the state highway commissioner makes such application or petition he shall serve a copy of such application or petition on the director of agriculture, who shall within 30 days hold a meeting at some place in the drainage district for the purpose of determining the practicability or necessity of such drain, and no board of determination shall be necessary to pass on those questions. Said meeting shall be held, notice given and all persons interested may be heard in the same manner as provided in section 102 or section 122 of this act. The determination of the director of agriculture shall be filed with the drain commissioner.

HISTORY: New 1956, p. 88, Act 40, Imd. Eff. Mar. 28.

CHAPTER 14.

RAILROADS.

280.341 Drains along railroad; release of right of way; consent.

Sec. 341. Drains may be laid along the line of any railroad within its right of way: Provided, That such drain shall not be to the injury of the roadbed. Whenever it is proposed to construct a drain along the line, and within the right of way of any railroad, and the company owning or operating such road shall refuse or neglect to permit such drain to be constructed, or release the right of way therefor within the time prescribed in section 75 of this act, such release shall be obtained in the same manner as is provided in this act for obtaining private lands: Provided, That no drain shall be constructed along the line of any railroad without the consent of the company owning or operating such road, if it shall appear to the special commissioners that such drain can equally well be laid on private lands.

HISTORY: New 1956, p. 88, Act 40, Imd. Eff. Mar. 28.

280.342 Drains across public utility right of way; mandamus to compel opening; costs.

Sec. 342. Whenever it is necessary to lay out and establish, deepen or widen, or both, or extend or straighten a drain across the right of way or roadbed of any railroad, railway, telephone, telegraph, dam, electric, water, oil, gas or other power company, the same proceedings shall be had throughout in all respects as cases provided in this act for obtaining private lands, except as herein provided. The damages and compensation to be awarded by the special commissioners shall include the legal damages for

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the making of the opening required in the drain proceedings. After damages as aforesaid shall have been determined, it shall be the duty of the railroad, railway, telephone, telegraph, dam, electric, water, oil, gas or other power company, when notified by the commissioner so to do, to make and maintain the necessary opening through its roadbed or right of way and to build and maintain a suitable culvert or crossing for such drain. Notice in writing to make such opening and to construct such culvert shall be served upon such company by leaving a copy thereof with the ticket or freight agent or general officer of such railroad, railway, telephone, telegraph, dam, electric, water, oil, gas or other power company at least 30 days before such railroad, railway, telephone, telegraph, dam, electric, water, oil, gas or other power company shall become liable. In case such railroad, railway, telephone, telegraph, dam, electric, water, oil, gas or other power company shall neglect for 30 days after service of such notice as aforesaid, the commissioner shall have the right to petition the circuit court, in addition to any other remedies which may exist, of the county in which such crossing is located, to compel such company to make such opening forthwith; and such circuit court shall, if it finds there is legal right to such opening, order the same to be forthwith constructed by said company, and issue its writ of mandamus therefor. At least 10 days' notice shall be given such company of such application, and thereafter such proceedings shall follow the practice of circuit courts in mandamus proceedings. Said matter shall be heard and determined as speedily as practicable, and take precedence over all other cases which may be pending in such court. Such costs may be awarded the prevailing party as are awarded in other motions for mandamus.

HISTORY: New 1956, p. 88, Act 40, Imd. Eff. Mar. 28.

280.343 Violation of act; penalty.

Sec. 343. In case such railroad company shall refuse or neglect to comply with the provisions of section 342, it shall be liable to a penalty of $10.00 for each day's refusal or neglect to make such opening and construct such culvert.

HISTORY: New 1956, p. 89, Act 40, Imd. Eff. Mar. 28.

CHAPTER 15.

DAMS IN DRAINS.

280.351 Dams in drains to control flow, water levels and seepage; removal of drainage by pumps.

Sec. 351. Established drains may be improved for the benefit of those whose lands were improved by the original construction of such drain, by the construction, operation and maintenance of dams in drains to control flow, water levels and seepage and to provide for the removal of the drainage when necessary by the use of pumps and other mechanical operations.

HISTORY: New 1956, p. 89, Act 40, Imd. Eff. Mar. 28.

280.352 Dams in drains; petition, signers, contents, examination, finding.

Sec. 352. When it appears upon the written petition of a number of freeholders in the drainage district equal to 50% of the number of freeholders whose lands are traversed by said drain from the point where said dam or dams are located to the upper terminus, that such improvement is desired to be made by damming such drain and maintaining and operating such dam or dams to control flow, water levels and seepage or to provide for pumping the drainage where necessary from said drain or watercourse, and that such improvement and the maintenance and operation of such dam or dams is necessary to properly drain said lands and to protect the lands through which said drain runs, or to protect the rights of freeholders above such dam or dams, or the rights of freeholders of land adjacent or contiguous to the drainage district, or for the purpose of irrigation, said petition stating where it is desired to construct said dam or

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dams and the proposed method of operation of such dam or dams to control flow, water levels or seepage, or how the drainage is to be removed and where it is to be emptied, the commissioner shall, as soon as practicable after receipt of such petition, proceed to examine said drain and pass upon the necessity of such improvement and whether such improvement is practicable and conducive to the public health, convenience or welfare, or an improvement or necessity to preserve the adjoining lands thereto, or to protect rights in lands, or for the purpose of irrigation.

HISTORY: New 1956, p. 89, Act 40, Imd. Eff. Mar. 28.

280.353 Dams in drains; first order of determination, contents.

Sec. 353. If such commissioner determines such improvement, as set forth in the petition, to be practicable and a necessity to properly drain such lands, or to protect rights in lands, or for the purpose of irrigation to be conducive to the public health, convenience or welfare, or to preserve or protect the adjoining lands thereto, he shall within 60 days make an order of determination in writing, thereby stating where such dam is to be constructed and to designate its dimensions and to designate, where necessary, the method by which the drainage is to be carried away and where it is to be emptied.

HISTORY: New 1956, p. 90, Act 40, Imd. Eff. Mar. 28.

280.354 Dams in drains; construction contract with owners of lands benefited; default, contract for completion, costs and expenses.

Sec. 354. If at any time after the commissioner has issued his first order of determination declaring such improvement to be necessary, and before the letting of any contract for constructing the same, all of the owners of the land through which or for the benefit of which such drain is located shall by themselves, their agents or attorneys, pay to the commissioner all the costs and expenses thus far incurred by him, and shall severally or jointly enter into a contract, with good and sufficient sureties and in such sum as the commissioner may require, to construct such improvements on such drain and pay all expenses necessary to be incurred in the construction, maintenance and operation of the same, then the commissioner may contract with such owner or owners, and such improvements when accepted shall be certified by the commissioner as a drain constructed in pursuance of the provisions of this act, and shall be recorded in the same manner as other drains. If such contract is not fulfilled in the time limited therein, the commissioner shall contract with other parties for the completion of the work and the parties so in default and their sureties shall be liable for all costs and expenses attending such default.

HISTORY: New 1956, p. 90, Act 40, Imd. Eff. Mar. 28.

280.355 Dams in drains; supervision of work; governing provisions.

Sec. 355. All work done under the provisions of this act shall be under the supervision of the commissioner. All the provisions of this act relative to proceedings after the filing of petition for the determination of the necessity, institution of condemnation proceedings and proceedings had thereon and the construction, operation and maintenance of the improvements mentioned in such petition, and the assessment and review and levy and collection of taxes and all other provisions of said act not inconsistent with the provisions of this act shall be applicable in the construction, operation and maintenance of dams and the better maintenance of such drainage work by embanking, pumping or other mechanical operation or other work under the provisions of this act.

HISTORY: New 1956, p. 90, Act 40, Imd. Eff. Mar. 28.

280.356 Dams in drains; intercounty drains; governing provisions.

Sec. 356. Each and every act required by the foregoing sections of this chapter to be done and performed by the commissioner shall be done and performed by the drain-

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age board where the petition for the establishment of such dam relates to or affects drains traversing more than 1 county or affecting lands in more than 1 county. On receipt of such petition it shall be the duty of such commissioner to notify the commissioner of each county affected and the state director of agriculture and call a meeting in the manner and at the time provided by section 102 of this act.

HISTORY: New 1956, p. 90, Act 40, Imd. Eff. Mar. 28.

CHAPTER 16.

SPECIAL COUNTY COMMISSIONER.

280.381 Disqualification of commissioner; petition filed with probate judge.

Sec. 381. Whenever the commissioner of any county shall receive a petition asking for the laying out, construction, cleaning out, deepening or widening of any drain, or a petition asking proceedings by virtue of which any assessment upon lands for benefits received would result, wherein such commissioner shall be interested by reason of himself, wife or child, owning lands that would be liable to an assessment for benefits upon the work or proceeding proposed to be done or had, and in cases where such commissioner may be otherwise disqualified to act in the making of apportionment of benefits, such commissioner shall file a copy of such petition with the judge of probate of the county, together with a statement signed by him, showing that he is disqualified to act in making such apportionment of benefits.

HISTORY: New 1956, p. 90, Act 40, Imd. Eff. Mar. 28.

280.382 Disqualification of commissioner; appointment of disinterested commissioner; duties as to county drain.

Sec. 382. Upon receiving such petition and certificate aforesaid, the judge of probate shall, within not less than 15 days, appoint a disinterested commissioner of an adjoining or nearby county to make the apportionment of benefits on said drain. It shall be the duty of said disinterested commissioner, so appointed, to make and complete within a period of 30 days, or within such reasonable time thereafter as may be necessary, an apportionment of the benefits of said drain and file the same with the said disqualified commissioner, and said apportionment shall be adopted for said drain, subject to the same rights of appeal as provided in this act. Said disqualified commissioner shall furnish the commissioner so appointed with a copy of his final order of determination on said drain.

HISTORY: New 1956, p. 91, Act 40, Imd. Eff. Mar. 28.

280.383 Disqualification of commissioner; appointment in case of intercounty drain.

Sec. 383. In the case of a drain affecting more than 1 county, and any commissioner shall be disqualified to make the apportionments thereon, a commissioner for the county shall be appointed in the manner herein provided, with powers and duties mentioned in this act.

HISTORY: New 1956, p. 91, Act 40, Imd. Eff. Mar. 28.

280.384 Disinterested commissioner; salary and expenses, assessment.

Sec. 384. The salary of the commissioner so appointed, which shall be the same as that received by him from the county of which he is commissioner, together with all expenses actually and necessarily incurred by him, shall be assessed against the drain in connection with which said services were performed and shall be paid in the same manner as other expenses are paid.

HISTORY: New 1956, p. 91, Act 40, Imd. Eff. Mar. 28.

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CHAPTER 17.

ABANDONED AND VACATED DRAINS—DISPOSAL OF FUNDS.

280.391 Abandoned and vacated drains; procedure; private rights; new drain.

Sec. 391. Any drain or part thereof which has ceased to be of public utility and is no longer necessary or conducive to the public health, convenience and welfare may be declared to be abandoned and vacated in the manner herein provided. Any 5 freeholders of lands in a drainage district or the governing body of any public corporation in whose limits a drain or part thereof is located may petition for the abandonment and vacation of a drain or part thereof. The petition shall be addressed to and filed with the commissioner or drainage board having jurisdiction of such drain. The commissioner or drainage board shall hold a meeting to hear objections to the petition and to the abandonment and vacation of a drain or part thereof therein requested, and shall give notice of such meeting by posting in 5 public places in the drainage district and by publication in a newspaper of general circulation in the drainage district which posting and publication shall occur at least 10 days before the date of such meeting. Private rights of persons acquired by reason of the establishment and construction of such drain or part thereof shall not be interfered with, or in any way be impaired by such abandonment and vacation. If it is determined at such meeting that the drain or part thereof should be abandoned and vacated, the commissioner or drainage board shall issue an order to that effect and file the same with the commissioner of the county or counties involved. Easements or rights-of-way for the drain or part thereof abandoned and vacated or easements or portions thereof no longer necessary for drainage purposes shall be conveyed or released by the commissioner or drainage board on behalf of the drainage district. If it be contemplated to construct a new drain or part thereof on or near the line of an existing drain or part thereof this may be accomplished without abandonment and vacation of the existing drain or part thereof and the easements or rights-of-way of the existing drain or part thereof may be used for this purpose: Provided, however, That if the contemplated project materially damages the property owner beyond the existing easement, or if it materially burdens the existing easement, then the commissioner or drainage board shall secure an additional easement for the contemplated project. It shall not be necessary to abandon and vacate an existing drain or part thereof made unnecessary by a new drain or part thereof until the new drain is constructed and ready for service.

HISTORY: New 1956, p. 91, Act 40, Imd. Eff. Mar. 28;—Am. 1964, p. 106, Act 107, Eff. Aug. 28.

280.392 Abandoned and vacated drains; notices; disposal of money in drain funds.

Sec. 392. Whenever any drain shall have been declared vacated and abandoned, as provided in section 391, it shall be the duty of the commissioner to serve notice thereof forthwith upon the county treasurer of the county or counties in which the drainage district, or any portion thereof, is situated. If there be any money credited to or belonging to the fund of such vacated and abandoned drain, it shall be the duty of the county treasurer or treasurers to transfer and pay over the same to the treasurer or treasurers of the township or townships in which the drain was located or in which assessments for benefits to be received from such drain have been assessed and collected: Provided, That in all cases where the amount of such money belonging to the drain fund of such drain, in the hands of the county treasurer, shall be insufficient to permit the refunding and paying over to such township treasurers all of the moneys assessed and collected in such townships, the county treasurer shall prorate the amounts so paid, and each township treasurer shall be entitled to receive such proportion of the moneys remaining in the fund of the vacated or abandoned drain as the total amount

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of the assessments levied and collected in his township and becoming a part of such drain fund shall bear to all of the moneys assessed and collected and making up such fund. In case it is necessary to prorate in the manner provided, the county treasurer shall furnish to each township treasurer a statement showing the amount of money in the fund at the time such drain was declared vacated and abandoned, and the various amounts assessed and collected for such fund from the different townships entitled to share in the disbursement thereof.

HISTORY: New 1956, p. 91, Act 40, Imd. Eff. Mar. 28.

280.393 Abandoned and vacated drains; duties of township treasurer in distribution of funds.

Sec. 393. Upon receiving such money, and the accompanying statement, if required to be furnished hereby, the township treasurer shall give his receipt therefor to the county treasurer. He shall also serve notice upon each person, firm or corporation who, as shown by the records of his office, shall have paid a special tax for benefits received or to be received from the construction of such drain, that such drain has been declared vacated and abandoned and that the payment as aforesaid has been made to him by the county treasurer. Similar notice shall also be served upon the township board and shall be published for 2 successive weeks in some newspaper published and circulating in said county. Thereupon, every such person, firm or corporation shall be entitled to demand and receive from said township treasurer the amount of the special assessment that such person, firm or corporation may have so paid. The amount of the special tax for the construction of such drain that may have been assessed and collected from the township at large shall be credited to and paid into the contingency fund in the township treasury: Provided, however, That if the amount of money paid over to the township treasurer by the county treasurer in the manner aforesaid is less than the aggregate amount of special assessments levied and collected in such township for the construction of such drain and the tax levied and collected upon and from the township at large, then the township treasurer shall prorate the payments to each such person, firm or corporation and the amount to be paid into the general fund in the township treasury; and each such person, firm or corporation and the contingency fund in the township treasury shall be entitled to receive such proportion of the amount of the special assessment or tax paid thereby as the amount of money paid to the township treasurer by the county treasurer shall bear to the total amount of special assessments and taxes levied and collected in said township and paid into the fund for the construction of said drain.

HISTORY: New 1956, p. 92, Act 40, Imd. Eff. Mar. 28.

280.394 Abandoned and vacated drains; disposal of funds, payments by township treasurer.

Sec. 394. In case any person who might be entitled to be paid any sum of money in accordance with this act because of a special assessment or tax paid by him for the construction of such drain shall have died, payment as aforesaid shall be made to his personal representatives or to those entitled under the law to take and receive any personal property of which such person so dying may have been possessed at the time of his death. In case of any payment made by a firm that shall have been dissolved, payment to any member of said firm shall be deemed a compliance herewith on the part of the township treasurer: Provided, however, That if no person who was a member of such firm is surviving or can be found, payment may be made to the distributees of any member: Provided further, That when any person claiming an interest in the amount to which any firm would, if still in existence, be entitled shall notify the township treasurer to withhold payment pending a determination of the rights of various claimants, it shall be the duty of the township treasurer to retain the amount involved

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for such a reasonable time as will permit such determination to be made. In all cases where a corporation that would, if existing, be entitled to receive a payment of money under the provisions of this act has been dissolved and its affairs wholly wound up, and in all cases where it is impossible to find the person or persons entitled to any sum of money herein, such amount or amounts shall, after a lapse of 2 years from and after the publication of notice provided for in section 393 hereof, be paid over by the township treasurer into the general fund of the township.

HISTORY: New 1956, p. 92, Act 40, Imd. Eff. Mar. 28.

280.395 County drainage district wholly within township, city or village; transfer of jurisdiction, approval.

Sec. 395. The county drain commissioner may relinquish jurisdiction and control to a township, city or village of any county drainage district upon which there is no outstanding indebtedness or contract liability and which is wholly located within the boundaries of a township, city or village, and thereafter the county drain commissioner shall be relieved of, and the township, city or village shall assume, the maintenance, jurisdiction, control and operation thereof and its future operation shall be financed in the same manner as is provided for special assessment districts within such township, city or village: Provided, That such proceeding shall have first been approved by a majority of the members elect of the county board of supervisors and by the resolution of the governing body of the township, city or village in which such drain is located.

Distribution of drain fund.

Any money which shall be in the drain fund of any such drainage district at the time jurisdiction over it is transferred as provided in this section shall be distributed in the same manner as is provided in sections 391 to 394, inclusive, of this act in the case of abandoned or vacated drains.

HISTORY: New 1956, p. 93, Act 40, Imd. Eff. Mar. 28;—Am. 1957, p. 138, Act 120, Imd. Eff. May 24.

280.396 Transfer of drain project to county department of public works.

Sec. 396. In any county which has established a department of public works under the provisions of Act No. 185 of the Public Acts of 1957, being sections 123.731 to 123.786 of the Compiled Laws of 1948, the drain commissioner, if in his judgment any project in process of completion or which has been completed can more adequately or feasibly be handled by the department of public works, may file a written report to that effect with the county clerk. The report shall be filed in duplicate, and immediately upon receipt, a copy shall be forwarded to the department of public works and the clerk shall present the drain commissioner's recommendation to the board of supervisors at the next meeting. If the board of supervisors approves the drain commissioner's recommendation it shall, by resolution, so indicate and direct transfer of jurisdiction over the project to the department of public works. Any money which is in the drain fund of any district or belonging to such project at the time jurisdiction over it is transferred shall be promptly transferred and used by the department of public works for the purpose for which it was accumulated. All assets, files, maps, drawings, specifications, records of procedure, assessment rolls or other data pertinent to the project shall be transferred to the department of public works. Thereafter, the department of public works shall be responsible for further proceedings and the drain commissioner relieved therefrom.

HISTORY: Add. 1958, p. 70, Act 64, Imd. Eff. Apr. 9.

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CHAPTER 18.
OBSTRUCTIONS IN DRAINS; SEWAGE; MISCELLANEOUS PROVISIONS.

280.421 Obstructions; removal; expenses, notice; livestock; criminal complaint.

Sec. 421. Whenever any person shall obstruct any established drain, it shall be the duty of the commissioner to cause such obstruction to be removed. Any lessening of the area of a drain, which area shall be a cross section of the drain, shall be deemed to be an obstruction. The person causing such obstruction shall be liable for the expense attendant upon the removal thereof, together with the charges of the commissioner, and the same shall be a lien upon the lands of the party causing or permitting such obstruction, and all of the expense shall by the commissioner be reported to the board of supervisors, together with the report of his doings in the premises, and by said board ordered spread upon the land of the offending party, should the same remain unpaid: Provided, That the offending party causing such obstruction shall be given a notice in writing of at least 5 days to remove such obstruction. This provision as to obstruction of any drain shall not apply where the obstruction was caused by natural causes, but the owner of the stock who shall permit his horses, cattle, pigs and other stock to obstruct any drain by tramping in it shall be deemed to be the party causing such obstruction. Nothing contained in this section shall in any way impede or bar the right of any person to make criminal complaint under any existing law for any obstruction of a drain.

HISTORY: New 1956, p. 93, Act 40, Imd. Eff. Mar. 28.

280.422 Obstructions; public utility companies; removal, mandamus.

Sec. 422. Railroad or railway companies, telephone, telegraph, or pipeline companies and other utilities shall not obstruct established drains, nor shall they lessen the area of any drain through their track bed or right of way. The area herein referred to is a cross section of the drain. In case any such company or utility, without legal right, has constructed or shall construct any bridge, culvert, pipeline or conduit over any established drain whereby the area aforesaid is decreased, the removal of such bridge, culvert, pipeline or conduit shall not be deemed an element of damage in proceedings to deepen and widen such drain through such track bed or right of way. In case it is proposed to construct a pipeline, sewer or conduit within, over or across any county, such construction shall be of a nature and laid at such a depth at the point of crossing of any established public drain as will not interfere with said established public drain. The consent of the county drain commissioner or board of public works of any municipality shall be obtained before the work of such construction is commenced and such drain commissioner is hereby authorized to grant such consent upon such terms and conditions as may be reasonable and proper under the circumstances then existing. In case any railroad or railway company, telephone, telegraph or pipeline company or other utilities shall obstruct any established drain, or has constructed or shall construct any bridge, culvert, pipeline or conduit, sewer or other structure over, under or through any established drain, leaving less capacity to the drain than such drain is legally entitled to, in accordance with the rights for such drain as established by proper drain proceedings or as established by other legal methods prior to the date of construction of any such obstruction, the county drain commissioner or the board of public works, as the case may be, may, by mandamus proceedings in the circuit court of the county in which such obstruction shall occur, compel the removal of such obstruction. If necessary, issues of fact may be framed in such proceedings. In case the court

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shall find such drain to have been obstructed, it shall issue a preemptory mandamus compelling such company to remove such obstruction. The court may award costs in its discretion as in other mandamus proceedings. The practice herein shall be the same as in other motions for mandamus.

HISTORY: New 1956, p. 93, Act 40, Imd. Eff. Mar. 28;—Am. 1959, p. 407, Act 261, Imd. Eff. Aug. 21.

280.423 Use of drain for sewage disposal; construction to purify flow; apportionment of costs; acquisition of land; unlawful use; service fee.

Sec. 423. It shall be unlawful for any municipality, industry, public or private corporation, individual, partnership association, or any other entity to continue to discharge or permit to be discharged into any county drain or intercounty drain of the state any sewage or waste matter capable of producing in said drain or drains detrimental deposits, objectional odor nuisance, injury to drainage conduits or structures, or such pollution of the waters of the state receiving the flow from said drains as to injure livestock, destroy fish life or be injurious to public health: Provided, That nothing herein contained shall be construed to prevent the conveyance of sewage or other waste through drains or sewers that will not cause the above named injuries. Disposal plants, filtration beds and other mechanical devices as will properly purify the flow of any drain may be constructed and become a part of any established drain, the cost of construction thereof to be paid for in the same manner as other drainage costs as in this act provided. Such plants, beds or devices may be described in the petition for the location, establishment and construction of drains or in the petition for the cleaning, widening, deepening, straightening or extending of drains, or in the application for the laying out of a drainage district. Petitions for the construction of such plants, beds and devices for use on any established drain may be filed by the same persons and shall be received and all proceedings had thereon in the same manner as other petitions for any drainage construction under this act. If the state commissioner of health shall determine that sewage carried by any existing county or intercounty drain constitutes a menace to the public health, and that the cleaning out of such drain or the construction of disposal plants, filtration beds or other mechanical devices to purify the flow of such drain is necessary to public health, he may file his findings with the water resources commission, who may file a petition with the drain commissioner of the county in which such drain is situated or with the drainage board having jurisdiction, as the case may be. The said petition may call for the construction of said disposal plant or other appropriate measures by which the said nuisance or menace to health may be abated. A copy of the findings of the state commissioner of health shall be attached to said petition which shall require no other signature than that of the water resources commission under their name of office, but shall otherwise conform to the law regulating such petitions. Plans and specifications for the construction as part of a drain of any disposal plant, filtration bed or other mechanical device to properly purify the flow of such drain shall be prepared, subject to the approval of the state commissioner of health, and shall be filed with the drain commissioner or the drainage board, as the case may be. Contracts for such construction shall be let in the manner provided in chapter 9, being sections 221 to 223, inclusive, of this act. To meet the cost of such construction the drain commissioner or the drainage board, as the case may be, shall apportion the per cent of such cost among the several parcels of land, highways and municipalities benefited thereby. The costs and charges for maintenance shall be apportioned and assessed each year. In case the apportionment shall be the same as the last recorded apportionment, no day of review shall be necessary, but in case the apportionment shall be changed, notice of a day of review shall be given to each person or municipality whose percentage has been raised. Land may be acquired as a site for the construction of such plants, beds and devices, and releases thereof may be obtained in the same manner as other lands for right of way as in this act provided. It

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shall be unlawful to connect sewage or other waste to county or intercounty drains except with the written approval of the appropriate commissioner or the drainage board, as the case may be, endorsed upon a written application for such service and the payment of a service fee of not to exceed $50.00 for each connection to a covered drain. This fee shall be set and collected by the drain commissioner, as approved by the board of supervisors or the drainage board, as the case may be, and deposited with the county treasurer, to be credited to the drain fund set up for the maintenance or construction of such drain. The commissioner or the drainage board, as the case may be, shall keep a record of applications made and his action thereon. The commissioner or the drainage board, as the case may be, is hereby authorized to reject applications for or require such necessary modification in requested applications for sewer connections to county drains as to attain the objectives set forth in this section.

Penalty.

Failure to comply with any of the provisions of this section shall, upon conviction thereof, subject the offender to the penalty or penalties described in section 602 of this act.

HISTORY: New 1956, p. 94, Act 40, Imd. Eff. Mar. 28.

280.424 Inadequate disposal or filtration plant; abatement of nuisance; estimate of annual cost, appeal, notice, posting.

Sec. 424. Whenever a disposal plant, filtration plant or other mechanical device to purify the flow of such drain or sewer has been heretofore constructed, but is inoperative or improperly operated and, in the opinion of the state commissioner of health, the public health is endangered by reason thereof, said state commissioner of health may file with the judge of probate of the county in which said facilities are located, a petition reciting his findings and recommendations as to how the menace to health may be corrected or the nuisance may best be abated and how the improperly operated or inoperative disposal plant, filtration plant or other mechanical device to purify the flow of a drain or sewer should be operated. Upon satisfying himself as to the reasonableness of said recommendations, it shall be the duty of the judge of probate of said county to direct the drain commissioner of said county to prepare a plan for and estimate the annual cost of executing the recommendations of the state commissioner of health, and/or of rehabilitation, ordinary maintenance and operation of said improperly operated or inoperative facilities, to prepare a map showing the extent of the area contributing to said condition, and to make a determination of the annual expense thereof apportioned according to benefits to the state highways, cities, villages and townships benefited by the same. Upon receipt of the map, tentative assessment district and other information from the county drain commissioner, the judge of probate shall give notice of said facts and of the date of receiving appeals by publication in at least 2 insertions in some newspaper published and of general circulation in the county, if there be one, the first publication to be at least 10 days before the date set for receiving appeals and said notice shall also be posted at least 10 days before the date for receiving appeals in 5 or more conspicuous places in each city, village and township, where any part of the district may be located and within the limits of such district.

Review of apportionment; notice of appeal, board of review, appointment, meeting.

The state highway commissioner or any city, township or village which may feel aggrieved by the apportionment of benefits so made by the drain commissioner may make an application to said probate court for review of the apportionment by a board of review by filing with said probate court a notice of appeal. Only 1 board of review shall be appointed by said court. Upon receipt of any such notices of appeal, as herein-

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before provided, the probate court shall forthwith notify the drain commissioner, in writing, of such appeal and thereupon make an order appointing 3 disinterested freeholders of such county, not residents of said district, to constitute such board of review. The court shall thereupon, with the concurrence of the drain commissioner, immediately fix the time and place when and where said board of review shall meet to review said apportionments, which said time shall be not less than 10 nor more than 15 days from the date of filing such appeal.

Same; notice of meeting, service, return.

The drain commissioner shall thereupon give notice to the persons so appointed of their appointment and of the time and place of meeting and shall give notice of such meeting by posting notices in at least 5 public places in each city, village and township forming a part of the drainage district and shall serve a like notice upon the state highway commissioner and each of said cities, villages and townships. Such service shall be made not less than 5 days before hearing. Return shall be made by the person serving said notice and shall be filed in the office of the judge of probate. At such hearing the board of review shall have the right and it shall be their duty to review all apportionments made by the drain commissioner. Persons appointed on said board of review shall be sworn by the drain commissioner to faithfully discharge their duties as members of said board.

Same; certiorari; roll of apportionments; payment by municipalities.

The board of review shall proceed at the time and place specified in the notice to hear the proofs and allegations of all parties in respect to the matter of appeal. A review of apportionments shall be made by the board of review and if, in their judgment, there shall be manifest error or inequality in such apportionments, they shall order and make such changes therein as they shall deem just and equitable. Determination of the drain commissioner, if not appealed from, or of said board, in case of an appeal, shall be final and there shall be no right of appeal from such determination, except by writ of certiorari to the proper court. The determination shall be reduced to writing and signed by the drain commissioner, or in case of appeal a majority of the board making the same, and shall be delivered to the judge of probate together with all other papers relating thereto. Upon the apportionments becoming final, as hereinbefore set forth, the judge of probate shall deliver said approved roll of apportionments of benefits and expense to the drain commissioner, who shall assess the amounts therein set forth to the respective cities, villages and townships involved, and said cities, villages and townships shall thereafter make payment thereof as collected in quarterly installments to the county treasurer to be deposited in a separate fund for the rehabilitation, ordinary maintenance and operation of said facilities, which said fund shall be paid out only on the order of the drain commissioner of the county in which said facilities are located.

Same; payment for services; costs; annual assessments; reapportionment.

Payment for services and providing for substitute membership necessary on the board of review shall be in accordance with sections 158 and 159 of this act. Such necessary costs of the proceeding shall be determined by the judge of probate, said cost to be paid from the revolving fund of the county and same to be returned to the county out of the first assessment against said district. Immediately upon receipt of sufficient funds so to do, the drain commissioner of the county shall proceed with the rehabilitation, ordinary maintenance and operation of said facilities, and shall continue the same as long as funds are available. The costs and charges hereinbefore set forth shall be an annual charge and shall be assessed against the state highways and the several cities, villages and townships by said drain commissioner each year as long as said facility continues to be operated, unless in the opinion of the drain commissioner, the state

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highway commissioner or of any of said cities, villages or townships, said apportionment should be changed, in which event either said drain commissioner, the state highway commissioner, or any of said cities, villages or townships may petition the judge of probate of the county in which said proceedings were had for the appointment of a board of review to reapportion said expense, and on filing said petition said judge of probate shall proceed to appoint a board of review on notice and in the manner hereinbefore set forth, which said board of review shall review such assessments and make a new apportionment: Provided, however, That no reapportionment shall be made oftener than once in each calendar year.

Municipal assessments added to water rates.

The several cities, villages and townships against whom an assessment is made, as hereinbefore provided, shall collect for such expense so assessed to them under this act by charges for the use of said facilities, to be added to and collected with the water rates of said cities, villages and townships, in the same manner as other water rates of said cities, villages and townships are collected, or in such other manner as the several governing bodies of said respective cities, villages and townships may determine.

HISTORY: New 1956, p. 95, Act 40, Imd. Eff. Mar. 28.

280.425 Additional drains at expense of petitioner; construction, consent, supervision; open drain, tiling.

Sec. 425. Any land owner in the drainage district whose land requires additional drainage may petition the commissioner for permission to construct a drain, by the use of drainage conduits, to any regularly established drain, and said permission shall be granted by the commissioner when, in his opinion, the nature of the ground to be crossed will admit thereof and the surface of the land can be restored and for such purpose said drain may traverse the lands of other freeholders in the district: Provided, That before such permission be granted by said commissioner the consent in writing of the owner or owners of the lands to be traversed by said proposed drain be obtained, or in case permission is refused by the owner or owners of the lands to be traversed by said proposed drain, such drain may be established by following the provisions of this act governing the location, establishment and construction of county or inter-county drainage districts and drains therein, as the case may be: Provided further, That the entire expense thereof shall be borne by such petitioner, and that the construction of such drain shall be done at such time and in such manner as the commissioner shall prescribe. When drains are constructed, the entrance thereto shall be substantially protected from driftwood and debris. Any application to lay out and designate a drainage district or petition to locate, establish and construct a drain under the foregoing provisions of this section shall only require the signature or signatures of the petitioning land owner or owners, other provisions of this act notwithstanding. In case permission is granted to tile the source of a drain, the commissioner shall further prescribe the amount and part of the drain to be tiled and the manner of tiling. Any person through whose land an open drain has been established and constructed may make a written request to the county drain commissioner to be permitted, at his own expense, to tile and cover with earth the whole or any part thereof that may traverse his land, and the commissioner may grant such request, but in doing so he shall prescribe the size of the tile to be used: Provided, That no permit shall be issued to tile or crock any established drain that will lessen the area of the drain as established.

HISTORY: New 1956, p. 97, Act 40, Imd. Eff. Mar. 28;—Am. 1957, p. 137, Act 119, Imd. Eff. May 24.

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280.426 Drain orders received for drain taxes.

Sec. 426. The drain orders issued for each particular drain shall be received for drain taxes for benefits levied for the construction of such drain by the township treasurer or county treasurer, as the case may be.

HISTORY: New 1956, p. 97, Act 40, Imd. Eff. Mar. 28.

280.427 Corporation or land contract vendee as freeholder; corporate agent or officer as signer of petition.

Sec. 427. In any application or petition required to be filed under this act, a freeholder shall be deemed to include a corporation owning land and a vendee under land contract, where such contract is of record in the office of the register of deeds of the county, or where the land is assessed in the name of the vendee on the tax assessment roll of the township or city. The authority of an officer or agent of a corporation to sign an application or petition on behalf of such corporation shall not be questioned, except by such corporation itself, after the application or petition has been accepted and passed on by a board of determination.

HISTORY: New 1956, p. 97, Act 40, Imd. Eff. Mar. 28.

280.428 Drainage district including state lands; assessment, payment.

Sec. 428. If any drain commissioner shall receive an application to lay out a drainage district which will include land owned by the state of Michigan, or owned or controlled by any state institution, board or agency, said commissioner shall serve notice of apportionment of benefit on the same officers in like manner as service is required to be made on the state highway commissioner for state highways, and if said director of agriculture and the officer, board or agency having control of such land shall approve, in writing, the amount of such assessment, and shall state whether such assessment shall be paid in full or by installments, the board of state auditors is directed to audit and allow and draw its warrant upon the state treasurer in payment of the amount assessed against said land either in full or by installments as requested. Such sums of moneys as are necessary to carry out the provisions of this section are hereby apportioned from the general fund of the state out of any moneys in said fund not otherwise appropriated.

HISTORY: New 1956, p. 97, Act 40, Imd. Eff. Mar. 28.

280.429 Flood control projects; easements to United States; approval.

Sec. 429. Subject to the consent and approval of the several boards of supervisors of this state and the boards of supervisors of the counties comprising intercounty drainage districts, the several county drain commissioners and the drainage boards of intercounty drainage districts are hereby authorized to grant unto the United States of America the right to use all the easements and rights of way conveyed to their respective drainage districts or to any county or counties lying wholly or in part in such districts, for the construction and maintenance of any county or intercounty drain by the United States in connection with any flood control project undertaken by the United States acting through its war department or any other federal department or agency. In such cases in which the work is to be performed at the expense of the United States, it shall not be necessary for the drain commissioner or drainage board to advertise for bids or to let contracts for the construction or maintenance of any such flood control project.

HISTORY: New 1956, p. 98, Act 40, Imd. Eff. Mar. 28.

280.430 Sanitary sewage; contracts for use of drains, charges.

Sec. 430. (1) Whenever any county or intercounty drain is used for the transportation of sanitary sewage, the county or counties within whose boundaries the drainage district lies may contract under the provisions of Act No. 129 of the Public Acts of 1943, as amended, being sections 123.231 to 123.235 of the Compiled Laws of 1948, or

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any other applicable act, for the disposal of sewage therefrom, including any storm water necessarily mixed therewith. In such case the drain commissioner or the drainage board may fix and collect charges to cover the cost of the treatment and disposal of sanitary sewage. Such charges shall be approved by the majority vote of the members-elect of the board of supervisors. The charges may be made to each user of the services or may be made to public corporations. Contracts for periods not exceeding 50 years may be made between the county and public corporations to be so served, in respect to sewage disposal services, when approved by the governing bodies of the several parties thereto.

Lien for charges, collection, discontinuance of service.

(2) Charges for sewage disposal services furnished to any premises shall be a lien thereon from the date such charges are due and any charges delinquent for 6 months or more shall be certified annually to the proper tax assessing officer or agency who shall enter the same upon the next tax roll against the premises to which such services shall have been rendered, and the charges shall be collected and the lien shall be enforced in the same manner as provided for the collection of taxes assessed upon such roll and the enforcement of the lien therefor. The time and manner of certification and the other details in respect to the collection of such charges and the enforcement of such lien shall be prescribed by the governing body of the public corporation in which the lands are located. The payment of charges for sewage disposal services to any premises may be enforced by discontinuing either the water service or the sewage disposal service to such premises, or both.

Costs includable in charges.

(3) The charges for sewage disposal services may also include the cost of the operation and maintenance of any physical structures and any administrative expenses in connection with the transportation, treatment and disposal of sanitary sewage.

HISTORY: Add. 1959, p. 58, Act 47, Imd. Eff. Jun. 5.

280.431 Contracts for drain projects; federal government; public corporations; relief from assessments.

Sec. 431. The drain commissioner or drainage board may contract or make agreements with the federal government, including any agency thereof, whereby the federal government will pay the whole or any part of the cost of the project or will perform the whole or any part of the work connected therewith, which contract or agreement may include any specific terms required by act of congress or federal regulation, not in conflict with state law, as a condition for participation on the part of the federal government. The drain commissioner or drainage board may contract or make agreements with any private corporation or with any public corporation, including any agency thereof, in respect to any matter connected with the construction, operation or maintenance of any flood control or drainage project or combination thereof. The contract or agreement may provide that any payments made or work done by the public corporation shall relieve it in whole or in part from assessment for the cost of the project. No construction work shall be undertaken by the drain commissioner or drainage board until bids have been advertised for and received for the performance of such work, but this provision shall not apply to work to be performed solely by the federal government or a public corporation at its expense.

Flood control projects; conservation and utilization of soil and water.

The drain commissioner or drainage board may contract or make agreements with private and public corporations and with the federal government including any agency thereof for the purpose of expanding any flood control or drainage project or combination thereof to include the conservation and utilization of soil and water for recreation and other beneficial purposes. The contracts or agreements shall provide

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for an equitable sharing of the costs of the expanded flood control or drainage project or combination thereof and the cost borne by a drainage district shall not be in excess of the amount which can be attributed solely to drainage and flood control. The drain commissioner or drainage board, may acquire by gift or purchase the necessary lands, and rights of way for the purposes of any expanded flood control or drainage project or combination thereof. The drain commissioner or drainage board may acquire by condemnation proceedings similar to those provided in chapter 4 and chapter 6 of this act, the necessary lands and rights of way for any expanded flood control or drainage project or combination thereof which shall be undertaken jointly with a public corporation or the federal government. The drain commissioner or drainage board may pay for the costs of lands taken by condemnation for an expanded flood control or drainage project or combination thereof, undertaken jointly with a public corporation or the federal government, but the public corporation or federal government shall promptly reimburse the drainage district for all costs of acquisition in excess of those costs directly attributable to drainage and flood control.

Public corporation; definition.

The term "public corporation" includes the state, counties, cities, villages, townships, metropolitan districts and authorities created by or pursuant to state statutes.

HISTORY: Add. 1959, p. 214, Act 153, Imd. Eff. Jul. 16;—Am. 1962, p. 97, Act 108, Eff. Mar. 28, 1963.

280.432 Obstruction of drain commissioner; drainage board or agents; misdemeanor.

Sec. 432. Whoever, after the drain commissioner has given notice by first class mail, that the drain commissioner, drainage board or their agents will go upon lands for any purpose hereinafter set forth, to the owner of the land whose name appears on the last city or township tax assessment roll, at the address shown on the roll, and if no address appears thereon no notice need be mailed to such person, wilfully prohibits, prevents or obstructs the drain commissioner, drainage board or their agents from going upon lands either within or outside of the district for the purpose of examining the same or making surveys in connection with the work of the drain commissioner or drainage board, or wilfully prohibits, prevents or obstructs the drain commissioner or drainage board of a district, their agents, employees or contractors from going upon the right of way of the district with their servants, tools, machinery, instruments and other equipment for the purpose of constructing, reconstructing, repairing or maintaining the work of the drain commissioner or drainage board is guilty of a misdemeanor.

HISTORY: Add. 1962, p. 421, Act 191, Eff. Mar. 28, 1963.

280.433 Agreements to enlarge drainage; procedure; special assessments; dedication of lands, easements; approval by public corporations or municipalities.

Sec. 433. An existing intracounty or intercounty drainage district may be enlarged and the drain located therein may be extended or have branches added to provide drainage service to lands not originally within the boundaries of the drainage district by agreement between the drain commissioner or the drainage board and the owner or developer of the lands. The agreement shall obligate the owner or developer of the lands to be added to the drainage district to construct, in accordance with plans and specifications prepared by or approved by the drain commissioner or drainage board, the necessary and adequate drainage facilities on the lands to be added and in the existing drainage district to connect the lands to the existing drain in the drainage district and to pay the cost of the drainage facilities including right of way, engineering, inspection, administration and legal expenses incurred by the drain commissioner or the drainage board, or, in lieu thereof, to deposit with the drain commissioner or drainage board, upon execution of the agreement, the estimated cost of such construc-

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tion and expenses. Before any agreement is approved and executed on behalf of a drainage district by the drain commissioner or drainage board, there shall be obtained, at the expense of the owner or developer of the lands to be added, a certificate, from a registered professional engineer satisfactory to the drain commissioner or the drainage board, to the effect that the lands to be added naturally drain into the area served by the existing drain or that the existing drain is the only reasonably available outlet for the drainage from the lands to be added and that there is existing capacity in the existing drain to serve the lands to be added without detriment to or diminution of the drainage service provided or to be provided, in the foreseeable future, to the area in the existing drainage district. If the existing drain in the existing drainage district has been financed by the levy of drain special assessments on the lands in the drainage district and if the basis of special assessment as applied to the lands to be added to the drainage district would result in a drain special assessment on the lands to be added in an aggregate principal amount greater than the costs and expenses to be paid or incurred by the owner and developer of the lands for the new drain facilities at the time of entering into the agreement, then the owner or developer shall also pay the amount of the excess to the drainage district at the time of execution of the agreement. In addition thereto, the developer or owner of the added lands shall pay a pro rata equitable share of the cost of the original construction of the drain, if any. Lands added to any drainage district by agreement shall be liable from and after the date of agreement for all assessments thereafter levied for operation and maintenance of the drain, including the extension thereof pursuant to the agreement and such lands shall be a part of the drainage district for all other purposes and procedures set forth in this act. All drain facilities and all rights of way, easements or property in which the same are located, acquired or constructed pursuant to the agreement to add lands shall be dedicated to public use or conveyed or transferred to the drainage district and the drain facilities shall thereafter be a part of the drain the same as if originally located, established and constructed by procedures set forth in this act as a part of the original drain. An existing intracounty or intercounty drain may be extended or have branches added to provide additional service to lands within the drainage district by agreement between the drain commissioner or the drainage board and the owner or developer of the land, pursuant to the foregoing procedures and conditions set forth in this section. The affected public corporations or municipalities in which the proposed lands are to be added will be apprised of said agreement by the drain commissioner or drainage board and the public corporations or municipalities shall consent by appropriate resolution to the addition of the affected lands to the drainage district area.

HISTORY: Add. 1967, p. 310, Act 214, Imd. Eff. Jul. 10.

280.434 Drain project cost; advances by corporation or individual, evidence, payment.

Sec. 434. Any public or private corporation, firm or individual may advance moneys for the payment of any part of the cost of a drain project and be reimbursed by the drainage district, with or without interest as may be agreed, when funds are available therefor. The obligation of the drainage district to make the reimbursement may be evidenced by a contract or note, which contract or note may pledge the full faith and credit of the drainage district and may be made payable out of the drain assessments made against public corporations at large or against lands in the drainage district or out of the proceeds of drain orders or bonds issued by the drainage district pursuant to this act or out of any other available funds, and the contract or note shall be deemed

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to be an obligation within the meaning of the provisions of Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2 of the Compiled Laws of 1948.

HISTORY: Add. 1970, p. 366, Act 112, Imd. Eff. Jul. 23.

CHAPTER 19.

CONSOLIDATED DISTRICTS.

280.441 County drainage districts; consolidation; petition, proceedings, signers; board of determination, residence, meeting, compensation.

Sec. 441. Any 2 or more drainage districts, in whole or in part, or any combination thereof, located in the same county and in the same drainage basin or in adjoining basins, may be consolidated and organized as a single drainage district upon the filing of a petition therefor with the drain commissioner of the county setting forth the reason for the proposed consolidation. The consolidation may include lands not within any existing drainage district if the petition so requests. The petition shall be signed by at least 50 freeholders within the proposed consolidated drainage district. If in the proposed consolidated drainage district there are less than 100 freeholders, then the petition shall be signed by at least 50% of the freeholders in the proposed consolidated drainage district. In lieu of a petition signed by freeholders, a petition may be signed solely by a city or township any portion of which is located within the proposed consolidated drainage district, when duly authorized by its governing body, or by any combination of municipalities. As soon as practicable after the filing of a petition, the drain commissioner, if not disqualified under section 381 of this act, may appoint a board of determination composed of 3 disinterested freeholders to determine the necessity of the consolidation. If the commissioner is disqualified or chooses not to appoint the board of determination, he shall forthwith file a copy of the petition with the chairman of the board of supervisors, together with a statement signed by him showing that he is disqualified or chooses not to act in appointing a board of determination. Upon receiving a copy of the petition and certificate, the chairman of the board of supervisors, if not privately interested, shall appoint as soon as practicable a board of determination and shall immediately notify the drain commissioner of the names and addresses of those appointed. If the chairman of the board of supervisors has a private interest in the proceedings, the drain committee of the board of supervisors shall appoint the board of determination. All members of a board of determination shall be residents of the county but not of the proposed consolidated drainage district or of any drainage district a part of which is to be included in the proposed consolidation. A meeting thereof shall be called within the proposed consolidated drainage district at some convenient place to be designated by the drain commissioner. If any person appointed to the board of determination fails or refuses to serve, then a successor shall be appointed by the official or committee making the appointment in the first instance. The compensation of each member of the board of determination shall be $8.00 per day with no additional allowance for mileage; but the board of supervisors of any county may increase the per diem compensation of members of the board of determination.

Meeting; notice, service, first class mail, affidavit of mailing, expense.

The drain commissioner shall give notice of the time and place of the meeting by publication twice in a newspaper of general circulation in the county or a newspaper of general circulation in the proposed consolidated drainage district, the first publication of which shall be at least 10 days before the meeting. Notices shall also be served on the county clerk and the clerk of each township or city in the proposed consolidated drainage district, personally or by certified mail, at least 10 days before the

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meeting. The drain commissioner shall send notice by first class mail of the time and place of the meeting at least 10 days before the date thereof to each person whose name appears upon the last city or township tax assessment roll as owning land within the existing drainage districts, all or any portions of which are proposed to be consolidated, or owning lands within the proposed consolidated drainage district whose lands are not within an existing drainage district, at the address shown on such roll. If no address appears on the roll, then no notice need be mailed to such persons. The drain commissioner shall make an affidavit of the mailing and shall recite therein that the persons to whom the notice was mailed constitute all of the persons to whom notice must be sent. The affidavit shall be conclusive proof that notice was mailed to each person to whom notice is required to be mailed by the terms of this section. The failure to receive any notice by mail shall not constitute a jurisdictional defect invalidating a drain proceeding if notice has been sent by first-class mail as provided in this section. All expense of notification shall be paid by the drainage district when created.

Determination as to conduciveness to public health, convenience or welfare, filing of funds.

At the time and place fixed in the notice the board shall meet, elect a chairman and a secretary and proceed to determine whether the proposed consolidation is conducive to public health, convenience or welfare. At the meeting all persons owning lands in the proposed consolidated drainage district, or in any portion of any established drainage district a part of which is to be included in such consolidation, or any municipality affected may appear for or against the proposed consolidation. After hearing the evidence, the board shall make its determination as to whether the proposed consolidation is conducive to public health, convenience or welfare. If the board finds by a majority vote of the whole number of members that the proposed consolidation is not conducive to public health, convenience or welfare, it shall file with the commissioner an order dismissing the petition, and no further petition for the drain shall be entertained within 1 year after such determination. If the board by a majority vote finds that the proposed consolidation is conducive to the public health, convenience or welfare, it shall make its order to that effect and file the same with the commissioner. Upon receipt of the order of consolidation, the commissioner shall enter an order giving the consolidated drainage district a name or number.

HISTORY: New 1956, p. 98, Act 40, Imd. Eff. Mar. 28;—Am. 1959, p. 407, Act 261, Imd. Eff. Aug. 21;—Am. 1963, p. 316, Act 215, Imd. Eff. May 17;—Am. 1963, p. 373, Act 228, Eff. Sep. 6;—Am. 1965, p. 223, Act 138, Eff. Mar. 31, 1966.

280.441a Intercounty drainage districts; consolidation; petition; drainage board.

Sec. 441a. Any 2 or more drainage districts, in whole or in part, or any combination thereof, may be consolidated and organized as a single drainage district under this section where the proposed consolidated district lies within more than 1 county, upon the filing of a petition in writing with the commissioner of any county having jurisdiction of any lands in the proposed consolidated drainage district, setting forth the reason for the proposed consolidation. The consolidation may include lands not within any existing drainage district if the petition shall so request. The petition shall be signed by at least 50 freeholders within the proposed consolidated drainage district. If in the proposed consolidated drainage district there are less than 100 freeholders, then the petition shall be signed by at least 50% of the freeholders in the proposed consolidated drainage district. In lieu of a petition signed by freeholders, a petition may be signed solely by a city or township any portion of which is located within the proposed consolidated drainage district, when duly authorized by its governing body, or by any combination of municipalities. Upon receipt of the petition, the commissioner shall notify the state director of agriculture and the commissioner of each county embracing any lands in the proposed consolidated drainage district. The drain commissioners of

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such counties and the director of agriculture or any deputy designated by him shall constitute the drainage board.

Meeting, notice, first class mail, affidavit of mailing, expense.

The state director of agriculture shall call a meeting of the drainage board not less than 15 days nor more than 60 days from the receipt of the notice. The meeting shall be held in the immediate locality of the proposed consolidated drainage district. Notices of the meeting shall be served on the clerk of each county, township and city within the proposed consolidated drainage district, personally or by certified mail, at least 10 days before the meeting. A notice of the meeting shall be published twice in each county affected in a newspaper of general circulation in the county or in a newspaper of general circulation in the proposed consolidated drainage district, the first publication of which shall be at least 10 days before the meeting. The drain commissioner of each county in which lie lands proposed to be consolidated into the proposed consolidated district shall also send notice of the time and place of the meeting by first class mail, at least 10 days before the date thereof, to each person whose name appears upon the last city or township tax assessment roll as owning land within the existing drainage districts, all or any portions of which are proposed to be consolidated, or owning lands within the proposed consolidated drainage district which are not within an existing drainage district, at the address shown on such roll; and if no address appears thereon, then no notice need be mailed to such persons. Each drain commissioner shall make an affidavit of the mailing and shall recite therein that the persons to whom the notice was mailed constitute all of the persons to whom notice must be sent. The affidavits shall be conclusive proof that notice was mailed to each person to whom notice is required to be mailed by the terms of this section. The failure to receive any notice by mail shall not constitute a jurisdictional defect invalidating a drain proceeding, if notice has been sent by first-class mail as provided in this section. All expense of notification shall be paid by the drainage district when created or consolidated.

Determination as to conduciveness to public health, convenience or welfare; filing of order.

Upon convening the meeting the state director of agriculture or any deputy selected by him shall act as chairman. The drainage board shall consider the application for the proposed consolidated drainage district, and determine the sufficiency of the signatures thereto. The drainage board shall then proceed to determine whether the proposed consolidation is conducive to public health, convenience or welfare. At the meeting all persons owning lands in the proposed consolidated drainage district, or in any portion of any established drainage district a part of which is to be included in such consolidation, or any municipality affected may appear for or against the proposed consolidation. After hearing the evidence, the drainage board shall make its determination as to whether the proposed consolidation is conducive to public health, convenience or welfare. If the board finds by a majority vote of the whole number of members that the proposed consolidation is not conducive to public health, convenience or welfare, it shall file with the chairman an order dismissing the petition, and no further petition for consolidation shall be entertained within 1 year after such determination. If the board by a majority vote finds that the proposed consolidation is conducive to the public health, convenience or welfare, it shall make its order to that effect and file the same with the chairman. Upon receipt of the order of consolidation, the chairman shall enter an order giving the consolidated drainage district a name or num-

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ber. A copy of the order shall be filed within 10 days by the state director of agriculture in the office of the county drain commissioner of each county in which lie lands included in the consolidated drainage district.

HISTORY: Add. 1959, p. 409, Act 261, Imd. Eff. Aug. 21;—Am. 1963, p. 317, Act 215, Imd. Eff. May 17;—Am. 1963, p. 374, Act 228, Eff. Sep. 6;—Am. 1965, p. 224, Act 138, Eff. Mar. 31, 1966.

280.442 Drainage districts; consolidation; surveys.

Sec. 442. In any proceeding for the consolidation of 2 or more drainage districts, existing surveys shall be used unless the drain commissioner, in the case of a county drain, or the drainage board, in the case of an intercounty drain, shall make a determination that the existing surveys are inadequate.

HISTORY: New 1956, p. 98, Act 40, Imd. Eff. Mar. 28.

280.443 Drainage districts; consolidation; existing drain, recognition and credit, exemption from special assessment.

Sec. 443. When in any consolidated district it shall be necessary to construct a new drain on or near the line or any part of the line of an existing, operating drain so as to make the old existing drain in whole or in part unnecessary, recognition and credit shall be given for such existing drain or part thereof as follows:

The assessing authorities shall make a determination of the value of benefits which, except for the construction of the new drain, could reasonably have been anticipated from the continued operation of the existing drain or part thereof.

The property or municipal corporation which paid the assessment for the existing drain or part thereof shall be exempt from any special assessment to pay for the new drain to the extent of the value so determined.

The assessing authorities, in assessing for benefits and apportionment of costs and expenses for any new drain in a consolidated district which has been laid on or near the line or any part of the line of an existing, operating drain so as to make the existing drain in whole or in part unnecessary, shall give effect to this exemption.

HISTORY: New 1956, p. 98, Act 40, Imd. Eff. Mar. 28.

280.444 Drainage districts; consolidation; indebtedness, retirement; special assessment.

Sec. 444. In case any drainage district which is included and merged in the consolidated district has any outstanding bonded or other indebtedness, any funds in the treasury of such debtor district shall be used to retire such indebtedness. If said funds are insufficient, the indebtedness shall be paid from any funds derived from any special assessments theretofore levied or extended against the lands in the debtor district, and if further funds are necessary the drain commissioner or drainage board of the consolidated district shall levy a special assessment against the lands in the debtor district sufficient to pay such indebtedness. The proceeds of such special assessment shall be used only for the purpose of paying such indebtedness, bonded or otherwise, and the interest thereon.

HISTORY: New 1956, p. 99, Act 40, Imd. Eff. Mar. 28.

280.445 Drainage districts; consolidation; bonds and contracts, assumption by consolidated district.

Sec. 445. The merging of any drainage district into a consolidated district shall not affect the obligation of any bonds issued or contracts entered into by such district nor invalidate the levy, extension or collection of any taxes or special assessments upon property in the debtor district, but such bonds and contracts shall be taken over and

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assumed by the consolidated district, and all outstanding special assessments shall be collected and paid over to the consolidated district for the payment of the obligations theretofore issued or contracts entered into by the debtor district.

HISTORY: New 1956, p. 99, Act 40, Imd. Eff. Mar. 28.

280.446 Drainage districts; consolidation; abandonment or vacation of included drain; proration of moneys.

Sec. 446. Any drain which has been included and merged in a consolidated drain and whose outstanding indebtedness has been fully paid may be abandoned and vacated in the manner provided for the abandonment or vacation of drains. In case any such drain has in its fund any money, after all outstanding indebtedness has been paid, such money shall be transferred, paid over or prorated in the same manner as is provided for abandoned or vacated drains: Provided, That if any person, firm, corporation or township entitled to share in the distribution of such money shall be liable for any special assessment of the consolidated drain, its share of such money, or any part thereof which is necessary to cover such special assessment, shall be returned to the respective county treasurer or treasurers and such treasurer or treasurers shall transfer such money to the fund of the consolidated drain and such person, firm, corporation or township shall be credited therefor against the special assessment of the consolidated drain.

HISTORY: New 1956, p. 99, Act 40, Imd. Eff. Mar. 28.

280.447 Drainage districts; consolidation; rights and powers, validation of bonds.

Sec. 447. After any drainage districts have consolidated as provided for in this chapter, the consolidated district shall, except as otherwise provided in this chapter, have all the rights and powers and be subject to all laws applicable to county or intercounty drainage districts, as the case may be. The provisions of sections 441 through 447 of this act shall not be construed to validate and shall not validate any bonds or other obligations issued prior to May 5, 1954, nor shall said sections be construed to revive or validate any obligations of an old existing or established drain which has heretofore been determined in a court of competent jurisdiction to be invalid.

HISTORY: New 1956, p. 99, Act 40, Imd. Eff. Mar. 28.

280.448 Drainage districts; consolidation; consent of county auditors or comptroller.

Sec. 448. In any proceeding to consolidate drainage districts pursuant to the provisions of this chapter, no special assessment district shall be established and no bonded or other indebtedness shall be incurred and no construction or other contracts shall be let in counties having a board of county auditors or a county comptroller without the written consent of the said board of county auditors or the said county comptroller: Provided, however, That the approval of said board of county auditors or said county comptroller shall not be required in proceedings relative to the establishment of an intercounty consolidated drainage district.

HISTORY: New 1956, p. 99, Act 40, Imd. Eff. Mar. 28.

CHAPTER 20.

INTRACOUNTY DRAINS; PUBLIC CORPORATIONS.

280.461 Intracounty drains; definitions.

Sec. 461. Whenever used in this chapter, except when otherwise indicated by the context:

(a) The term "state" shall be deemed to mean the state of Michigan.

(b) The term "public corporation" shall be deemed to include the state of Michigan,

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counties, cities, villages, townships, metropolitan districts and authorities created by or pursuant to state statutes.

(c) The term "agencies" shall be deemed to include those officers, boards, commissions and other bodies created by public corporation or by the federal government, which are authorized to act in their own names.

(d) The term "county drain" shall be deemed to mean any drain as defined in this act, irrespective of size, carrying drainage water and/or sewage originating in 1 county. The finding of the drainage board that all drain water and sewage does originate in 1 county shall be final. In making such determination, the drainage board may disregard any drainage from another county which it deems to be inconsequential.

HISTORY: New 1956, p. 100, Act 40, Imd. Eff. Mar. 28.

CITED IN OTHER SECTIONS: Sections 280.461 to 280.538 are cited in § 281.75.

280.462 County drains; public health, assessment against public corporations.

Sec. 462. County drains which are necessary for the public health may be located, established and constructed under the provisions of this chapter where the cost thereof is to be assessed wholly against public corporations.

HISTORY: New 1956, p. 100, Act 40, Imd. Eff. Mar. 28.

280.463 County drains; public health; petition; contents; notice.

Sec. 463. Whenever it shall be necessary for the public health to locate, establish and construct a county drain, then a petition therefor may be filed with the county drain commissioner signed by 2 or more public corporations which will be subject to assessments to pay the cost thereof. Such petition shall state that it is filed pursuant to the provisions of this chapter and shall describe the location and route of such proposed drain sufficiently to determine with reasonable certainty the areas to be drained thereby. The county drain commissioner shall notify all public corporations which may be subject to an assessment or are within 1 mile of the assessment district within the areas to be drained, as described in the petition, that a petition has been filed. Attached to the petition shall be a certified copy of the resolution of the governing body of each signer authorizing the affixing of its signature thereto. Such petition may be filed in more than 1 counterpart.

HISTORY: New 1956, p. 100, Act 40, Imd. Eff. Mar. 28;—Am. 1968, p. 611, Act 333, Imd. Eff. Jul. 14.

280.464 Drainage board; members; compensation; records.

Sec. 464. There is created for each project petitioned for under the provisions of this chapter, a drainage board to consist of the drain commissioner of the county, the chairman of the county board of supervisors and the chairman of the board of county auditors. If there is no board of county auditors in any such county, then the chairman of the finance committee of the board of supervisors shall act as a member of the drainage board, and if there is neither a board of county auditors nor finance committee, then the chairman of the board of supervisors shall select from time to time 1 member of the board of supervisors to act as a member of the drainage board. If a supervisor member of the drainage board, as provided in this section or section 487, is interested in a project petitioned for under the provisions of this chapter, by reason of his holding an elected or appointed office in a public corporation to be assessed for the cost of the project, he is disqualified to act as a member of the drainage board with respect to the project. In such case the vice-chairman or chairman pro tempore of the board of supervisors or of the finance committee of the board of supervisors, if not also disqualified, shall act as such member. If the vice-chairman or chairman pro tempore is disqualified, the drain commissioner of the county shall designate a member of the board of supervisors who is not so disqualified to act as a member of the drainage board for the project. The chairman of the board of supervisors and any member of a

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board of supervisors serving on the drainage board shall receive such compensation, mileage and expenses as shall be provided by the drainage board except that such compensation shall not exceed $25.00 per diem exclusive of mileage and expenses for attendance at drainage board meetings. The county drain commissioner shall be chairman of the drainage board. He shall keep minutes of the proceedings of the drainage board and all records and files of the board shall be kept in his office. In counties of less than 500,000 population the commissioner shall be paid the same compensation as other members of the drainage board.

HISTORY: New 1956, p. 100, Act 40, Imd. Eff. Mar. 28;—Am. 1965, p. 310, Act 194, Imd. Eff. Jul. 15;—Am. 1969, p. 525, Act 285, Eff. Mar. 20, 1970.

280.465 Drainage board; meetings, notice, waiver, quorum, adjournment; orders.

Sec. 465. Meetings of the drainage board may be called by the chairman or any 2 members thereof, upon notice sent by registered mail to each member, setting forth the time and place thereof, which notice shall be mailed not less than 5 days previous to the time of the meeting. The affidavit of the chairman as to such mailing shall be conclusive proof thereof. No notice of any meeting shall be required if all members are present. Any member of said board may waive notice of any meeting, either before or after such meeting. A majority of the members of the board shall constitute a quorum for the transaction of business, but a lesser number may adjourn from time to time. Any meeting may be adjourned from time to time. Unless otherwise provided herein, no action shall be taken by said board except by a majority vote of its members. In the event of the adjournment of any hearing, it shall not be necessary to advertise the adjournment of such hearing. All orders issued by the drainage board shall be signed by the chairman.

HISTORY: New 1956, p. 101, Act 40, Imd. Eff. Mar. 28.

280.466 Drainage board; first meeting, notice.

Sec. 466. Upon receipt of a petition as hereinbefore provided, the county drain commissioner shall call the first meeting of the drainage board. In the event there be no board of county auditors or finance committee in the county, then notice to the chairman of the board of supervisors of such county shall be deemed to be notice to the member of the board of supervisors to be selected by him.

HISTORY: New 1956, p. 101, Act 40, Imd. Eff. Mar. 28.

280.467 Drainage board; tentative determination; name; district assessed; hearing of objections, notice, form; final order of determination.

Sec. 467. The said drainage board at its first meeting shall consider the petition for the project and make a tentative determination as to the sufficiency thereof and the practicability of the proposed drain, and shall also make a tentative determination of the public corporations to be assessed. Said drainage board shall give a name to the drain and to the drainage district. The district shall be composed of the public corporations to be assessed for the cost of the project. After the drainage board has made the determination specified in the first sentence of this section, then it shall fix a time and place when and where it will meet to hear any objections to the proposed drain and the petition therefor, and to the matter of assessing the cost of such drain to the designated public corporations. Notice of such hearing shall be published twice in the county by inserting the same in at least 1 newspaper published therein, designated by the drainage board, with the first publication to be not less than 20 days prior to the time of hearing. Such notice shall also be sent by registered mail to the clerk or secretary of each public corporation proposed to be assessed, except that any notice to the state shall be sent to the state highway commissioner and any notice to a county shall be sent to both the county clerk and the county road commission, if any, which mail-

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ing shall be made not less than 20 days prior to the time of hearing. Such notice shall be signed by the chairman and proof of the publication and mailing thereof shall be filed in his office. The drainage board may provide a form to be substantially followed in the giving of such notice. At such hearing, any public corporation to be assessed or any taxpayer thereof shall be entitled to be heard. After such hearing, the drainage board shall make a determination as to the sufficiency of the petition, the practicability of the drain, whether the drain should be constructed, and if so, the public corporations to be assessed, and shall issue its order accordingly, which order shall be known as the "final order of determination". No public corporation may be eliminated from, or added to, those tentatively determined to be assessed without a rehearing after notice, as above provided.

HISTORY: New 1956, p. 101, Act 40, Imd. Eff. Mar. 28.

280.468 Drainage board; plans, specifications, estimates, approval of route, designation of area served; apportionment.

Sec. 468. The drainage board shall secure from a competent engineer, plans, specifications and an estimate of cost of the proposed drain, which, when approved and adopted by the board, shall be filed with the chairman thereof. In approving the plans and specifications, the drainage board shall not be limited to the route of the drain described in the petition or the final order of determination. The drainage board shall tentatively establish the percentage of the cost of such drain or of the several sections or parts thereof which is to be borne by each public corporation. In making the apportionments hereunder, there shall be taken into consideration the benefits to accrue to each public corporation and also the extent to which each public corporation contributes to the conditions which make the drain necessary. Apportionments against the state shall be based upon such benefits and contributions as related solely to the drainage of state highways, and those against the county shall be based as related solely to the drainage of its county highways. Before any tentative apportionment shall be made, the drainage board shall designate the area to be served by the drain project, which may or may not include all of the area in any public corporation to be assessed and may divide the drain into sections or parts for purposes of apportionment or construction. Nothing herein contained shall prohibit the county from assuming any additional cost of the drain if 2/3 of the members elect of the board of supervisors vote in favor thereof. The apportionment shall only apply to the proposed drain. The apportionments for any extensions or other work subsequently performed under section 482 shall be re-established by the board.

HISTORY: New 1956, p. 102, Act 40, Imd. Eff. Mar. 28;—Am. 1957, p. 43, Act 37, Imd. Eff. May 14;—Am. 1961, p. 46, Act 45, Imd. Eff. May 20;—Am. 1963, p. 319, Act 215, Imd. Eff. May 17.

280.469 Drainage board; hearing of objections, notice, contents; confirmation or readjustment of apportionments; final order of apportionment.

Sec. 469. After the foregoing tentative apportionments of cost have been made, then the drainage board shall set a time and place when and where it will meet and hear any objections to such apportionments. Notice of such hearing shall be published twice in the county by inserting the same in at least 1 newspaper published therein, designated by the drainage board, the first publication to be not less than 20 days prior to the time of hearing. Such notice shall also be sent by registered mail to the clerk or secretary of each public corporation proposed to be assessed, except that any notice to the state shall be sent to the state highway commissioner and any notice to the county shall be sent both to the county clerk and the county road commission, if any, which mailing shall be made not less than 20 days prior to the time of hearing. Such notice shall be signed by the chairman and proof of the publication and mailing thereof shall be filed in his office. The drainage board may provide a form to be substantially followed in the giving of such notice. The notice shall include tentative apportionments

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to the several public corporations. At such hearing, any public corporation to be assessed or any taxpayer thereof shall be entitled to be heard. After such hearing, the drainage board may confirm the apportionments as tentatively made, or if in any respect it shall deem such apportionments to be inequitable, it shall readjust the same: Provided, That if such readjustment shall involve the increasing of any assessment and such increase shall not be consented to by resolution of the governing body of the public corporation whose assessment was increased, then before any readjusted apportionments shall be confirmed the drainage board shall set a time and place for a rehearing and shall give notice thereof as in the first instance, which notice shall also set forth the apportionments as readjusted. After confirmation, the drainage board shall issue its order setting forth the several apportionments as confirmed, which order shall be known as the "final order of apportionment".

HISTORY: New 1956, p. 102, Act 40, Imd. Eff. Mar. 28.

280.470 Drainage board; lands and rights of way, condemnation; procedure, federal government participation; costs.

Sec. 470. The drainage board shall then proceed to secure the necessary lands or rights of way for the proposed drain. If the same cannot be secured by negotiation, then the drainage board may proceed under the provisions of Act No. 149 of the Public Acts of 1911, as amended, being sections 213.21 to 213.41 of the Compiled Laws of 1948, or under the applicable provisions of sections 75 to 84 of this act, and shall be deemed to be a "state agency" as that term is used in said act, or if the project is one in which the federal government is participating in any manner, then such lands or rights of way may be acquired through proceedings brought by the federal government under any appropriate federal act. In the event lands or rights of way shall be acquired through proceedings under a federal act, then the amount of the awards in such proceeding shall be deemed to be a part of the cost of the drain to the same extent as if the condemnation proceedings had been taken under the laws of this state.

HISTORY: New 1956, p. 102, Act 40, Imd. Eff. Mar. 28;—Am. 1961, p. 220, Act 154, Imd. Eff. Jun. 1.

280.471 Drainage board; contracts with federal government or corporations; bids.

Sec. 471. The drainage board may contract with the federal government, which term as used in this section shall include any agency thereof, whereby the federal government will pay the whole or any part of the cost of the project or will perform the whole or any part of the work connected therewith, which contract may include any specific terms required by act of congress or federal regulation as a condition for such participation on the part of the federal government. The drainage board may also contract with any private corporation or with any public corporation, which term as used in this section shall include any agency thereof, in respect to any matter connected with the construction, operation, maintenance, use or services of any drain. Such a contract may provide for service or transportation charges and that any payments made or work done by such corporation shall relieve it in whole or in part from assessment for the cost of the drain or of its maintenance and operation. No construction work shall be undertaken until the drainage board has advertised for and received bids for the performance of such work, except for construction work to be performed by the federal government or a public corporation.

HISTORY: New 1956, p. 103, Act 40, Imd. Eff. Mar. 28;—Am. 1963, p. 319, Act 215, Imd. Eff. May 17.

280.472 Funds; county treasurer, deputies; bonds; expenditures.

Sec. 472. The county treasurer shall be the custodian of the funds of the drainage district. He may designate 1 or more of his deputies who may act for him in the performance of any of his duties under this section. The drainage board may require the county treasurer and any deputy county treasurer so designated to furnish a bond pay-

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able to the drainage district, in addition to any bond payable to the county, conditioned upon the faithful discharge of his duties in respect to moneys belonging to the drainage district, the premium thereon to be paid by the drainage district. Moneys held by said treasurer shall be paid out only upon order of the drainage board, except that no such order shall be required for the payment of principal and interest on bonds.

HISTORY: New 1956, p. 103, Act 40, Imd. Eff. Mar. 28;—Am. 1961, p. 47, Act 46, Imd. Eff. May 20.

280.473 Special assessment roll; installments, payment, interest.

Sec. 473. After the confirmation of the apportionments by the drainage board, the chairman of the board shall prepare a special assessment roll assessing the estimated cost of the drain, or if the actual cost has been ascertained, then the actual cost, against the several public corporations in accordance with the confirmed apportionments. The drainage board may provide for the payment of the special assessments in any number of annual installments, not exceeding 30, but no installment shall be less than 40% of any subsequent installment. The drainage board shall fix the amount of interest, not exceeding 6%, to be paid upon unpaid installments, which interest shall become due annually on the day and month upon which the annual installments become due. The drainage board may provide for the payment of any installments in advance of their respective due dates and may prescribe the terms and conditions thereof. The drainage board shall fix the time in each year on which the first installment and each of the subsequent installments of special assessments become due and payable so that each public corporation can make a tax levy for the payment thereof.

HISTORY: New 1956, p. 103, Act 40, Imd. Eff. Mar. 28;—Am. 1957, p. 43, Act 37, Imd. Eff. May 14;—Am. 1963, p. 319, Act 215, Imd. Eff. May 17.

280.474 Special assessment roll; contents, approval; certification to public corporation assessed; annual notice; advancements.

Sec. 474. The special assessment roll shall contain the name of each public corporation assessed, the total estimated cost of the project, or actual cost if the same has been ascertained at the time of the preparation of the roll, the percentage apportioned to each public corporation, the amount of the assessment against each public corporation based upon the percentage of apportionment, and the amount of each installment if the assessment is divided into annual installments. After the special assessment roll has been prepared, it shall be presented to the drainage board for approval. When the roll has been approved, then a statement to that effect, signed by the chairman of the drainage board, shall be affixed to the roll setting forth the date of approval. The chairman of the drainage board shall then certify to each public corporation assessed the amount of the total assessment against it, the amount of the various installments if the assessment is divided into installments, the due date of each installment and the rate of interest upon installments from time to time unpaid. The chairman each year, at least 30 days prior to the time of the levying of taxes by each public corporation, shall notify it of the amount of the installment and interest next becoming due, but the failure to notify any public corporation shall not excuse it from making payment of the installment and interest. On or before the due date of any installment, each public corporation shall pay to the county treasurer the full amount thereof, together with interest accruing to the due date. If any public corporation fails or neglects to account to the county treasurer for the amount of any installment and interest, then the county treasurer shall advance the amount thereof from county funds in the following cases:

(1) If any bonds or other evidence of indebtedness have been issued to finance a project, the petition for which was filed after June 6, 1961 in anticipation of the collection of the installment and interest pursuant to the provisions of this chapter and the board of supervisors has previously acted, by a resolution adopted by a 2/3 vote of its

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members elect, to pledge the full faith and credit of the county for the prompt payment of the principal of and interest on the bonds or evidences of indebtedness, or

(2) If any bonds or other evidence of indebtedness have been issued to finance a project, the petition for which was filed prior to June 6, 1961 in anticipation of the collection of the installment and interest pursuant to the provisions of this chapter.

Deductions for advancements; assessments against state; spread of tax; corrections.

The county treasurer shall deduct the total amount so advanced from any moneys, other than those pledged for the payment of debts and those returned to the public corporation pursuant to article 10, section 23 of the state constitution, then or thereafter payable by him to the public corporation. The board of supervisors of any county which has advanced any money for a public corporation and which has not been reimbursed therefor, may order the public corporation and its officers to levy upon its next tax roll an amount sufficient to make the reimbursement on or before the date when its taxes become delinquent; and the public corporation and its tax levying and collecting officials shall levy and collect such taxes and reimburse the county. The foregoing shall not prevent the county from obtaining reimbursement by any other legal method. Assessments against the state shall be certified to the state highway commissioner and paid from state highway funds. The tax levying officials of each of the other public corporations assessed shall levy sufficient taxes to pay assessment installments and interest as the same become due unless there has been set aside moneys sufficient therefor. Any city may elect to spread the tax levy upon the county tax roll instead of the city tax roll. If a special assessment roll is prepared upon the basis of the estimated cost of the project, then after the actual cost has been ascertained and determined by the drainage board, the special assessments and the installments thereof shall be corrected by adding any deficiency or deducting any excess. The drainage board may order the corrections to be made upon the original roll or may order that a new corrected roll or a supplemental roll be prepared and submitted for approval by the drainage board.

HISTORY: New 1956, p. 103, Act 40, Imd. Eff. Mar. 28;—Am. 1961, p. 357, Act 212, Imd. Eff. Jun. 6;—Am. 1963, p. 320, Act 215, Imd. Eff. May 17.

280.475 Assessments and taxes not subject to statutory or charter debt and tax limitations.

Sec. 475. Assessments made under the terms of this chapter shall not constitute an indebtedness of a public corporation within any statutory or charter debt limitation, and taxes levied by a public corporation for the payment of such assessments shall not be deemed to be within any statutory or charter tax limitation. Nothing contained in this chapter shall be construed as requiring any county, township, metropolitan district or authority to levy a tax beyond its constitutional tax limitation or any lawful increase thereof.

HISTORY: New 1956, p. 104, Act 40, Imd. Eff. Mar. 28;—Am. 1959, p. 87, Act 77, Imd. Eff. Jun. 29.

280.476 Bonds; issuance, maturity, signatures; collection of assessments.

Sec. 476. The drainage board may issue 1 or more series of bonds for and on behalf of the drainage district, in anticipation of the collection of any or all installments of assessments or any part thereof, and pledge the full faith and credit of the drainage district for the prompt payment of the principal thereof and the interest thereon. The bonds shall mature serially with the last maturity not later than 2 ½ years after the due date of the last installment of the assessments and there may be more than 1 principal maturity date during any 12-month period. The bonds shall be signed by the chairman and at least 1 other member of the drainage board and the facsimile signature of the chairman shall be affixed to the interest coupons attached thereto. Collections of both

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principal and interest on all installments of assessments in anticipation of which bonds shall have been issued shall be kept in a separate bank account by the county treasurer and used for no other purpose than the payment of principal and interest on such bonds until the full payment thereof.

HISTORY: New 1956, p. 104, Act 40, Imd. Eff. Mar. 28;—Am. 1963, p. 321, Act 215, Imd. Eff. May 17.

280.477 Additional assessment; apportionment.

Sec. 477. If, for any reason, the original assessments shall not be sufficient to pay the principal and interest on bonds issued in anticipation of the collection thereof, then the drainage board shall make such additional assessments therefor as may be necessary, apportioned as in the first instance, it being the intention hereof that the collections on assessments shall, under all circumstances, be sufficient to pay said principal and interest.

HISTORY: New 1956, p. 104, Act 40, Imd. Eff. Mar. 28.

280.478 Drainage board; continuation; responsibility; expenses; relinquishment; moneys, disposition, consent.

Sec. 478. The drainage board for each project shall continue in existence with such changes in personnel as shall result from changes in the officers constituting the board membership. It shall be responsible for the operation and maintenance of the drain. Any necessary expenses incurred in administration and in the operation and maintenance of the drain and not covered by contract shall be paid by the several public corporations assessed for the cost of the drain. The assessments shall be in the same proportion as the cost of the drain was assessed unless the drainage board establishes a different proportion for the assessments after notice and hearing as provided in section 469. The drainage board, by resolution duly adopted by it, may relinquish jurisdiction and control over all or any part of a drain or drain project at any time when there is no outstanding indebtedness or contract liability of its drainage district, to the county, township, city or village in which all or the part of the drain or drain project is wholly located, if the county, township, city or village requests or consents to the relinquishment of jurisdiction and control by resolution duly adopted by its governing body. Indebtedness or contract liability of any drainage district which will be paid in full at the time of consummation of relinquishment of jurisdiction and control shall not be deemed to be outstanding. If relinquishment of jurisdiction and control is to a county, the resolution of the governing body of the county shall specify the county agency, such as board of public works, drain commissioner, board of county road commissioners, or parks and recreation commission, which shall be thereafter responsible for exercise of such jurisdiction and control. Any moneys in the drain fund of any drain, over all or any part of which jurisdiction and control is relinquished, shall be used to pay any indebtedness or contract liability of its drainage district, and the balance shall be turned over to the county, township, city or village to be used solely with respect to the drain, all or part thereof, over which jurisdiction and control is assumed. If the relinquishment of jurisdiction and control and the turnover of drain fund relates to a part of a drain or drain project, such relinquishment and turnover shall not become effective until consented to by resolution of the governing body of each public corporation which has paid a part of the cost of the drain or drain project, and for this purpose the board of county road commissioners and the state highway commission shall be deemed to be the governing body for the county and the state.

HISTORY: New 1956, p. 105, Act 40, Imd. Eff. Mar. 28;—Am. 1963, p. 321, Act 215, Imd. Eff. May 17;—Am. 1969, p. 176, Act 90, Imd. Eff. Jul. 24.

280.479 Advancements by corporations; reimbursement.

Sec. 479. Any public or private corporation, firm or individual may advance moneys for the payment of any part of the cost of a project hereunder, in which event it shall

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be reimbursed by the drainage district, with or without interest as may be agreed, when funds are available therefor. The obligation of the drainage district to make the reimbursement may be evidenced by a contract or note, which contract or note may pledge the full faith and credit of the drainage district and may be made payable out of the assessments made against public corporations or out of the proceeds of drain orders or bonds issued by the drainage district pursuant to this act or out of any other available funds, but the contract or note shall not be deemed to be an obligation within the meaning of the provisions of Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2 of the Compiled Laws of 1948.

HISTORY: New 1956, p. 105, Act 40, Imd. Eff. Mar. 28;—Am. 1963, p. 321, Act 215, Imd. Eff. May 17.

280.480 Costs; items.

Sec. 480. The cost of any drain project shall include (1) the cost of constructing or acquiring the facilities, structures, devices and equipment required to locate, establish and construct the drain or to improve or supplement the same, including bridges and culverts and any lands or rights of way necessary thereto; (2) the administrative and other expenses of the drainage board including the cost of service and publication of all notices; (3) all engineering, legal and other professional fees; (4) interest on bonds for the first year, if bonds are to be issued, and interest on moneys advanced pursuant to section 479; and (5) an amount not exceeding 10% of the gross sum to cover contingent expenses.

HISTORY: New 1956, p. 105, Act 40, Imd. Eff. Mar. 28;—Am. 1963, p. 321, Act 215, Imd. Eff. May 17.

280.481 Assessments against townships and villages.

Sec. 481. Unless otherwise provided by the drainage board, assessments against a township shall be against the township as a whole, including any incorporated village, but the drainage board may determine to assess a village separately, in which case the assessment against the township shall be exclusive of the village and the tax levies to be made by the township to pay such assessment shall not include any property taxable in the village.

HISTORY: New 1956, p. 105, Act 40, Imd. Eff. Mar. 28.

280.482 Cleaning out and other improvements for public health; procedure; backfilling.

Sec. 482. Any county drain or any portion thereof, now or hereafter existing, may be cleaned out, relocated, widened, deepened, straightened, extended, tiled or otherwise improved, or branches added or connected thereto, when necessary for the public health, in the same manner as a county drain may be located, established and constructed under this chapter, with such variations in the proceedings as may be necessary to make the same applicable, and also the cost thereof may be financed in like manner. A project to improve a county drain may include backfilling and leveling any portion thereof no longer needed after the improvements.

HISTORY: New 1956, p. 105, Act 40, Imd. Eff. Mar. 28;—Am. 1961, p. 47, Act 46, Imd. Eff. May 20;—Am. 1963, p. 321, Act 215, Imd. Eff. May 17.

280.483 Certiorari; time; legal establishment of drain.

Sec. 483. Neither the final order of determination nor the final order of apportionment shall be subject to attack in any court, except by proceedings in certiorari brought within 20 days after the filing of such order in the office of the chairman of the board issuing the same. If no such proceeding shall be brought within the time above prescribed, the drain shall be deemed to have been legally established and the legality of the drain and the assessments therefor shall not thereafter be questioned in any suit at law or in equity, either on jurisdictional or nonjurisdictional grounds.

HISTORY: New 1956, p. 105, Act 40, Imd. Eff. Mar. 28.

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280.484 Procedures; incorporation of other chapters in drainage board orders.

Sec. 484. In operating under the terms of this chapter, the several boards and officials shall not be limited by the provisions contained in other chapters of this act and the procedures required under the terms of such other chapter shall not be deemed to be applicable: Provided, That when not contrary to the express provisions of this chapter, any provision or provisions in other chapters of this act may be incorporated by recital or by references into any order or resolution of the drainage board, and when so incorporated shall be deemed applicable to the project under this chapter.

HISTORY: New 1956, p. 105, Act 40, Imd. Eff. Mar. 28.

280.485 Relief drains.

Sec. 485. When 2 or more public corporations, constituting as a whole contiguous territory, are served by 1 or more county drains, and it shall become necessary for the public health to supplement such existing drain or drains by constructing 1 or more relief drains, which may consist of new drains and branches and connections thereto or extensions, enlargements, branches, connections or improvements described in section 482 to existing drains, or any combination thereof, then the entire project may be constructed and financed as a whole under the provisions of this chapter and the word "drain" shall be deemed to include such a project.

HISTORY: New 1956, p. 106, Act 40, Imd. Eff. Mar. 28;—Am. 1963, p. 322, Act 215, Imd. Eff. May 17.

280.486 Drain located entirely within or serving one municipality.

Sec. 486. The terms of this chapter shall be applicable (1) to any county drain located, or proposed to be located, entirely within the limits of a single city, village or township, or (2) to any county drain located in more than 1 city, village or township but which serves or will serve only an area located entirely within the limits of a single city, village or township so that no other city, village or township will be subject to assessment to pay the cost thereof, if such city, village or township shall consent thereto by resolution adopted by its governing body. In such case any petition required to be filed hereunder shall be sufficient if signed by such city, village or township only.

HISTORY: New 1956, p. 106, Act 40, Imd. Eff. Mar. 28;—Am. 1967, p. 311, Act 214, Imd. Eff. Jul. 10.

280.487 Drainage board; absence of members, deputies, vice-chairman.

Sec. 487. Any drain commissioner may act under this chapter or under chapter 21, being sections 511 to 537, inclusive, of this act, by his deputy, under any and all circumstances. The vice-chairman or chairman pro tem of a county board of supervisors, or the vice-chairman of a board of county auditors or of a finance committee of a county board of supervisors, may act in lieu of the chairman of such board or committee, in event of the absence of such chairman from a meeting of the drainage board.

HISTORY: New 1956, p. 106, Act 40, Imd. Eff. Mar. 28.

280.488 Additional grant of power; prior projects.

Sec. 488. The provisions of this chapter shall be construed as an additional grant of power to that prescribed by other statutory provisions.

Projects completed prior to November 21, 1951, shall not be financed under this chapter.

HISTORY: New 1956, p. 106, Act 40, Imd. Eff. Mar. 28.

280.489 New cities; service of notice on township clerks or de facto city officer.

Sec. 489. Whenever a new city has been or shall be incorporated but such incorporation shall not have been completed by the adoption of a city charter, then any notice required by this chapter to be served upon the city clerk shall be served upon the clerk or clerks of the township or townships from which the city was incorporated:

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Provided, That if a city charter shall have been submitted, but rejected by the electors, then such notice shall also be served upon the de facto officer of the city, if there be such an officer. Service of any notice made prior to the effective date of this amendment, which was made in the manner provided in this section, is hereby declared to be a valid compliance with the terms of this act in respect to service upon the city clerk.

HISTORY: New 1956, p. 106, Act 40, Imd. Eff. Mar. 28.

280.490 Special assessment proceedings; initiating resolution, assessment roll, installments, hearing, objections; connection charges.

Sec. 490. If the legislative body of a public corporation, which shall have been assessed under this chapter, shall determine that a part of the lands therein will be especially benefited by the drain project to the extent of any portion of the amount so assessed, then it may cause such portion to be assessed, according to benefits, against the especially benefited lands, provided such special assessment method of financing is not inconsistent with local financing policy as to similar drains and sewers. The assessment shall be made under the statutory or charter provisions governing special assessments in the public corporation insofar as they may be applicable, except that if there is no other drain assessment in the district on this particular drain, the special assessment proceedings may be initiated by resolution of the governing body of the public corporation without petition and any petition or written objection in opposition to the levying of special assessments shall be advisory only and shall not make necessary a petition for the project. After determining by resolution to proceed, the governing body shall then cause a special assessment roll to be prepared and thereafter the proceedings in respect to the special assessment roll and the making and collection of the special assessments thereon shall be in accordance with the provisions of the statute or charter governing special assessments in the public corporation, except that the total assessment may be divided into any number of installments not exceeding 30, and any person assessed shall have the right at the hearing upon the special assessment roll prepared by the public corporation to object to the special assessment district previously established by said public corporation in which event due consideration shall be given to the objections. In the event the special assessments shall be levied, then all collections therefrom shall be used towards the payment of the assessment at large against the public corporation and each annual levy to be made for the payment of such assessment at large shall be reduced by the amount of money then on hand from special assessment collections available for such use. This section shall be applicable only where the drain assessment roll is confirmed subsequent to the effective date of this section. Nothing herein contained shall be construed to prevent the assessing of public corporations at large under this chapter, it being the intention hereof to provide a method whereby a public corporation may raise moneys by special assessments as above provided where such procedure conforms with local practice. In lieu of or in addition to levying special assessments, the public corporation under the same conditions and for the same purpose may exact connection, readiness to serve, availability or service charges to be paid by owners of land directly or indirectly connected with the drain project, or any combination thereof.

HISTORY: Add. 1957, p. 44, Act 37, Imd. Eff. May 14;—Am. 1965, p. 431, Act 253, Imd. Eff. Jul. 21.

280.491 River, creek or watercourse; petition for inclusion within jurisdiction.

Sec. 491. A petition meeting the requirements of this chapter as to petitioners, execution and filing may request, for reasons of public health, that jurisdiction be assumed over all or a specified part of the bed, tributaries, banks and flood plains of a river, creek or watercourse, not part of an established drain. The petition shall de-

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scribe the existing or threatened conditions which cause or increase the danger of flooding, pollution, desecration or obstruction of such river, creek or watercourse, and shall specify, in general terms, the works, property acquisition, actions or procedures deemed necessary to remove or lessen such danger.

HISTORY: Add. 1965, p. 311, Act 194, Imd. Eff. Jul. 15.

280.492 Petition; content, deposit to pay cost; drainage board hearing and notice.

Sec. 492. The petitioners named in a petition filed pursuant to section 491, shall include therein an agreement to pay the amount of, or shall accompany the petition with a deposit in the amount of, the estimated cost of the planning and engineering required to describe in recordable form the bed, tributaries, banks and flood plains of the river, creek or watercourse over which jurisdiction is necessary and is to be assumed and the work to be done or property to be acquired according to the petition. Upon the filing of the petition with the agreement or deposit to pay costs, the initial actions and tentative determinations shall be taken and made with respect thereto as described in sections 466 and 467, and such description shall be obtained and approved and adopted by the drainage board. To assume jurisdiction of the bed, tributaries, banks and flood plains of the river, creek or watercourse and to perform the work proposed to be done thereon, if any, as so described, a meeting to hear objections to the assumption of such jurisdiction, to the petition therefor and to the proposed work or property acquisition shall be held as provided for other drain projects pursuant to this chapter. Notice of the hearing shall contain the description as approved and adopted by the drainage board.

HISTORY: Add. 1965, p. 311, Act 194, Imd. Eff. Jul. 15.

280.493 Final order of determination; contents, recording, effect.

Sec. 493. After the hearing, the drainage board shall determine whether or not it will assume jurisdiction and perform the work proposed, if any, and shall issue its order accordingly, which order shall be known as the "final order of determination". The final order of determination shall contain the description of the bed, tributaries, banks and flood plains of the river, creek or watercourse over which jurisdiction has been assumed and shall be recorded in the county records in the county in which any part thereof is located. After recording, no constructing, excavating, land filling, removing of structures, trees, plants or shrubs, dumping or discharging of sewers or drains shall be permitted or continued in the bed, tributaries, banks or flood plains of the river, creek or watercourse within the recorded description thereof, except upon written order or permit issued by the drainage board.

HISTORY: Add. 1965, p. 311, Act 194, Imd. Eff. Jul. 15.

280.494 Final order of determination; recording effect on private rights.

Sec. 494. The recording of the description does not appropriate, terminate or lessen any private rights in property, real or personal, except such as shall be voluntarily released by written agreement or conveyance or as shall be condemned as provided in this chapter, or pursuant to applicable law. The recording of the description constitutes a regulation and limitation, for reasons of public health, of the use of the public and private property therein described to remove or lessen the danger of flooding, pollution, desecration or obstruction of the river, creek or watercourse, or part thereof, involved.

HISTORY: Add. 1965, p. 312, Act 194, Imd. Eff. Jul. 15.

280.495 Assessment of cost; hearing; powers.

Sec. 495. Before any work, other than preparation of the description and the approval, adoption and recording of the same, is done or rights in or ownership of property is acquired by the drainage board, pursuant to a petition filed under section 491,

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the drainage board shall make a determination, following notice and a hearing as provided in this chapter, which may be the hearing provided for in section 492, as to the public corporations to be assessed for the cost of the work or acquisition. After the hearing and the determination to proceed with the work, the drainage board shall proceed in the same manner as is provided for other drain projects in this chapter and the drainage board shall have the rights and powers so provided.

HISTORY: Add. 1965, p. 312, Act 194, Imd. Eff. Jul. 15.

280.496 Drainage board funds; investment of surplus, interest.

Sec. 496. The drainage board may direct the treasurer of any drainage district to invest any surplus funds belonging to and under the control of the drainage board, in bonds and other direct obligations of the United States or in certificates of deposit or depository receipts of any bank which is a member of the federal deposit insurance corporation in such amounts and issues as shall be directed by the drainage board. The interest earnings from such investments shall be credited by the county treasurer to such drainage district funds.

HISTORY: Add. 1970, p. 475, Act 144, Imd. Eff. Aug. 1.

280.497 Surplus construction funds; contract provisions; dispositions; use.

Sec. 497. The drainage board shall use any surplus construction funds remaining in the construction fund after completion of the project for the maintenance of the drain but not to exceed the cost of maintaining the drain for 1 year or authorize the transfer of the funds to the bond and interest account, if bonds were issued, in such amounts as they deem proper. The drainage board shall contract with any public corporation, which term as used in this section includes any city, village, township, county or the state whenever they have been assessed for all or part of the cost of the drain or whenever land in any city, village, township or combination thereof has been assessed for all or any part of the cost of a drain. The contracts shall provide that after all outstanding drain orders or bonds are paid on a drainage district project, the drainage board shall authorize the county treasurers to pay over any portion of the surplus not needed for more than the cost of 1 year's maintenance of the drain to the county, township, city or village in which drain was located or in which assessments for benefits have been assessed and collected. The payments shall be on a pro rata basis in direct proportion to the amounts assessed and collected from each such local unit. The contract shall also provide that upon receipt of the surplus fund the county, city, village or township shall utilize the surplus funds to alleviate drainage problems in their respective jurisdictions: Provided, however, Whenever state highway funds are involved in a project, the drain commissioner or drainage board, upon completion of a construction project, shall return, on a pro rata basis, surplus construction funds in excess of 1 year's maintenance to the department of state highways for the construction, maintenance and administration of state highways.

HISTORY: Add. 1970, p. 475, Act 144, Imd. Eff. Aug. 1.

CHAPTER 21.

INTERCOUNTY DRAINS; PUBLIC CORPORATIONS.

280.511 Intercounty drains; definitions.

Sec. 511. Whenever used in this chapter, except when otherwise indicated by the context:

(a) The term "state" shall be deemed to mean the state of Michigan.

(b) The term "public corporation" shall be deemed to include the state of Michigan, counties, cities, villages, townships, metropolitan districts and authorities created by or pursuant to state statutes.

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(c) The term "agencies" shall be deemed to include those officers, boards, commissions and other bodies created by public corporations or by the federal government which are authorized to act in their own names.

(d) The term "director of agriculture" shall be deemed to mean the director of agriculture of the state of Michigan.

(e) The term "intercounty drain" shall be deemed to mean any drain as defined in this act, irrespective of size, carrying drainage water or sewage originating in more than 1 county.

HISTORY: New 1956, p. 106, Act 40, Imd. Eff. Mar. 28.

280.512 Public health; assessment against public corporations.

Sec. 512. Intercounty drains which are necessary for the public health may be located, established and constructed under the provisions of this chapter where the cost thereof is to be assessed wholly against public corporations.

HISTORY: New 1956, p. 107, Act 40, Imd. Eff. Mar. 28.

280.513 Public health; petition; filing; contents; certified copy of resolution.

Sec. 513. Whenever it shall be necessary for the public health to locate, establish and construct an intercounty drain, then a petition therefor may be filed with the director of agriculture signed by 2 or more public corporations which will be subject to assessments to pay the cost thereof. Such petition shall state that it is filed pursuant to the provisions of this chapter and shall describe the location and route of such proposed drain sufficiently to determine with reasonably [sic] certainty the areas to be drained thereby. The director of agriculture shall notify all public corporations within the areas to be drained, as described in the petition, that a petition has been filed which may affect drainage in the areas of the public corporation. Attached to the petition shall be a certified copy of the resolution of the governing body of each signer authorizing the affixing of its signature thereto. Such petition may be filed in more than 1 counterpart.

HISTORY: New 1956, p. 107, Act 40, Imd. Eff. Mar. 28;—Am. 1968, p. 612, Act 333, Imd. Eff. Jul. 14.

280.514 Drainage board; members, chairman.

Sec. 514. There is hereby created for each project petitioned for under the provisions of this chapter, a drainage board to consist of the director of agriculture and the drain commissioner of each county involved in the project. The director of agriculture shall be the chairman of said board. Said board shall select 1 of its members as secretary.

HISTORY: New 1956, p. 107, Act 40, Imd. Eff. Mar. 28.

280.515 Augmented drainage board; members, compensation; expenses.

Sec. 515. There is created for each project petitioned for under the provisions of this chapter, an augmented drainage board to consist of the members of the drainage board together with the chairman of the board of supervisors and the chairman of the board of county auditors of each county involved. If there is no board of county auditors in any county, then the chairman of the finance committee of the board of supervisors shall act as a member of the augmented drainage board, and if there is neither a board of county auditors nor finance committee, then the chairman of the board of supervisors shall select 1 member of the board of supervisors of his county to act as a member of the augmented drainage board. The chairman and secretary of the drainage board shall act as chairman and secretary, respectively, of the augmented drainage board. The chairman of the board of supervisors and any member of a board of supervisors serving on the augmented drainage board shall receive such compensation, mileage and expenses as shall be provided by the augmented drainage board except that

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such compensation shall not exceed $25.00 per diem exclusive of mileage and expenses for attendance at augmented drainage board meetings.

HISTORY: New 1956, p. 107, Act 40, Imd. Eff. Mar. 28;—Am. 1969, p. 526, Act 285, Eff. Mar. 20, 1970.

280.516 Minutes of meetings; secretary's duties, records, filing.

Sec. 516. The secretary of the drainage board shall prepare and sign duplicate originals of the minutes of all proceedings of the drainage board and the augmented drainage board, one to be retained by him and the other to be filed with the director of agriculture. The originals of all proceedings and records of the drainage board and the augmented drainage board shall be kept on file with the secretary until the completion of the project, at which time they shall be forwarded to the director of agriculture for filing in his office. In the meantime the director of agriculture may require the secretary to furnish him with certified copies of records in the office of the secretary for filing in his office and such certified copies so filed shall have the same force and effect as the originals.

HISTORY: New 1956, p. 107, Act 40, Imd. Eff. Mar. 28.

280.517 Preliminary finding; first meeting of boards, time and place, notice, selection of secretary.

Sec. 517. Upon receipt of a petition as hereinbefore provided, the director of agriculture shall make a preliminary finding of the counties which, in his opinion, include public corporations that should be assessed under the provisions of this chapter for the cost of the proposed drain. Upon the making of such preliminary finding, the director of agriculture shall give notice of the time and place of the first meeting of the drainage board and of the first meeting of the augmented drainage board, by sending a copy of such notice and of such preliminary finding by registered mail to each member thereof, and to each highway agency having jurisdiction over any highway, road and street in said district, which notice and finding shall be mailed not less than 10 days prior to the time of the meeting. In the event there be no board of county auditors or finance committee in any county involved, then notice to the chairman of the board of supervisors of such county shall be deemed to be notice to the member of the board of supervisors to be selected by him. The drainage board shall meet first, for the purpose of selecting a secretary. Upon the selection of a secretary, the director of agriculture shall turn over to such secretary the original petition and any other records in his office pertaining to the proposed drain.

HISTORY: New 1956, p. 108, Act 40, Imd. Eff. Mar. 28.

280.518 Meetings of boards; notice, quorum, orders, signatures.

Sec. 518. Meetings of the drainage board, or of the augmented drainage board, may be called by the chairman or any 2 members thereof, upon notice sent by registered mail to each member, which notice shall be mailed not less than 10 days previous to the time of the meeting. No notice of any meeting shall be required if all members are present. Any member of either of said boards may waive notice of any meeting, either before or after such meeting. A majority of the members of each board shall constitute a quorum for the transaction of business, but a lesser number may adjourn from time to time. Any meeting may be adjourned from time to time. Unless otherwise provided herein, no action shall be taken by either of said boards except by a majority vote of its members. In the event of the adjournment of any hearing, it shall not be necessary to advertise the adjournment of such hearing. All orders issued by either the drainage board, or the augmented drainage board, shall be signed by the chairman and secretary.

HISTORY: New 1956, p. 108, Act 40, Imd. Eff. Mar. 28.

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280.519 Augmented board; tentative determination; name of drain and district; hearing; notice, publication; final order of determination; corrections.

Sec. 519. The said augmented drainage board at its first meeting shall consider the petition for the project and make a tentative determination as to the sufficiency thereof and the practicability of the proposed drain, and shall also make a tentative determination of the public corporations to be assessed. Said augmented drainage board shall give a name to the drain and to the drainage district. The district shall be composed of the public corporations to be assessed for the cost of the project. If the augmented drainage board shall by resolution tentatively determine that there should be assessed any public corporation in a county other than those contained in the tentative findings of the director of agriculture, then no further proceedings shall be taken by the augmented drainage board, but such resolution shall have the effect of amending the preliminary finding of the director of agriculture. The director of agriculture shall then proceed as in the first instance to call a new meeting of each the drainage board and the augmented drainage board as enlarged by reason of the inclusion of such additional public corporations in another county or counties. After the augmented drainage board has made the determination specified in the first sentence of this section, then it shall fix a time and place when and where it will meet to hear any objections to the proposed drain and the petition therefor, and to the matter of assessing the cost of such drain to the designated public corporations. Notice of such hearing shall be published twice in each county involved by inserting the same in at least 1 newspaper published therein, designated by the augmented drainage board, the first publication to be not less than 20 days prior to the time of hearing. Such notice shall also be sent by registered mail to the clerk or secretary of each public corporation proposed to be assessed, except that any notice to the state shall be sent to the state highway commissioner and any notice to a county shall be sent to both the county clerk and the county road commission, if any, which mailing shall be made not less than 20 days prior to the time of hearing. Such notice shall be signed by the secretary and proof of the publication and mailing thereof shall be filed with the secretary. The augmented drainage board may provide a form to be substantially followed in the giving of such notice. At such hearing, any public corporation to be assessed or any taxpayer thereof shall be entitled to be heard. After such hearing, the augmented drainage board shall make a determination as to the sufficiency of the petition, the practicability of the drain, whether the drain should be constructed, and if so, the public corporations to be assessed, and shall issue its order accordingly, which order shall be known as the "final order of determination". No public corporation may be eliminated from, or added to, those tentatively determined to be assessed without a rehearing after notice as above provided. After the augmented drainage board has made the determinations above mentioned, then all further action in respect to such drain shall be taken by the drainage board: Provided, That the augmented drainage board may be reconvened by its chairman or any 2 members thereof, upon the same notice as hereinbefore provided for calling meetings, for the purpose of making any correction or addition to its proceedings within the scope of its powers.

HISTORY: New 1956, p. 108, Act 40, Imd. Eff. Mar. 28.

280.520 Drainage board; plans, specifications, estimates, approval of route, designation of area served; apportionments.

Sec. 520. The drainage board shall proceed to secure from a competent engineer, plans, specifications and an estimate of cost of the proposed drain, which when approved and adopted by the board shall be filed with the secretary thereof. In approving the plans and specifications, the drainage board shall not be limited to the route of

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the drain described in the petition or the final order of determination. The drainage board shall tentatively establish the percentage of the cost of such drain or of the several sections or parts thereof which is to be borne by public corporations in each county affected and by the state on account of any state highway, and by the county on account of any county highway. The percentage of the cost so apportioned to public corporations in each county shall then be apportioned by the drain commissioner thereof, among public corporations to be assessed in such county, which determination shall be filed with the secretary of the drainage board. In making the apportionments hereunder, there shall be taken into consideration the benefits to accrue to each public corporation and also the extent to which each public corporation contributes to the conditions which make the drain necessary. Apportionments against the state shall be based upon such benefits and contributions as related solely to the drainage of state highways, and those against the county shall be based as related solely to the drainage of its county highways. Before any tentative apportionment shall be made, the drainage board shall designate the area to be served by the drain project, which may or may not include all of the area in any public corporation to be assessed and may divide the drain into sections or parts for purposes of apportionment or construction. Nothing herein contained shall prohibit a county from assuming any additional cost of the drain if 2/3 of the members-elect of the county board of supervisors vote in favor thereof. The apportionment shall apply only to the proposed drain. The apportionments for any extensions or other work subsequently performed under section 535 shall be reestablished by the board.

HISTORY: New 1956, p. 109, Act 40, Imd. Eff. Mar. 28;—Am. 1957, p. 44, Act 37, Imd. Eff. May 14;—Am. 1963, p. 322, Act 215, Imd. Eff. May 17.

280.521 Hearing of objections; notice, contents; confirmation or readjustment of apportionments; final order of apportionment.

Sec. 521. After the foregoing tentative apportionments of cost have been made, then the drainage board shall set a time and place when and where it will meet and hear any objections to such apportionments. Notice of such hearing shall be published twice in each county involved by inserting the same in at least 1 newspaper published therein, designated by the drainage board, the first publication to be not less than 20 days prior to the time of hearing. Such notice shall also be sent by registered mail to the clerk or secretary of each public corporation proposed to be assessed, except that any notice to the state shall be sent to the state highway commissioner and any notice to a county shall be sent both to the county clerk and the county road commission, if any, which mailing shall be made not less than 20 days prior to the time of hearing. Such notice shall be signed by the secretary and proof of the publication and mailing thereof shall be filed with the secretary. The drainage board may provide a form to be substantially followed in the giving of such notice. The notice shall include tentative apportionments to the several public corporations. At such hearing any public corporation to be assessed or any taxpayer thereof shall be entitled to be heard. After such hearing, the drainage board may confirm the apportionments as tentatively made, or, if in any respect it shall deem such apportionments to be inequitable, it shall readjust the same: Provided, That before any readjusted apportionments shall be confirmed, the drainage board shall set a time and place for a rehearing and shall give notice thereof as in the first instance, which notice shall also set forth the apportionments as readjusted. It shall then issue its order setting forth the several apportionments as confirmed, which order shall be known as the "final order of apportionment".

HISTORY: New 1956, p. 109, Act 40, Imd. Eff. Mar. 28.

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280.522 Lands and rights of way; condemnation; procedure, federal government participation; prior agreement as to highways; costs.

Sec. 522. The drainage board shall then proceed to secure the necessary lands or rights of way for the proposed drain. If the same cannot be secured by negotiation, then the drainage board may proceed under the provisions of Act No. 149 of the Public Acts of 1911, as amended, being sections 213.21 to 213.41 of the Compiled Laws of 1948, or under the applicable provisions of sections 75 to 84 of this act, and shall be deemed to be a "state agency" as that term is used in said act, or if the project is one in which the federal government is participating in any manner, then such lands or rights of way may be acquired through proceedings brought by the federal government under any appropriate federal act. No such condemnation proceedings involving highways shall be effective to take title thereto without a prior agreement with the highway agency involved. In the event that lands or rights of way shall be acquired through proceedings under a federal act, then the amount of the awards in such proceedings shall be deemed to be a part of the cost of the drain to the same extent as if the condemnation proceedings had been taken under the laws of this state.

HISTORY: New 1956, p. 110, Act 40, Imd. Eff. Mar. 28;—Am. 1961, p. 220, Act 154, Imd. Eff. Jun. 1.

280.523 Contracts with federal government or corporations; bids.

Sec. 523. The drainage board may contract with the federal government, which term as used in this section shall include any agency thereof, whereby the federal government will pay the whole or any part of the cost of the project or will perform the whole or any part of the work connected therewith, which contract may include any specific terms required by act of congress or federal regulation as a condition for such participation on the part of the federal government. The drainage board may also contract with any private corporation or with any public corporation, which term as used in this section shall include any agency thereof, in respect to any matter connected with the construction, operation, maintenance, use or services of any drain. Such a contract may provide for service or transportation charges and that any payments made or work done by such a corporation shall relieve it in whole or in part from assessment for the cost of the drain or of its maintenance and operation. No construction work shall be undertaken until the drainage board has advertised for and received bids for the performance of such work, except for construction work to be performed by the federal government or a public corporation.

HISTORY: New 1956, p. 110, Act 40, Imd. Eff. Mar. 28;—Am. 1963, p. 322, Act 215, Imd. Eff. May 17.

280.524 Designation of a county treasurer; deputies, bonds; expenditures.

Sec. 524. The drainage board shall designate the treasurer of 1 of the counties involved as the treasurer for said board. He may designate 1 or more of his deputies who may act for him in the performance of any of his duties under this section. Such treasurer and any such deputy shall serve without additional compensation. He and each deputy county treasurer so designated shall furnish a bond in such sum as shall be fixed by the drainage board, conditioned upon the faithful discharge of his duties, the premium thereon to be paid by the drainage board. Moneys held by the treasurer shall be paid out only upon order of the drainage board, except that no such order shall be required for the payment of principal and interest on bonds.

HISTORY: New 1956, p. 110, Act 40, Imd. Eff. Mar. 28;—Am. 1961, p. 47, Act 46, Imd. Eff. May 20.

280.525 Special assessment roll; installments, payment, interest, city tax levy.

Sec. 525. After the confirmation of the apportionments by the drainage board, the secretary of the board shall prepare a special assessment roll assessing the estimated cost of the drain, or if the actual cost has been ascertained, then such actual cost, against the several public corporations in accordance with the confirmed apportion-

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ments. The drainage board may provide for the payment of the special assessments in any number of annual installments, not exceeding 30, but no installment shall be less than 40% of any subsequent installment. Installments of assessments against the state and against public corporations which collect their taxes beginning approximately December 1 in each year shall become due and payable on or before April 1 of each year. Installments of assessments against other public corporations shall become due and payable on or before such dates as shall be fixed by the drainage board, depending upon the times of the collection of taxes by such public corporations. The drainage board shall fix the amount of interest, not exceeding 6%, to be paid upon unpaid installments, which interest shall become due annually on the day and month upon which the annual installments become due. The drainage board may provide for the payment of any installments in advance of their respective due dates and may prescribe the terms and conditions thereof. The drainage board shall fix the time for the payment of the first installment so that each public corporation can make a tax levy for the payment thereof. Any city may elect to spread such tax levy upon the county tax roll instead of the city tax roll.

HISTORY: New 1956, p. 111, Act 40, Imd. Eff. Mar. 28;—Am. 1957, p. 44, Act 37, Imd. Eff. May 14;—Am. 1963, p. 323, Act 215, Imd. Eff. May 17.

280.526 Special assessment roll; contents, approval; certification to public corporation assessed; annual notice; advancements.

Sec. 526. The special assessment roll shall contain the name of each public corporation assessed, the total estimated cost of the project, or actual cost if the same has been ascertained at the time of the preparation of the roll, the percentage apportioned to each public corporation, the amount of the assessment against each public corporation based upon the percentage of apportionment, and the amount of each installment if the assessment is divided into annual installments. After the special assessment roll has been prepared, it shall be presented to the drainage board for approval. When the roll has been approved, then a statement to that effect signed by the chairman and secretary of the drainage board shall be affixed to the roll setting forth the date of approval. The chairman of the drainage board shall then certify to each public corporation assessed, the amount of the total assessment against it, the amount of the various installments if the assessment is divided into installments, the due date of each installment and the rate of interest upon installments from time to time unpaid. The chairman each year, at least 30 days prior to the time of the levying of taxes by each public corporation, shall notify it of the amount of the installment and interest next becoming due, but the failure to notify any public corporation shall not excuse it from making payment of the installment and interest. On or before the due date of any installment, each public corporation shall pay to its county treasurer the full amount thereof together with interest accruing to the due date, and within 15 days thereafter the county treasurer shall forward the amount so paid to the county treasurer acting as treasurer for the drainage board. If any public corporation fails or neglects to account to the county treasurer for the amount of any installment and interest, then the county treasurer shall advance the amount thereof from county funds in the following cases:

(1) If any bonds or other evidence of indebtedness have been issued to finance a project, the petition for which was filed after June 6, 1961 in anticipation of the collection of the installment and interest pursuant to the provisions of this chapter and the board of supervisors has previously acted, by a resolution adopted by a 2/3 vote of its members elect to pledge the full faith and credit of the county for the prompt payment of the principal of and interest on the bonds or evidences of indebtedness, or

(2) If any bonds or any other evidence of indebtedness have been issued to finance a project, the petition for which was filed prior to June 6, 1961 in anticipation of the collection of the installment and interest pursuant to the provisions of this chapter.

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Deductions for advancements; assessments against state; spread of tax; corrections.

The county treasurer shall deduct the total amount so advanced from any moneys other than those pledged for the payment of debts and those returned to the public corporation pursuant to article 10, section 23 of the state constitution, then or thereafter payable by him to such public corporation. The board of supervisors of any county which has advanced any money for a public corporation, and which has not been reimbursed therefor, may order the public corporation and its officers to levy upon its next roll an amount sufficient to make the reimbursement on or before the date when its taxes become delinquent; and the public corporation and its tax levying and collecting officials shall levy and collect such taxes and reimburse the county. The foregoing shall not prevent the county from obtaining reimbursement by any other legal method. Assessments against the state shall be certified to the state highway commissioner and paid from state highway funds. The tax levying officials of each of the other public corporations assessed shall levy sufficient taxes to pay assessment installments and interest as the same become due unless there has been set aside money sufficient therefor. If a special assessment roll is prepared upon the basis of the estimated cost of the project, then after the actual cost has been ascertained and determined by the drainage board, the special assessments and the installments thereof shall be corrected by adding any deficiency or deducting any excess. The drainage board may order the corrections to be made upon the original roll or may order that a new corrected roll be prepared and submitted for approval by the drainage board.

HISTORY: New 1956, p. 111, Act 40, Imd. Eff. Mar. 28;—Am. 1961, p. 358, Act 212, Imd. Eff. Jun. 6;—Am. 1963, p. 323, Act 215, Imd. Eff. May 17.

280.527 Intercounty drain assessments and taxes; not subject to statutory or charter debt and tax limitations.

Sec. 527. Assessments made under the terms of this chapter shall not constitute an indebtedness of a public corporation within any statutory or charter debt limitation, and taxes levied by a public corporation for the payment of such assessments shall not be deemed to be within any statutory or charter tax limitation. Nothing contained in this chapter shall be construed as requiring any county, township, metropolitan district or authority to levy a tax beyond its constitutional tax limitation or any lawful increase thereof.

HISTORY: New 1956, p. 112, Act 40, Imd. Eff. Mar. 28;—Am. 1959, p. 87, Act 77, Imd. Eff. Jun. 29.

280.528 Bonds; issuance, maturity, signatures; collection of assessments.

Sec. 528. The drainage board may issue 1 or more series of bonds for and on behalf of the drainage district, in anticipation of the collection of any or all installments of assessments, and pledge the full faith and credit of the drainage district for the prompt payment of the principal thereof and the interest thereon. The bonds shall mature serially with the last maturity not later than 2 ½ years after the due date of the last installment of the assessments and there may be more than 1 principal maturity date during any 12-month period. The bonds shall be signed by the chairman and secretary of the drainage board, who shall cause their facsimile signatures to be affixed to the interest coupons attached thereto. Collections of both principal and interest on all installments of assessments in anticipation of which bonds shall have been issued shall be kept in a separate bank account by the treasurer for the drainage board and used for no other purpose than the payment of principal and interest on such bonds until the full payment thereof.

HISTORY: New 1956, p. 112, Act 40, Imd. Eff. Mar. 28;—Am. 1963, p. 324, Act 215, Imd. Eff. May 17.

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280.529 Additional assessment; apportionment.

Sec. 529. If for any reason the original assessments shall not be sufficient to pay the principal and interest on bonds issued in anticipation of the collection thereof, then the drainage board shall make such additional assessments therefor as may be necessary, apportioned as in the first instance, it being the intention hereof that the collections on assessments shall under all circumstances be sufficient to pay said principal and interest.

HISTORY: New 1956, p. 112, Act 40, Imd. Eff. Mar. 28.

280.530 Drainage board; continuation; responsibility; expenses; relinquishment; moneys, disposition; consent.

Sec. 530. The drainage board for each project shall continue in existence with such changes in personnel as shall result from changes in the offices of director of agriculture and drain commissioners. It shall be responsible for the operation and maintenance of the drain. Any necessary expenses incurred in administration and in the operation and maintenance of the drain and not covered by contract shall be paid by the several public corporations assessed for the cost of the drain. The assessments shall be in the same proportion as the cost of the drain was assessed unless the drainage board establishes a different proportion for the assessments after notice and hearing as provided in section 521. The drainage board, by resolution duly adopted by it, may relinquish jurisdiction and control over any part of a drain or drain project at any time when there is no outstanding indebtedness or contract liability of its drainage district, to the county, township, city or village in which the part of the drain or drain project is wholly located, if the county, township, city or village requests or consents to the relinquishment of jurisdiction and control by resolution duly adopted by its governing body. Indebtedness or contract liability of any drainage district which will be paid in full at the time of consummation of relinquishment of jurisdiction and control shall not be deemed to be outstanding. If relinquishment of jurisdiction and control is to a county, the resolution of the governing body of the county shall specify the county agency, such as board of public works, drain commissioner, board of county road commissioners, or parks and recreation commission, which shall be thereafter responsible for exercise of such jurisdiction and control. Any moneys in the drain fund of any drain, over any part of which jurisdiction and control is relinquished, shall be used to pay any indebtedness or contract liability of its drainage district, and the balance shall be turned over to the county, township, city or village to be used solely with respect to the drain, all or part thereof, over which jurisdiction and control is assumed. If the relinquishment of jurisdiction and control and the turnover of drain fund relates to a part of a drain or drain project, such relinquishment and turnover shall not become effective until consented to by resolution of the governing body of each public corporation which has paid a part of the cost of the drain or drain project, and for this purpose the board of county road commissioners and the state highway commission shall be deemed to be the governing body for the county and the state.

HISTORY: New 1956, p. 112, Act 40, Imd. Eff. Mar. 28;—Am. 1963, p. 324, Act 215, Imd. Eff. May 17;—Am. 1969, p. 177, Act 90, Imd. Eff. Jul. 24.

280.531 Advancements by corporations; reimbursement.

Sec. 531. Any public or private corporation, firm or individual may advance moneys for the payment of any part of the cost of a project hereunder, in which event it shall be reimbursed by the drainage district, with or without interest as may be agreed, when funds are available therefor. The obligation of the drainage district to make the reimbursement may be evidenced by a contract or note, which contract or note may pledge the full faith and credit of the drainage district and may be made payable out of the assessments made against public corporations or out of the proceeds of drain orders or bonds issued by the drainage district pursuant to this act or out of any other

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available funds, but the contract or note shall not be deemed to be an obligation within the meaning of the provisions of Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2 of the Compiled Laws of 1948.

HISTORY: New 1956, p. 112, Act 40, Imd. Eff. Mar. 28;—Am. 1963, p. 325, Act 215, Imd. Eff. May 17.

280.532 Venue of actions; appointment of circuit judge.

Sec. 532. Any action arising from the provisions of this chapter except such actions as may be brought directly in the supreme court may be brought in the circuit court of any county in which any part of the intercounty drain involved is located: Provided, That on request by any party to said action made prior to the time said action is instituted, or within 30 days after receipt of service of process, the presiding circuit judge of Michigan shall appoint a circuit judge to hear said action.

HISTORY: New 1956, p. 112, Act 40, Imd. Eff. Mar. 28.

280.533 Costs; items.

Sec. 533. The cost of any drain project shall include (1) the cost of constructing or acquiring the facilities, structures, devices and equipment required to locate, establish and construct the drain or to improve or supplement the same, including bridges and culverts and any lands or rights of way necessary thereto; (2) the administrative and other expenses of the drainage board and augmented drainage board including the cost of service and publication of all notices; (3) all engineering, legal and other professional fees; (4) interest on bonds for the first year, if bonds are to be issued, and interest on moneys advanced pursuant to section 531; and (5) an amount not exceeding 10% of the gross sum to cover contingent expenses.

HISTORY: New 1956, p. 113, Act 40, Imd. Eff. Mar. 28;—Am. 1963, p. 325, Act 215, Imd. Eff. May 17.

280.534 Deputy for director of agriculture; powers.

Sec. 534. The director of agriculture may designate a deputy or an assistant to act in his stead in respect to the performance of his duties under this act. Where any deputy or assistant so acts, it shall be conclusively presumed that he was properly designated by the director of agriculture. Any official proceedings may be signed by such deputy or assistant in his own name. The signature of such deputy or assistant shall be followed by his official title. Where a deputy or assistant has been designated by the director of agriculture to act in his stead in connection with all the proceedings as to any project, then any notice required to be served upon or mailed to the director of agriculture may be served upon or mailed to such deputy or assistant. The director of agriculture is hereby empowered to appoint a deputy who shall have power to act in his place under any and all circumstances in respect to matters within the scope of this act, irrespective of whether or not he is authorized to appoint a general deputy.

HISTORY: New 1956, p. 113, Act 40, Imd. Eff. Mar. 28.

280.535 Cleaning out and other improvements for public health; procedure, back filling.

Sec. 535. Any intercounty drain or any portion thereof, now or hereafter existing, may be cleaned out, relocated, widened, deepened, straightened, extended, tiled or otherwise improved, or branches added or connected thereto, when necessary for the public health, in the same manner as an intercounty drain may be located, established and constructed under this chapter, with such variations in the proceedings as may be necessary to make the same applicable, and also the cost thereof may be financed in like manner. A project to improve an intercounty drain may include backfilling and leveling any portion thereof no longer needed after the improvements.

HISTORY: New 1956, p. 113, Act 40, Imd. Eff. Mar. 28;—Am. 1961, p. 48, Act 46, Imd. Eff. May 30;—Am. 1963, p. 325, Act 215, Imd. Eff. May 17.

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280.536 Certiorari; time; legal establishment of drain.

Sec. 536. Neither the final order of determination nor the final order of apportionment shall be subject to attack in any court except by proceedings in certiorari brought within 20 days after the filing of such order in the office of the secretary of the board issuing the same. If no such proceeding shall be brought within the time above prescribed, the drain shall be deemed to have been legally established and the legality of the drain and the assessments therefor shall not thereafter be questioned in any suit at law or in equity.

HISTORY: New 1956, p. 113, Act 40, Imd. Eff. Mar. 28.

280.537 Procedures; incorporation of other chapters in drainage board orders.

Sec. 537. In operating under the terms of this chapter, the several boards and officials shall not be limited by the provisions contained in other chapters of this act and the procedures required under the terms of such other chapters shall not be deemed to be applicable: Provided, That when not contrary to the express provisions of this chapter, any provision or provisions in other chapters of this act may be incorporated by recital or by references into any order or resolution of the drainage board or augmented drainage board, and when so incorporated shall be deemed applicable to the project under this chapter.

HISTORY: New 1956, p. 113, Act 40, Imd. Eff. Mar. 28.

280.538 New cities; service of notice on township clerk or de facto city officer.

Sec. 538. Whenever a new city has been or shall be incorporated but such incorporation shall not have been completed by the adoption of a city charter, then any notice required by this chapter to be served upon the city clerk shall be served upon the clerk or clerks of the township or townships from which the city was incorporated: Provided, That if a city charter shall have been submitted, but rejected by the electors, then such notice shall also be served upon the de facto officer of the city, if there be such an officer. Service of any notice made prior to the effective date of this amendment, which was made in the manner provided in this section, is hereby declared to be a valid compliance with the terms of this act in respect to service upon the city clerk.

HISTORY: New 1956, p. 114, Act 40, Imd. Eff. Mar. 28.

280.539 Special assessment proceedings; initiating resolution, assessment roll, installments, hearing, objections; connection charges.

Sec. 539. If the legislative body of a public corporation, which shall have been assessed under this chapter, shall determine that a part of the lands therein will be especially benefited by the drain project to the extent of any portion of the amount so assessed, then it may cause such portion to be assessed, according to benefits, against the especially benefited lands, provided such special assessment method of financing is not inconsistent with local financing policy as to similar drains and sewers. The assessment shall be made under the statutory or charter provisions governing special assessments in the public corporation insofar as they may be applicable, except that the special assessment proceedings may be initiated by resolution of the governing body of the public corporation without petition and any petition or written objection in opposition to the levying of special assessments shall be advisory only and shall not make necessary a petition for the project. After determining by resolution to proceed, the governing body shall then cause a special assessment roll to be prepared and thereafter the proceedings in respect to the special assessment roll and the making and collection of the special assessments thereon shall be in accordance with the provisions of the statute or charter governing special assessments in the public corporation, except that the total

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assessment may be divided into any number of installments not exceeding 30, and any person assessed shall have the right at the hearing upon the special assessment roll to object to the special assessment district previously established in which event due consideration shall be given to the objections. In the event such special assessments shall be levied, then all collections therefrom shall be used towards the payment of the assessment at large against the public corporation and each annual levy to be made for the payment of the assessment at large shall be reduced by the amount of money then on hand from special assessment collections available for such use. This section shall be applicable only where the drain assessment roll is confirmed subsequent to the effective date of this section. Nothing herein contained shall be construed to prevent the assessing of public corporations at large under this chapter, it being the intention hereof to provide a method whereby a public corporation may raise moneys by special assessments as above provided where such procedure conforms with local practice. In lieu of or in addition to levying special assessments, the public corporation, under the same conditions and for the same purpose, may exact connection, readiness to serve, availability or service charges to be paid by owners of land directly or indirectly connected with the drain project, or any combination thereof.

HISTORY: Add. 1957, p. 45, Act 37, Imd. Eff. May 14;—Am. 1965, p. 432, Act 253, Imd. Eff. Jul. 21.

280.540 Relief drains.

Sec. 540. When 2 or more public corporations, constituting as a whole contiguous territory, are served by 1 or more intercounty drains or by a combination of 1 or more intercounty drains and 1 or more county drains, and it is necessary for the public health to supplement such existing drain or drains by constructing 1 or more relief drains, which may consist of new drains and branches and connections thereto or extensions, enlargements, branches, connections or improvements described in section 535 to existing drains, or any combination thereof, then the entire project may be constructed and financed as a whole under the provisions of this chapter and the word "drain" shall be deemed to include such a project.

HISTORY: Add. 1959, p. 410, Act 261, Imd. Eff. Aug. 21;—Am. 1963, p. 325, Act 215, Imd. Eff. May 17.

280.541 River, creek, or watercourse; petition to inclusion in jurisdiction.

Sec. 541. A petition meeting the requirements of this chapter as to petitioners, execution and filing may request, for reasons of public health, that jurisdiction be assumed over all or a specified part of the bed, tributaries, banks and flood plains of a river, creek or watercourse, not part of an established drain. The petition shall describe the existing or threatened conditions which cause or increase the danger of flooding, pollution, desecration or obstruction of such river, creek or watercourse, and shall specify, in general terms, the works, property acquisition, actions or procedures deemed necessary to remove or lessen such danger.

HISTORY: Add. 1965, p. 312, Act 194, Imd. Eff. Jul. 15.

280.542 River, creek, or watercourse; petition; content, deposit to pay costs, filing; drainage board, hearing and notice.

Sec. 542. The petitioners named in a petition filed pursuant to section 541, shall include therein an agreement to pay the amount of, or shall accompany the petition with a deposit in the amount of, the estimated cost of the planning and engineering required to describe in recordable form the bed, tributaries, banks and flood plains of the river, creek or watercourse over which jurisdiction is necessary and is to be assumed and the work to be done or property to be acquired according to the petition. Upon filing such petition with the agreement or deposit to pay costs, the initial findings, actions and determinations shall be made and taken with respect thereto as described in sections 517 and 519, and such description shall be obtained and approved and adopted by the augmented drainage board. To assume jurisdiction of the bed, tri-

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butaries, banks and flood plains of the river, creek or watercourse and to perform the work proposed to be done thereon, if any, as so described, a meeting to hear objections to the assumption of such jurisdiction, to the petition therefor and to the proposed work or property acquisition shall be held as provided for other drain projects pursuant to this chapter. The notice of such hearing shall contain the description as approved and adopted by the augmented drainage board.

HISTORY: Add. 1965, p. 312, Act 194, Imd. Eff. Jul. 15.

280.543 River, creek, or watercourse; board determination, final order, contents, recording, effect.

Sec. 543. After the hearing, the augmented drainage board shall determine whether or not it will assume such jurisdiction and perform the work proposed, if any, and shall issue its order accordingly, which order shall be known as the "final order of determination". The final order of determination shall contain the description of the bed, tributaries, banks and flood plains of the river, creek or watercourse over which jurisdiction has been assumed and shall be recorded in the county records in the county in which any part thereof is located. After such recording, no constructing, excavating, land filling, removing of structures, trees, plants or shrubs, dumping, or discharging of sewers or drains shall be permitted or continued in the bed, tributaries, banks or flood plains of the river, creek or watercourse within the recorded description thereof, except upon written order or permit issued by the drainage board.

HISTORY: Add. 1965, p. 313, Act 194, Imd. Eff. Jul. 15.

280.544 River, creek, or watercourse; final order of determination; recording effect on private rights.

Sec. 544. The recording of the description does not appropriate, terminate or lessen any private rights in property, real or personal, except such as shall be voluntarily released by written agreement or conveyance or as shall be condemned as provided in this chapter, or pursuant to applicable law. The recording of the description constitutes a regulation and limitation, for reasons of public health, of the use of the public and private property therein described to remove or lessen the danger of flooding, pollution, desecration or obstruction of the river, creek or watercourse, or parts thereof, involved.

HISTORY: Add. 1965, p. 313, Act 194, Imd. Eff. Jul. 15.

280.545 River, creek, or watercourse; assessment of costs, hearing; powers.

Sec. 545. Before any work, other than preparation of the description and the approval, adoption and recording of the same, is done or rights in or ownership of property are acquired by the drainage board, pursuant to any petition filed under section 541, the augmented drainage board shall make a determination, following notice and a hearing as provided in this chapter, which may be the hearing provided for in section 542, as to the public corporations to be assessed for the cost of such work or acquisition. After the hearing and the determination to proceed with such work, the drainage board shall proceed in the same manner as is provided for other drain projects in this chapter and the drainage board shall have the rights and powers so provided.

HISTORY: Add. 1965, p. 313, Act 194, Imd. Eff. Jul. 15.

280.546 Drainage board funds; investment of surplus, interest.

Sec. 546. The drainage board may direct the treasurer of any drainage district to invest any surplus funds belonging to and under the control of the drainage board, in bonds and other direct obligations of the United States or in certificates of deposit or depository receipts of any bank which is a member of the federal deposit insurance corporation in such amounts and issues as directed by the drainage board. The interest

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earnings from such investments shall be credited by the county treasurer to such drainage district funds.

HISTORY: Add. 1970, p. 476, Act 144, Imd. Eff. Aug. 1.

280.547 Surplus construction funds; contract provisions; disposition; ; use.

Sec. 547. The drainage board shall use any surplus construction funds remaining in the construction fund after completion of the project for the maintenance of the drain but not to exceed the cost of maintaining the drain for 1 year or authorize the transfer of such funds to the bond and interest account, if bonds were issued, in such amounts as they deem proper. The drainage board shall contract with any public corporation, which term as used in this section includes any city, village, township, county or the state whenever they have been assessed for all or part of the cost of the drain or whenever land in any city, village, township or combination thereof has been assessed for all or any part of the cost of a drain. The contract shall provide that after all outstanding drain orders or bonds are paid on a drainage district project, the drainage board shall authorize the county treasurers to pay over any portion of the surplus not needed for more than the cost of 1 year's maintenance of the drain to the county, township, city or village in which drain was located or in which assessments for benefits have been assessed and collected. The payments shall be on a pro rata basis in direct proportion to the amounts assessed and collected from each such local unit. The contract shall also provide that upon receipt of the surplus fund the county, city, village or township shall utilize such surplus funds to alleviate drainage problems in their respective jurisdictions: Provided, however, Whenever state highway funds are involved in a project, the drain commissioner or drainage board, upon completion of a construction project, shall return, on a pro rata basis, surplus construction funds in excess of 1 year's maintenance to the department of state highways for the construction, maintenance and administration of state highways.

HISTORY: Add. 1970, p. 476, Act 144, Imd. Eff. Aug. 1.

CHAPTER 22.

WATER MANAGEMENT.

DISTRICTS AND SUBDISTRICTS.

280.551 Water management; definitions.

Sec. 551. Whenever used in this chapter, except when otherwise indicated by the context:

(a) The term "state" shall be deemed to mean the state of Michigan.

(b) The term "public corporation" shall be deemed to include the state of Michigan, counties, cities, villages, townships, metropolitan districts and authorities created by or pursuant to state statutes.

(c) The term "agencies" shall be deemed to include those officers, boards, commissions and other bodies created by public corporations or by the federal government, which are authorized to act in their own names.

(d) The term "director of agriculture" shall be deemed to mean the director of agriculture of the state of Michigan.

(e) The term "project" shall be deemed to mean any flood control or drainage project petitioned for or undertaken under the provisions of this chapter in any water management district or subdistrict. The term shall be deemed to include any alteration of streams, rivers, drains, lakes, reservoirs, ponds, swamps, marshes, or any other waters, and any of the watersheds thereof. The term shall also include any dike, dam, reservoir, pumping station or other works involved in such alteration.

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(f) The term "water management district" shall be deemed to mean the area comprising all or part of 3 or more contiguous counties within a single drainage basin in which a project is petitioned for or undertaken under the provisions of this chapter, and shall include such counties and all public corporations within such area as shall be subject to assessment for the cost of such project.

(g) The term "subdistrict" shall be deemed to mean the area comprising that portion of a water management district in which a project is petitioned for under the provisions of this chapter, which project benefits only 1 or more public corporations within the water management district. The term shall include only the public corporations or corporations so specially benefited by the project.

(h) The term "commission" shall be deemed to mean the water management commission of a water management district.

(i) The term "board" shall be deemed to mean the water management board of a water management district.

(j) The term "benefit" or "benefits" shall be deemed to mean advantages resulting from a project to public corporations, the inhabitants of public corporations, and property within public corporations. The term shall be limited to benefits which result from the drainage and control of water, and shall include such factors as: elimination of flood damage; elimination of water conditions which jeopardize the public health or safety; increase of the value or use of lands and property arising from improved drainage and elimination of floods; and the advantageous use to which water may be directed as a result of the project, and incidental thereto, for agricultural, conservation and recreational purposes.

HISTORY: New 1956, p. 114, Act 40, Imd. Eff. Mar. 28.

280.552 Water management; petition for flood control or drainage project, filing, signatures, contents, map.

Sec. 552. Whenever it shall be necessary for the public health, safety or welfare to establish a water management district to undertake a project in all or part of 3 or more contiguous counties in this state for purposes of flood control or drainage, a petition therefor may be filed with the director of agriculture, signed by 3 or more public corporations, and, if a district with 8 or more counties, by 3 or more counties, which will be subject to assessments to pay the cost of such project. Such petition shall state that it is filed pursuant to the provisions of this chapter, shall set forth the proposed name of the district and the necessity for the project in the interest of the public health, safety or welfare; and shall contain a general description of the type, purpose and location of the proposed project, which description need be only sufficiently accurate as to determine with reasonable certainty the waters, works and territory involved in the project and the public corporations to be benefited thereby. A map showing the boundaries of the proposed district and a certified copy of the resolution of the governing body of each public corporation, authorizing its signature thereto, shall be attached to the petition. Such petition may be filed in more than 1 counterpart.

HISTORY: New 1956, p. 115, Act 40, Imd. Eff. Mar. 28.

280.553 Water management commission; members, appointment, compensation, expenses, approval of plans, orders and assessments.

Sec. 553. There is created for each water management district petitioned for under the provisions of this chapter, a water management commission consisting of (a) the drain commissioner of each county within the district; (b) 1 representative of each county within the district, to be appointed by the county board of supervisors in the usual manner employed by such county in appointing members to county boards or commissions; (c) 1 representative of each city or village within the district with a population of 5,000 or more, and 1 additional representative for each 20,000 of population

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or any major fraction thereof by which the population of such city or village exceeds 10,000, to be appointed by the governing body, but no city or village shall have more than 10 representatives; (d) 1 director of a soil conservation district to be designated by the directors of all such districts within a water management district; and (e) the director of agriculture, who shall serve as chairman of the commission. County soil conservation district and city or village representatives shall be resident property owners of the district and shall serve at the pleasure of the appointing body. Each member of the commission appointed by a county board of supervisors and county soil conservation districts shall receive such compensation, mileage and expenses as shall be provided by the water management commission except that such compensation shall not exceed $25.00 per diem exclusive of mileage and expenses for attendance at water management commission meetings. Members who are drain commissioners, or who are county or city employees, shall be reimbursed for actual and necessary expenses but shall not receive any other compensation. The director of agriculture or his deputy shall not receive any compensation or reimbursement for expenses incurred as a member of the commission. A vote of 3/5 of all of the members of the commission shall be required to approve any preliminary or final order of determination, official plan, final order of apportionment, or other matter involving any assessment or increase in assessment of costs.

HISTORY: New 1956, p. 115, Act 40, Imd. Eff. Mar. 28;—Am. 1969, p. 526, Act 285, Eff. Mar. 20, 1970.

280.554 Water management board; members, term, vacancy, qualification, chairman, procedure.

Sec. 554. (a) For each water management district created under the provisions of this chapter, there is also created a water management board, to consist of 5 members appointed by the water management commission for terms of 5 years each: Provided, That of the members first appointed, 1 shall be appointed for a term of 1 year, 1 for a term of 2 years, 1 for a term of 3 years, 1 for a term of 4 years, and 1 for a term of 5 years: Provided further, That the service of any member of the water management board may be terminated at any time by resolution of the water management commission adopted by a majority of all the members of such commission and his successor appointed in the same manner, and for the remainder of the term, as in the case of an original appointment. Vacancies on the board occurring for any other reason shall be filled in the same manner as an original appointment and for the remainder of the term. Members of the water management board shall be resident property owners of the district. In the event that the total of all assessments within any county included in the water management district is 25% or more of the cost of a project which is to be assessed against all public corporations within the district, the commission shall appoint a resident property owner of such county as 1 of the members of the board. In the event a water management district shall include less than 5 counties, the number of members of the board shall be reduced in number to the number of counties included in the water management district. The board at its first meeting shall elect a chairman and adopt such rules of procedure, not inconsistent with the provisions of this chapter, as it finds advisable.

Employees; treasurer, bond; secretary; annual audit.

(b) The board is hereby authorized to hire such employees as it shall deem necessary and determine their compensation. No such employee shall be a member of either the commission or board. The board shall designate the treasurer of 1 of the counties of the district, who shall serve as treasurer of the district and furnish a bond in a sum to be fixed by the board, conditioned on the faithful discharge of his duties, the premium thereon to be paid by the water management district. Moneys held by the treasurer shall be paid out only upon order of the board, except that no such order shall be re-

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quired for the payment of principal and interest on bonds. The secretary of the board shall also serve as secretary of the commission. The board shall cause the accounts of the treasurer to be audited annually by a certified public accountant, the expense thereof to be paid by the water management district.

HISTORY: New 1956, p. 115, Act 40, Imd. Eff. Mar. 28.

280.555 Water management board or commission; meetings, notice, quorum, adjournment; orders, signatures; minutes, filing, certified copies, meetings open to public; records, inspection.

Sec. 555. The provisions of this section shall pertain to either the water management commission or the water management board. Meetings may be called by the chairman or any 2 members of either body, upon notice sent by registered mail to each member, which notice shall be mailed not less than 10 days previous to the time of the meeting. No notice of any meeting shall be required if all members are present. Any member may waive notice of any meeting, either before or after such meeting. A majority of the members shall constitute a quorum for the transaction of business, but a lesser number may adjourn from time to time. Any meeting may be adjourned from time to time. Unless otherwise provided herein, no action shall be taken by either body except by a majority vote of the members present and voting. In the event of the adjournment of any hearing, it shall not be necessary to advertise the adjournment of such hearing. All orders issued by either body shall be signed by its chairman and secretary. The secretary shall prepare and sign duplicate originals of the minutes of all proceedings of the body, one to be retained by him and the other to be filed with the director of agriculture. The originals of all proceedings and records shall be kept on file with the secretary. The director of agriculture may require the secretary to furnish him with certified copies of records of either body in the office of the secretary for filing in his office, and such certified copies so filed shall have the same force and effect as the originals. All meetings shall be open to the public, and records of either body shall be considered public records and available for inspection during regular office hours.

HISTORY: New 1956, p. 116, Act 40, Imd. Eff. Mar. 28.

280.556 Water management commission; petitions, review; notice of first meeting.

Sec. 556. Within 30 days following receipt of a petition as provided in section 552 of this act, the director of agriculture shall review the petition for sufficiency and accuracy, shall make a preliminary finding of the counties which in his opinion include public corporations that should be assessed under the provisions of this chapter, and shall mail written notice of the first meeting of the water management commission to the county clerk and drain commissioner of each such county, to the highway agencies having jurisdiction over all highways, roads and streets in said district, to the secretary of each soil conservation district and to the city or village clerk of each city and village within such counties with a population of 5,000 or more according to the latest or each succeeding federal decennial census, which in his opinion are subject to assessment for the cost of the project. Such notice shall request the appointment of a representative of each public corporation so notified to the commission and shall state the time and place of the first meeting, which shall be held not less than 30 nor more than 45 days following the mailing thereof. In the event a county board of supervisors of any such county does not meet in a regular or special session prior to the date of the first meeting of the commission, the chairman of the board of supervisors shall represent the county at the first meeting, and the board of supervisors shall appoint a member to the commission at its next regular or special session. Failure of the governing body of any public corporation entitled to representation to appoint a member to the commission shall not prevent the inclusion of such public corporation in the water management

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district, nor exempt it from assessment or other obligations imposed by this chapter. but such public corporation shall be without representation until it shall appoint a member. The director of agriculture shall also send notice of the first meeting to the director of the department of conservation, the state highway commissioner and the county road commission of each county within the district.

HISTORY: New 1956, p. 116, Act 40, Imd. Eff. Mar. 28.

280.557 Water management commission; temporary secretary, by-laws, tentative determination, amendment of petition, notice of adjourned meeting; dismissal of petition; name of district; board; tentative determination; preliminary plans.

Sec. 557. The commission shall elect a temporary secretary, and may adopt rules of procedure or by-laws, not inconsistent with the provisions of this chapter. The commission shall also consider the petition for the project, and shall make a tentative determination as to the sufficiency of the petition and the necessity and practicability of the proposed project. If the commission shall determine that the petition is insufficient, it may enter an order amending or supplementing such petition, which order shall be deemed to constitute a part of the petition. If such order shall result in the inclusion of any additional public corporation which is entitled to designate a member to the commission, the commission shall adjourn the meeting and shall notify the clerk of such public corporation of the time and place of the adjourned meeting, which notice shall be given in conformity with the requirements of the notice provided for in section 556 of this act. If the commission shall at any time determine that the project is not necessary or practicable, it shall order the petition dismissed, and proceedings under such petition shall be thereby terminated. Where a petition for a project has been dismissed, such project shall not be petitioned for again under this act for a period of 1 year. If the commission shall find the project necessary and practicable and the petition, in original form or as amended by order of the commission, sufficient, it shall proceed forthwith to select a name for the district, elect a water management board, and make a tentative determination of the public corporations to be assessed for the costs of the project. The commission shall procure preliminary plans which include an estimate of costs of the project, benefits which will result therefrom to the various public corporations comprising the district, and the extent to which each public corporation contributes to the conditions which make the project necessary. The commission shall make a tentative determination, based upon such plans, of the percentage of costs to be assessed to each public corporation comprising the district, and shall transmit a written copy of such determination, together with the petition, any orders amendatory and supplementary thereto, and the preliminary plan to the water management board.

HISTORY: New 1956, p. 117, Act 40, Imd. Eff. Mar. 28.

280.558 Water management board; hearing on objections to project, notice, publication, form; preliminary order of determination.

Sec. 558. The water management board shall thereupon fix a time and place when and where it will meet to hear any objections to the proposed project, the petition therefor, and to the assessments of costs as contained in the tentative determination of the commission. Notice of such hearing shall be published twice in each county involved by inserting the same in at least 1 newspaper published and circulated therein, designated by the board, the first publication to be not less than 20 days prior to the time of hearing. Such notice shall also be sent by registered mail to the clerk or secretary of each public corporation proposed to be assessed, except that any notice to the state shall be sent to the state highway commissioner and the director of conservation and any notice to a county shall be sent to both the county clerk and the county road commission, if any, which mailing shall be made not less than 20 days prior to the time

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of hearing. Such notice shall be signed by the secretary of the board and proof of the publication and mailing thereof shall be filed with the secretary. The board may provide a form to be substantially followed in the giving of such notice. At such hearing, any public corporation to be assessed or any taxpayer thereof shall be entitled to be heard. After such hearing, the board shall make a preliminary determination as to the sufficiency of the petition, the necessity and practicability of the project, whether the project should be undertaken, and if so, the public corporations to be assessed, and shall issue a preliminary order accordingly, which order shall be known as the "preliminary order of determination". No public corporation may be eliminated from, or added to, those tentatively determined to be assessed without a rehearing after notice as above provided, except as provided in section 559 of this act.

HISTORY: New 1956, p. 118, Act 40, Imd. Eff. Mar. 28.

280.559 Assessment; basis.

Sec. 559. Any assessment of any nature or kind determined or made under the provisions of this chapter shall be based upon benefits to the public corporation assessed and upon the extent to which such public corporation contributes to the conditions which make a project necessary: Provided, That assessments against the state shall be based solely upon the drainage or prevention of flooding of state highways, and those against the county shall be based solely upon the drainage or prevention of flooding of its county highways. This rule shall govern the director of agriculture, the commission, the board, drain commissioners and any other person in any action relating to determining public corporations to be assessed and in the making of assessments.

HISTORY: New 1956, p. 118, Act 40, Imd. Eff. Mar. 28.

280.560 Preliminary plans; approval; detailed plans, contents, approval; official plans, filing.

Sec. 560. The board shall secure the approval of the Michigan water resources commission of the preliminary plans for the project, as soon as may be reasonably possible, and before procuring detailed plans. After approval by the water resources commission of the preliminary plans and after the board has made its preliminary order of determination, the board shall secure detailed plans for the project from a competent engineer and such other qualified personnel as are necessary. The detailed plans shall include detailed plans and specifications of the project and an estimate of costs of the project. The detailed plans shall be submitted to the water resources commission for its approval, and no construction shall be undertaken until the detailed plans are approved. The board shall also submit the detailed plans to the water management commission for approval before any construction of the project is undertaken. The commission shall review the plans and either adopt them or recommend revisions. Revisions recommended by the commission shall be submitted by the board to the water resources commission for approval as hereinbefore provided. When the detailed plans have been approved by both the water management commission and water resources commission, they shall be known as the "official plans" and shall be filed with the secretary of the board. In approving the plans, the commission shall not be limited to matters described in the petition.

HISTORY: New 1956, p. 118, Act 40, Imd. Eff. Mar. 28.

280.561 Tentative percentage of cost for assessment; apportionment.

Sec. 561. After adoption of the official plans, the commission shall proceed to tentatively establish the percentage of cost of the project to be assessed against public corporations within each county within the district, and against the state and counties on account of drainage and prevention of flooding of state and county highways. The percentage of cost so apportioned to public corporations in each county shall then be ap-

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portioned by the commission among public corporations to be assessed in such county, which determination shall be filed with the secretary of the board.

HISTORY: New 1956, p. 119, Act 40, Imd. Eff. Mar. 28.

280.562 Tentative percentage of cost for assessment; apportionment; hearing on objections to apportionment, notice, publication; report of findings.

Sec. 562. After the foregoing tentative apportionments of costs have been made, the board shall set a time and place when and where it will meet and hear any objections to such apportionments. Notice of such hearing shall be published twice in each county involved by inserting the same in at least 1 newspaper published therein, designated by the board, the first publication to be not less than 20 days prior to the time of hearing. Such notice shall also be sent by registered mail to the clerk or secretary of each public corporation proposed to be assessed, except that any notice to the state shall be sent to the state highway commissioner and the director of the Michigan department of conservation and any notice to a county shall be sent both to the county clerk and the county road commission, if any, which mailing shall be made not less than 20 days prior to the time of hearing. Such notice shall be signed by the secretary and proof of the publication and mailing thereof shall be filed with the secretary. The board may provide a form to be substantially followed in the giving of such notice. The notice shall include tentative apportionments to the several public corporations. At such hearing, any public corporation to be assessed or any taxpayer thereof shall be entitled to be heard. After such hearing, the board shall make a written report of its findings on the apportionments to the commission, which may either confirm the apportionments as tentatively made or may recommend readjustments of any apportionments deemed by it to be inequitable.

HISTORY: New 1956, p. 119, Act 40, Imd. Eff. Mar. 28.

280.563 Water management commission; review of board's apportionment; final order of apportionment; annual meeting; work plan, advisory committees.

Sec. 563. The commission shall meet for the purpose of considering the apportionments and report made by the board. The commission may readjust the apportionments: Provided, That before any readjusted apportionments shall be confirmed, the commission shall set a time and a place for rehearing and shall give notice thereof and hold a hearing thereon, as provided in section 562, which notice shall also set forth the apportionments as readjusted. The commission shall then issue its order setting forth the several apportionments as confirmed, which order shall be known as the "final order of apportionment". All further action with respect to the project shall be taken by the board: Provided, That the commission may be reconvened at the call of its chairman, any 2 members thereof, or at the request of the board for the purpose of making any correction or addition to its proceedings within the scope of its powers: And provided further, That the commission shall meet at least once annually. At its annual meeting the commission shall elect a member of the board, approve assessments for operation and maintenance, approve a work plan for the district for the ensuing year, and conduct such other business as is within its powers under the provisions of this act. The commission may appoint such advisory committees as it deems necessary.

HISTORY: New 1956, p. 119, Act 40, Imd. Eff. Mar. 28.

280.564 Lands and rights of way; condemnation, procedure, federal governmental participation; costs.

Sec. 564. The board shall then proceed to secure the necessary lands and/or rights of way for the proposed project. If the same cannot be secured by negotiation, then the board may proceed under the provisions of Act No. 149 of the Public Acts of 1911,

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as amended, being sections 213.21 to 213.41, inclusive, of the Compiled Laws of 1948, and shall be deemed to be a "state agency" as that term is used in said act, or if the project is one in which the federal government is participating in any manner, then such lands and/or rights of way may be acquired through proceedings brought by the federal government under any appropriate federal act: Provided, That no condemnation proceeding under this act shall be instituted until the board has first given written notice by registered mail to the highway agencies having jurisdiction over any highway, road or street affected by the lands or rights of way to be acquired by such condemnation proceeding. In event that lands and/or rights of way shall be acquired through proceedings under a federal act, then the amount of the awards in such proceeding shall be deemed to be a part of the cost of the project to the same extent as if the condemnation proceedings had been taken under the laws of this state.

HISTORY: New 1956, p. 119, Act 40, Imd. Eff. Mar. 28.

280.565 Contracts with federal government or corporations; bids.

Sec. 565. The board may contract with the federal government (which term as used in this section shall include any agency thereof) whereby the federal government will pay the whole or any part of the cost of the project and/or will perform the whole or any part of the work connected therewith, which contract may include any specific terms required by act of congress or federal regulation as a condition for such participation on the part of the federal government. The board may also contract with any private corporation or with any public corporation (which term as used in this section shall include any agency thereof) in respect to any matter connected with the construction and/or maintenance of any project. Such a contract may provide that any payments made or work done by such a public corporation shall relieve it in whole or in part from assessment for the cost of the project. No construction work shall be undertaken until the board has advertised for and received bids for the performance of such work and a contract let to the lowest responsible bidder: Provided, That this provision shall not apply to work to be performed by the federal government or a public corporation.

HISTORY: New 1956, p. 120, Act 40, Imd. Eff. Mar. 28.

280.566 Special assessment roll; installments, payment, interest.

Sec. 566. After the confirmation of the apportionments by the commission, the board shall cause to be prepared by the secretary of said board a special assessment roll assessing the estimated cost of the project (or if the actual cost has been ascertained, then such actual cost) against the several public corporations in accordance with the confirmed apportionments. The board may provide for the payment of such special assessments in any number of approximately equal annual installments, not exceeding 20. Installments of assessments against the state and against public corporations which collect their taxes beginning approximately December first in each year shall become due and payable on or before April first of each year. Installments of assessments against other public corporations shall become due and payable on or before such date or dates as shall be fixed by the board, depending upon the time or times of the collection of taxes by such public corporations. The board shall fix the amount of interest, not exceeding 6%, to be paid upon unpaid installments, which interest shall become due annually on the day and month upon which the annual installments become due. Any installment or installments may be paid in advance of the due date thereof with interest computed to the next installment due date. The board shall fix the time or times for the payment of the first installment so that each public corporation can make a tax levy for the payment thereof.

HISTORY: New 1956, p. 120, Act 40, Imd. Eff. Mar. 28.

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280.567 Special assessment roll; contents, approval; certification to corporation assessed; annual notice of installment and interest; advancement by county; assessment against state; correction of assessment.

Sec. 567. The special assessment roll shall contain the name of each public corporation assessed, the total estimated cost of the project (or actual cost if the same has been ascertained at the time of the preparation of the roll), the percentage apportioned to each public corporation, the amount of the assessment against each public corporation based upon the said percentage of apportionment, and the amount of each installment if the assessment is divided into annual installments. After the said special assessment roll has been prepared, it shall be presented to the board for approval. When such roll shall have been approved, then a statement to the effect signed by the chairman and secretary of the board shall be affixed to said roll setting forth the date of such approval. The chairman of the board shall then certify to each public corporation assessed, the amount of the total assessment against it, the amount of the various installments if such assessment is divided into installments, the due date of each installment and the rate of interest upon installments from time to time unpaid. The treasurer shall also each year, at least 30 days prior to the time of the levying of taxes by each public corporation, notify it of the amount of the installment and interest next becoming due: Provided, That the failure to so notify any public corporation shall not excuse it from making payment of such installment and interest. On or before the due date of any installment, each public corporation shall pay to its county treasurer the full amount thereof together with interest accruing to such due date, and within 15 days thereafter such county treasurer shall forward the amount so paid to the treasurer of the board. If any such public corporation shall fail or neglect to so account to the county treasurer for the amount of any such installment and interest, then the county treasurer shall advance the amount thereof to the treasurer of the board from county funds and deduct the same from any moneys (other than those pledged for the payment of debts) then or thereafter payable by him to such public corporation. The board of supervisors of any county which shall have advanced any money for a public corporation, and which shall not have been reimbursed therefor, may order such public corporation and its officers to levy upon its next tax roll an amount sufficient to make such reimbursement on or before the date when its taxes become delinquent; and it shall be the duty of such public corporation and its tax levying and collecting officials to levy and collect such taxes and to reimburse the county: Provided, That the foregoing shall not prevent the county from obtaining reimbursement by any other legal method. Assessments against the state shall be certified to the state highway commissioner and paid from state highway funds. It shall be the duty of the tax levying officials of each of the other public corporations assessed to levy sufficient taxes to pay assessment installments and interest as the same shall become due unless there shall have been set aside moneys sufficient therefor. If a special assessment roll shall be prepared upon the basis of the estimated cost of the project, then after the actual cost has been ascertained and determined by the board, the special assessments and the installments thereof shall be corrected by adding any deficiency or deducting any excess, or refunding the amount of any prepaid assessment in excess of the assessment based upon actual cost. The board may order such corrections to be made upon the original roll or may order that a new corrected roll be prepared and submitted for approval by the board.

HISTORY: New 1956, p. 120, Act 40, Imd. Eff. Mar. 28.

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280.568 Assessments and taxes not subject to statutory or charter debt or tax limitations.

Sec. 568. Assessments made under the terms of this chapter shall not constitute an indebtedness of a public corporation within any statutory or charter debt limitation, and taxes levied by a public corporation for the payment of such assessments shall not be deemed to be within any statutory or charter tax limitation.

HISTORY: New 1956, p. 121, Act 40, Imd. Eff. Mar. 28.

280.569 Bonds; issuance, maturity, signatures; collection of assessments.

Sec. 569. The board may issue bonds for and on behalf of the water management district, in anticipation of the collection of any or all installments of assessments, and pledge the full faith and credit of the water management district for the prompt payment of the principal thereof and the interest thereon. Such bonds shall mature serially with the last maturity not later than 2 ½ years after the due date of the last installment of the assessments: Provided, That there may be more than 1 principal maturity date during any 12-month period. The bonds shall be signed by the chairman and secretary of the board, who shall cause their facsimile signatures to be affixed to the interest coupons attached thereto. Collections of both principal and interest on all installments of assessments in anticipation of which bonds shall have been issued shall be kept in a separate bank account by the treasurer for the board and used for no other purpose than the payment of principal and interest on such bonds until the full payment thereof.

HISTORY: New 1956, p. 121, Act 40, Imd. Eff. Mar. 28.

280.570 Additional assessment; apportionment.

Sec. 570. If for any reason the original assessment shall not be sufficient to pay the principal and interest on bonds issued in anticipation of the collection thereof, then the board shall make such additional assessments therefor as may be necessary, apportioned as in the first instance, it being the intention hereof that the collections on assessments shall under all circumstances be sufficient to pay said principal and interest.

HISTORY: New 1956, p. 122, Act 40, Imd. Eff. Mar. 28.

280.571 Water management board; continuation, responsibility; budget, hearing, adoption.

Sec. 571. The board shall continue in existence with such changes in personnel as shall result from appointment of members by the commission. It shall be responsible for the operation and maintenance of district projects. The board shall prepare annually and submit to the commission a tentative budget for the maintenance and operation of district projects together with the percentage of such costs proposed to be assessed against each of the several public corporations. The commission shall give 10 days' notice by registered mail of the hearing on the budget to each public corporation in the district. After such hearing, a budget shall be adopted and the assessment against each public corporation determined.

HISTORY: New 1956, p. 122, Act 40, Imd. Eff. Mar. 28.

280.572 Advancements by corporations; reimbursement.

Sec. 572. Public corporations may advance funds for the payment of any part of the cost of a project hereunder and shall be repaid by the district when funds are available therefor. The board is hereby authorized to assess preliminary costs in an equitable manner prior to the issuance of bonds, against public corporations within the district, to be assessed and collected as provided in section 567 of this act: Provided, That the percentage of such costs to be assessed against such public corporations shall be approved by the commission.

HISTORY: New 1956, p. 122, Act 40, Imd. Eff. Mar. 28.

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280.573 Costs; items, contingent expenses.

Sec. 573. The cost of any project shall include (1) the cost of locating, establishing and constructing the project; (2) the administrative staff, office and other expenses of the board and commission; (3) the cost of construction of all works and appurtenances necessary to efficient operation and maintenance of the project; (4) the cost of acquiring any lands and/or rights of way; (5) all engineering, legal and other professional fees; (6) the cost of the service and publication of all notices; (7) interest on bonds for the first year, if bonds are to be issued; and (8) an amount not exceeding 10% of those costs which are to be assessed against public corporations, to cover contingent expenses.

HISTORY: New 1956, p. 122, Act 40, Imd. Eff. Mar. 28.

280.574 Water management commission; powers.

Sec. 574. The commission of any water management district created under this act may authorize the board to (a) sell surplus water acquired as a result of construction of projects; (b) lease district-owned lands for agricultural or other purposes; (c) cooperate with soil conservation districts in control of soil erosion; and (d) develop and operate recreational facilities on district-owned property, either in cooperation with the Michigan department of conservation and/or public corporations within the district, or independently when it is not feasible or practical for the department or such public corporations to provide and operate the facilities: Provided, That if any such acts shall result in additional expense, they shall not be authorized until after public hearing as provided in section 558 of this act.

HISTORY: New 1956, p. 122, Act 40, Imd. Eff. Mar. 28.

280.575 Subdistrict; petition; official plan, final order of apportionment of cost; assessment.

Sec. 575. In the event it shall be necessary for the public health, safety or welfare to undertake a project within a portion of a water management district which will benefit only 1 or more contiguous public corporations within the water management district, a petition may be filed with the secretary of the commission, signed by 1 or more of the public corporations which will be benefited by the project for the creation of a subdistrict to undertake such project. The petition shall be in conformity with the requirements of petitions for the creation of water management districts insofar as such requirements are applicable thereto. No commission or board shall be created for any subdistrict, but the commission and board of the water management district shall serve in such capacity with respect to the subdistrict. The commission shall determine whether or not it desires to undertake the project before any further action is taken thereon. If the commission shall determine to undertake the project, the commission and board shall proceed to adoption of an official plan and final order of apportionment in the same manner as provided in this chapter in the case of district projects: Provided, That in all actions of the commission involving the subdistrict, other than the determination aforesaid, only members of the commission from public corporations comprising the subdistrict shall be entitled to vote and the vote of a majority of such members shall control. The cost of the project within the subdistrict shall be assessed only against public corporations comprising the subdistrict, but may be financed as a part of the cost of other projects within the water management district. Except as herein otherwise provided all provisions of this chapter pertaining to projects in water management districts shall pertain to projects in subdistricts insofar as applicable thereto.

HISTORY: New 1956, p. 122, Act 40, Imd. Eff. Mar. 28.

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280.576 Water management district in interstate river basin; powers of commission.

Sec. 576. Whenever it shall be necessary for the public health, safety or welfare to establish a water management district in all or part of 1 or more contiguous Michigan counties lying within an interstate river basin, to undertake a project in cooperation with districts in states adjoining Michigan for purposes of flood control or drainage, such district may be created, and such project shall be authorized, financed and constructed in conformity with the provisions of this chapter, except as otherwise provided in this section. If such district shall consist of less than 3 counties, the commission shall exercise all powers and perform all functions and duties of the board, and the boards of supervisors of said counties may increase the membership of said commission by a majority vote of all of said boards of supervisors. The commission of such district shall also have power to enter into contracts with other states, or its agencies, or water management districts of other states, with respect to apportionment of the costs of such project between the said Michigan district and said other state or its agencies or water management districts of other states, and with respect to any matter connected with the construction and maintenance of the project or any part thereof.

HISTORY: New 1956, p. 123, Act 40, Imd. Eff. Mar. 28.

280.577 Venue of actions; appointment of circuit judge.

Sec. 577. Any action arising from the provisions of this chapter except such actions as may be brought directly in the supreme court may be brought in the circuit court of any county in which any part of the project involved is located: Provided, That on request by any party to said action made prior to the time said action is instituted, or within 30 days after receipt of service of process, the presiding circuit judge of Michigan shall appoint a circuit judge to hear said action.

HISTORY: New 1956, p. 123, Act 40, Imd. Eff. Mar. 28.

280.578 Deputy for director of agriculture; powers.

Sec. 578. The director of agriculture may designate a deputy to act in his stead in respect to the performance of his duties under this chapter. Where any deputy so acts, it shall be conclusively presumed that he was properly designated by the director of agriculture. Any official proceedings may be signed by such deputy in his own name. The signature of such deputy shall be followed by his official title. Where a deputy has been designated by the director of agriculture to act in his stead in connection with all the proceedings as to any project, then any notice required to be served upon or mailed to the director of agriculture may be served upon or mailed to such deputy. The director of agriculture is hereby empowered to appoint a deputy who shall have power to act in his place under any and all circumstances in respect to matters within the scope of this chapter, irrespective of whether or not he is authorized to appoint a general deputy.

HISTORY: New 1956, p. 123, Act 40, Imd. Eff. Mar. 28.

280.579 Intercounty drain; construction or improvement for flood control project.

Sec. 579. Any intercounty drain or any portion thereof now or hereafter existing may be constructed, cleaned out, relocated, widened, deepened, straightened, tiled or otherwise improved when necessary for the public health, as a part of any flood control project under the provisions of this chapter.

HISTORY: New 1956, p. 124, Act 40, Imd. Eff. Mar. 28.

280.580 Public and private construction in works owned by water management district; plans, approval.

Sec. 580. Plans for the alteration or construction of any bridge, road, pipe line, power line, drain, sewer or other public and private construction in, into or across any

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right of way or in, into or across any drain, channel, dike, reservoir or other works owned, constructed and controlled by a water management district shall be submitted to the board prior to construction, and the board is hereby authorized to prescribe the manner in which such public or private works shall cross, be adjusted to or connected with any right of way, channel, dike, reservoir or other construction owned or controlled by the district.

HISTORY: New 1956, p. 124, Act 40, Imd. Eff. Mar. 28.

280.581 Certiorari; time; legal establishment of project.

Sec. 581. Neither the final order of determination nor the final order of apportionment shall be subject to attack in any court except by proceedings in certiorari brought within 30 days after the filing of such order in the office of the secretary of the board issuing the same. If no such proceeding shall be brought within the time above prescribed, the project shall be deemed to have been legally established and the legality of the project and the assessments therefor shall not thereafter be questioned in any suit at law or in equity: Provided, That all notices given under this chapter shall include the language contained in this section prior to this provision.

HISTORY: New 1956, p. 124, Act 40, Imd. Eff. Mar. 28.

280.582 Provisions applicable.

Sec. 582. In operating under the terms of this chapter, the several boards and officials shall not be limited by the provisions contained in other chapters of this act and the procedures required under the terms of such other chapters shall not be deemed to be applicable.

HISTORY: New 1956, p. 124, Act 40, Imd. Eff. Mar. 28.

280.583 Validation of prior bonds.

Sec. 583. The provisions of this chapter shall not be construed to validate and shall not validate any bonds or other obligations issued prior to August 13, 1954.

HISTORY: New 1956, p. 124, Act 40, Imd. Eff. Mar. 28.

CHAPTER 23.

PENALTIES.

280.601 Drain commissioner; interest in contract prohibited; penalty.

Sec. 601. If any commissioner is interested directly or indirectly in the profits of any contract, job, work or services, other than official services, to be performed for the drainage district, he is deemed to be guilty of a misdemeanor, and the office of such commissioner shall be deemed vacant and the commissioner so convicted shall be incapable of again holding the office of county drain commissioner.

HISTORY: New 1956, p. 124, Act 40, Imd. Eff. Mar. 28;—Am. 1965, p. 131, Act 98, Eff. Mar. 31, 1966.

280.602 Removal of stakes; injury to drain; penalty.

Sec. 602. If any person shall wilfully or maliciously remove any section or grade stake set along the line of any drain, or obstruct or injure any drain, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding $100.00 and the costs of prosecution, or in default of the payment thereof, by imprisonment in the county jail not exceeding 90 days.

HISTORY: New 1956, p. 124, Act 40, Imd. Eff. Mar. 28.

CHAPTER 24.

REPEALS AND SAVING CLAUSES.

280.621 Repeal.

Sec. 621. Act No. 316 of the Public Acts of 1923, as amended, being sections 261.1 to 278B.33, inclusive, of the Compiled Laws of 1948, Act No. 243 of the Public Acts of

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1931, being sections 279.1 and 279.2 of the Compiled Laws of 1948, Act No. 38 of the Public Acts of the First Extra Session of 1932, being sections 279.11 to 279.17, inclusive, of the Compiled Laws of 1948, and Act No. 158 of the Public Acts of 1929, as amended, being sections 279.101 to 279.123, inclusive, of the Compiled Laws of 1948, are hereby repealed.

HISTORY: New 1956, p. 125, Act 40, Imd. Eff. Mar. 28.

280.622 Amendment of act during progress of drain proceedings; applicable law.

Sec. 622. In cases where the law shall have been amended during the progress of any drain proceedings, such proceedings shall not be invalidated by any such amendment, but may be continued to completion, and each step shall be governed by the law in force at the time such step was taken. Any drain proceedings pending when this act takes effect shall be completed in the manner prescribed in this act.

HISTORY: New 1956, p. 125, Act 40, Imd. Eff. Mar. 28.

280.623 Saving clause.

Sec. 623. This act shall not impair or affect any act done, offense committed or right accruing, accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time this act takes effect, but the same may be enjoyed, asserted, enforced, prosecuted or inflicted, as fully and to the same extent as if this act had not been passed.

HISTORY: New 1956, p. 125, Act 40, Imd. Eff. Mar. 28.

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CHAPTER 281. LAKES AND RIVERS

INLAND LAKE LEVELS

Act 377 of 1921

281.1-281.30 Repealed.

Act 39 of 1937

281.51-281.57 Repealed.

INLAND LAKE LEVEL ACT OF 1961

Act 146 of 1961

281.61 Inland lake level; short title.
281.62 Inland lake level; definitions.
281.63 Inland lake level; petition; maintenance.
281.64 Deposit for preliminary costs.
281.65 Determination of expediency; financing; multicounty lake.
281.66 Special assessment bonds; lake level orders, procedure.
281.67 Tax anticipation notes; issuance.
281.68 Institution of proceedings by director of conservation.
281.69 Special assessment district; establishment.
281.70 Hearing; notice, service; determination of lake level.
281.71 Gifts; purchase or condemnation by board of supervisors; dam in adjoining county.
281.72 Gifts; purchase or condemnation by department of conservation; construction of dam.
281.73 Dams in navigable streams.
281.74 Condemnation of private property.
281.75 Condemnation procedure.
281.76 Gifts; grants in aid to board of supervisors, apportionment.
281.76a Federal participation contracts; private contracts; approval by conservation department.
281.77 Gifts; grants in aid to department of conservation.
281.78 Plans and specifications; bids, work relief project.
281.79 Expenses; special assessment.
281.80 Computation of entire cost; items included.
281.81 Public lake, fish ladders.
281.82 Unauthorized change of level; penalty.
281.83 Artificial lakes.
281.84 Inspection; report; repairs; penalty; costs.
281.85, 281.85a Repealed.
281.86 Repeal.

Act 194 of 1939

281.101-281.121 Repealed.

ERECTION OF DAMS

Act 184 of 1963

281.131 Dams; permits for construction.
281.132 Dams; submission of plans; inspection of construction; fees for permit, underspill; permit for repair or reconstruction.
281.132a Lake level; establishment; special assessment district.
281.132b Permit; issuance; conditions.
281.132c Hazardous condition of existing dam; report, repairs.
281.133 Rules governing construction; permit cancellation, grounds.
281.134 Board of supervisors; rights as to construction of dams.
281.135 Construction without permit; violation of act; penalty.

Act 319 of 1941

281.151-281.157 Repealed.

Act 276 of 1945

281.201-281.227 Repealed.

SURPLUS WATER ACT OF 1964

Act 20 of 1964

281.301 Surplus water act of 1964; short title.
281.302 Surplus water act; definitions.
281.303 Request for surveys; reports.
281.304 Request for surveys; involvement of other boards.
281.305 Request for surveys; determination of optimum flow; plan for improvement, utilization and conservation of surplus water; factors; limitations.
281.306 Public hearing; determination of optimum flow; notices.
Order making determination of optimum flow; finality, review, parties.
Public hearing, proposed plan, notices, review, order of approval.
281.307 Transmission of plans to boards; adoption, dams, supervision.
Contracts; responsibility for construction.
281.308 Gifts; exchange, condemnation by boards; restrictions on financing.
281.309 Commission; gifts, grants in aid.
281.310 Use of increased flowage; waste assimilation; rates for usage.
281.311 Commission; authority; permits for iron ore beneficiation.
281.312 Surplus water act of 1964; rules and regulations.
281.313 Redetermination of optimum flow; modification of plan.
281.314 Violation of act; penalty.
281.315 Nonapplication of act to river management districts.

MICHIGAN STATE WATERWAYS COMMISSION

Act 320 of 1947

281.501 Waterways commission; definition.
281.502 Waterways commission; members, appointment, oath, expenses, removal; rules; chairman, term; quorum; reports; offices.
281.503 Waterways commission; director, appointment, qualifications, term, compensation, duties, assistants, salaries, expenses.
281.504 Waterways commission; powers and duties.
281.505 Waterways commission; authority of local agencies to enter contracts with commission, inland waterways or channels.
281.506 Facilities in harbors and connecting waterways; use.

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281.507 Waterways commission; financing of local agencies to obtain United States participation; contracts with war department.
281.508 Appropriation; state waterways fund; disbursement.
281.509 Tax on marine gasoline; payment.
Gasoline, marine use; amount credited to waterways fund.
Treasury; revenue division; duties.
Refunds, method of claiming.
False statements, penalty.
281.509a Repealed.
281.510 State appropriation deemed advancement; repayment from revenues; use of tax revenues to pay expenses.
281.511 State acceptance of federal program for construction of harbors of refuge.

CHEBOYGAN LOCK AND DAM
Act 187 of 1964

281.521 Cheboygan lock and dam; acquisition by state waterways commission.
281.522 Cheboygan lock and dam; leases, agreements.
281.523 Cheboygan lock and dam; revenues, disposition.

FERRY DOCKS AT STRAITS OF MACKINAC
Act 125 of 1959

281.531 Ferry docks at Straits of Mackinac; transfer to state waterways commission; description.
281.532 Ferry docks at Straits of Mackinac; maintenance; relinquishment.
281.533 Ferry docks at Straits of Mackinac; leases, concessions; rules and regulations.
281.534 Ferry docks at Straits of Mackinac; lease to Mackinaw City, parking.
281.535 Ferry docks at Straits of Mackinac; lease to St. Ignace, parking.
281.536 Land transferred from Mackinac Island state park commission to state waterways commission; small craft harbor facility.
281.537 Disposition of revenues.
281.538 Effective date of act.

MUNICIPAL NAVIGATIONAL FACILITIES
Act 66 of 1952

281.541 Navigational facilities of public subdivision; definitions.
281.542 Waterways; harbor guards, ordinances, harbor masters.
281.543 Waterways; jurisdiction, contents.

FERRY DOCK AT STRAITS OF MACKINAC
Act 53 of 1961

281.551 Ferry dock at Straits of Mackinac; transfer to state highway commissioner; description.

BOAT LIVERIES
Act 257 of 1952

281.561 Boat liveries; definitions.
281.562 Boat liveries; registration, forms.
281.563 Boat liveries; safety standards.
281.564 Boat liveries; inspection; certificate; passenger capacity tags.
281.565 Violations of act.
281.566 Review of sheriff's and commission's orders.
281.567 Passenger capacity tags; fees.
281.568 Violation of act; misdemeanor; penalty.
281.569 Repealed.

OPERATION OF WATERCRAFT
Act 310 of 1957

281.571-281.595 Repealed.

COASTAL BEACH EROSION
Act 44 of 1952

281.601 Coastal beach erosion or protection; expenditures authorized.

FLOOD, DRAINAGE OR BEACH EROSION CONTROL
Act 278 of 1952

281.621 Flood, drainage or beach erosion control; lands, acquisition; contract with federal government, terms.
281.622 Relieved from assessment.
281.623 Contract; provisions.
281.624 Expenditures from municipal or county funds.
281.625 Assurances to federal government.
281.626 Flood, drainage or beach erosion control; joint contracts.
281.627 Contracts; approval by municipal finance commission; borrowings, debt and interest limitations.
281.628 Interest in lands; easement for flood plain; acquisition; declared public purposes.

SHORELANDS PROTECTION AND MANAGEMENT ACT OF 1970
Act 245 of 1970

281.631 Shorelands protection and management; short title.
281.632 Shorelands protection and management; definitions.
281.633 Shoreland engineering study; contents.
281.634 Shoreland environmental study; contents.
281.635 High risk area; use, regulation.
281.636 Environmental area; use, regulation.
281.637 County zoning.
281.638 City or village zoning.
281.639 Township zoning.
281.640 Zoning ordinances; water resources commission approval.
281.641 Rules; restraining order.
281.642 Use and management plan; contents; hearings; submission.
281.643 Agreements and contracts.
281.644 Assistance, acceptance.
281.645 Engineering study implementation; federal funds.

MOTORBOAT REGULATION
Act 245 of 1959

281.651-281.682 Repealed.

INLAND LAKE IMPROVEMENT ACT OF 1961
Act 140 of 1961

281.701-281.718 Repealed.

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INLAND LAKES AND STREAMS ACT
Act 291 of 1965

281.731 Inland lakes and streams act; short title.
281.732 Inland lakes and streams act; definitions.
281.733 Construction of act.
281.734 Ordinary high water marks; department of conservation agreements with riparian owners.
281.735 Private or noncommercial recreational use of water; placing structures or fills without permit.
281.736 Permits when required from department of conservation.
281.737 Application for permit filed with department of conservation; maps and information.
281.738 Review of application; recommendations; findings by department of conservation; conditional permit.
281.739 Permit; issuance by department of conservation; recognition of riparian rights; preservation or improvement of lake or stream uses.
281.740 Permit; term; revocation; procedure; permanence of construction under valid permit.
281.741 Bulkhead lines; establishment, hearing by department of conservation.
281.742 Dredging in lakes or streams; notice to department of conservation.
281.743 Improvement and development of lakes and streams; authority of department of conservation; considerations.
281.744 Rules and regulations; promulgation and enforcement by department of conservation; hearings; judicial review.
281.745 Civil actions; commencement by department of conservation; grounds.
281.746 Nondeprivation of riparian owner's water frontage rights.
281.747 Violation of act; penalty.
281.748 Permits to construct waterways; exceptions.
281.749 Application for permit; contents, fee.
281.750 Review of application; public hearings; time; notice.
281.751 Permit; issuance; conditions; maintenance of waterway.
281.752 Applicability of act.

NATURAL RIVER ACT OF 1970
Act 231 of 1970

281.761 Natural river act; short title.
281.762 Natural river act; definitions.
281.763 Natural river; designation, purpose; long range plans; publicity; cooperation.
281.764 Qualifications for designation; catagories of rivers.
281.765 Land acquisition; purpose; interest acquired; consent.
281.766 Federal financial assistance programs; leases; expenditures, purposes.
281.767 Public hearings; notice.
281.768 Land uses; zoning; local ordinances; state rule.
281.769 Zoning ordinance or rule; purpose.
281.770 Zoning ordinance or rule; districts establishment; powers, distance.
281.771 Local ordinance; applicable law; construction.
281.772 Districts; valuation for tax purposes.
281.773 Rules; enforcement; promulgation, existing use.
281.774 National wild and scenic river system; administration.
281.775 Area plans; approval; rules.
281.776 Construction of act.

VESSELS FOR HIRE
Act 228 of 1965

281.801 Vessels carrying passengers for hire; definitions.
281.802 Registration; forms, content; period covered.
281.803 Minimum safety standards for vessels and equipment.
281.804 Inspection certificates; periodic inspection of vessels and equipment; certificate display.
281.805 Pilots' licenses; standards; period covered.
281.806 Petition for review of certificate or license; review of determination of nonsafety capacity of vessels; judicial review.
281.807 Certificate of inspection and pilots' license; requirements.
281.808 Inspection and pilots' license; fees.
281.809 Annual report by commission.
281.810 Investigation of violations; power of commission.
281.811 Violation of act; penalty.
281.812 Rules and regulations; promulgation.
281.813 Repeal.

INLAND LAKE IMPROVEMENT ACT OF 1966
Act 345 of 1966

281.901 Inland lake improvement act; short title.
281.902 Inland lake improvements act; definitions.
281.903 Petition for improvement of lake; local governing bodies' powers; lake boards.
281.904 Lake boards; membership, appointment, organization; conservation department functions.
281.905 Petitioning freeholders; number, requirement for improvements.
281.906 Preliminary costs; revolving funds, assessments.
281.907 Institution of proceedings for improvement; conflicts with local law.
281.908 Conservation department; initiation of improvements.
281.909 Lake board; determination of scope of project; establishment of special assessment districts; ministerial duties.
281.910 Engineering and economic reports; cost estimates.
281.911 Review of reports by board; determinations of practicability; public hearings; notice.
281.912 County contributions toward costs of improvement.
281.913 Approval of plans and cost estimates; sufficiency of petition; resolution; publication; assessment roll.

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281.914 Report of assessment to lake board; review; notice and hearing; confirmation.
281.915 Special assessments; installments, interest, penalties.
281.916 Special assessments; liens.
281.917 Special assessments; collections.
281.918 Delinquent assessments; reassessment.
281.919 Division of land parcels; uncollected assessment apportioned.
281.920 Additional special assessments.
281.921 Special assessments; invalidity and new assessments.
281.922 Special assessments; exempt lands.
281.923 Borrowing and bond issues by lake board.
281.924 Condemnation; law applicable.
281.925 Gifts and grants in aid; acceptance by lake board.
281.926 Gifts and grants in aid; acceptance by conservation department.
281.927 Advertisement for bids; letting of contracts; work relief projects.
281.928 Costs of projects; computation.
281.929 Conservation department intervention.
281.930 Repeal.

MARINE SAFETY ACT
Act 303 of 1967

281.1001 Marine safety act; short title.
281.1002 Marine safety act; definitions; administrative.
281.1004 Marine safety act; definitions; marine safety program.
281.1006 Marine safety act; definitions; vessels and owners.
281.1008 Marine safety act; definitions; vessel operation.
281.1011 Administration by department of conservation; representation by sheriffs association; advisory council.
281.1012 Regulations of waterborne vehicles; exclusive diving, fishing, swimming or water ski areas; special local regulations.
281.1013 Department; rule making powers.
281.1014 Special rules and regulations for waterborne vehicles; preparation; presentation; notice and hearing.
281.1015 Special rules; submission to local governing body; procedure for approval or disapproval.
281.1016 Special rules; request from local governmental units; procedure.
281.1017 Local ordinances; identical to state rule; changes, amendment, repeal; enforcement.
281.1021 Revenue; deposition; marine safety fund.
281.1023 Marine safety program; state aid to counties; expenditures.
281.1024 Marine safety program; state aid, allocation to counties.
281.1025 Marine safety program; audits of county records; refunds to state.
281.1026 Marine safety program; cooperation with county sheriffs; records; reports.
281.1027 Rules; adoption.
281.1031 Motorboats; numbering requirement, systems, exemptions; certificate of number.
281.1032 Motorboats; certificate of number; operation with federal or foreign state registration.
281.1033 Application for number; requirement, filing, form, fee, certificate number; inspection; affixing number to boat; numbering system.
281.1034 Certificates of number; expiration, renewal.
281.1035 Notice of abandonment; destruction or sale of motorboat, change of address, surrender of certificate; duplicate certificate; fee.
281.1036 Manufacturers and dealers; certificate of number; temporary use in demonstration; fee.
281.1037 Secretary of state; certificate of number.
281.1038 Secretary of state; public records; annual compilation and publication.
281.1051 Casualties involving vessels; rendering of assistance by operator.
281.1052 Casualties involving vessels; exchange of identification.
281.1053 Casualties resulting in death; report.
281.1054 Reports of property damage.
281.1055 Peace officers; investigation; reports.
281.1056 Reports; copies, fees, admissibility in evidence.
281.1057 Reports; transmission of information to federal officials.
281.1061 Educational programs; establishment; youthful boat operators training program; certificates of completion.
281.1062 Motorboat operators; children, age restrictions; supervision.
281.1071 Operation of vessels; rules of the road.
281.1072 Operation of vessels; speed; interference with use of waters by others.
281.1073 Operation of vessels; persons under influence of drugs or intoxicating liquor; owner's obligations.
281.1074 Reckless operation of waterborne vehicles; penalty.
281.1075 Operation of vessels; direction of travel, distance from other objects.
281.1076 Operation of vessels; prohibited in certain areas.
281.1077 Towing of persons; time when prohibited; penalty.
281.1078 Towing of persons; additional occupants of vessel, requirement; rear view mirrors; exceptions.
281.1079 Vessels; use of portions unintended for occupancy prohibited; exceptions.
281.1091 Capacity plate; requirement; manufacturers; definition.
281.1092 Capacity plate; form, contents, position.
281.1093 Capacity plate; contents; formula for determining capacity; uniformity with other jurisdictions.
281.1094 Capacity plate; affixation by other than manufacturer; rules.
281.1095 Capacity plate; warranty by manufacturer; horsepower limitations.
281.1096 Capacity plate requirements; alternative compliance; authorization.

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281.1097 Exemption of unconventional vessels by rule; effective date.
281.1098 Excessive loading or power; prima facie negligence.
281.1101 Divers; placement of buoys and flag; time.
281.1111 Life saving devices; type and number required.
281.1112 Lights; time; types; placement on vessel.
281.1113 Engine exhaust mufflers; types.
281.1131 Liability of vessel owner for negligent operation; presumption of consent to use.
281.1132 Responsibility of vessel owner for damage caused by vessel wake.
281.1141 Buoys or beacons; permit for placement; application, revocation; removal.
281.1142 Buoys or beacons; uniform marking system.
281.1143 Buoys or beacons; compliance with federal law or regulations; permits.
281.1144 Buoys or beacons; use as moorings; moving, removal or damaging.
281.1145 Anchored rafts; order for removal as navigation hazard.
281.1151 Regattas; permit; authorization, rules, applications.
281.1152 Regattas; compliance with federal law; waiver of provisions of act.
281.1161 Peace officers; stopping of vessels; duty of operator; inspection and testing of equipment; arrests without warrant.
281.1162 Arrest without warrant; arraignment before magistrate; applicable offenses.
281.1163 Arrest without warrant; notice to appear; time; place; appearance; acceptance of pleas.
281.1164 Arrest without warrant; nonresidents; recognizance; receipt and summons; failure to appear; depositing moneys; embezzlement.
281.1165 Officers or magistrates; misconduct; removal; construction of statute.
281.1166 Violation of act; penalties.
281.1167 Negligent crippling or homicide; penalty.
281.1168 Felonious operation of watercraft; penalty.
281.1169 Negligent homicide included in charge of manslaughter.
281.1170 Nonresidents; secretary of state as attorney for service of summons; service; procedure; sufficiency; death, appointment of secretary as attorney, abatement of actions; costs; applicability to all courts.
281.1197 Act not to affect owner's rights under laws of United States.
281.1198 Repeals; exceptions.
281.1199 Effective date; exceptions.

281.1-281.30 Repealed. 1961, p. 211, Act 146, Imd. Eff. May 31.
Sections provided for determination and maintenance of natural height of inland lake.

281.51-281.57 Repealed. 1961, p. 211, Act 146, Imd. Eff. May 31.
Sections provided for establishment and maintenance of waters in inland lakes of this state at certain height above sea level.

Act 146, 1961, p. 206; Imd. Eff. May 31.

AN ACT to provide for the determination and maintenance of the normal height and level of the waters in inland lakes of this state, for the protection of the public health, safety and welfare and the conservation of the natural resources of this state; to authorize the building and maintenance of dams and embankments to accomplish such purposes; to authorize the acquisition of lands and other property by gift, grant, purchase or condemnation proceedings; to authorize the acceptance of gifts and grants of funds for the construction and maintenance of such dams and embankments; to authorize the raising of money by taxation and by special assessments for the purposes of this act; to prescribe the duties and powers of boards of supervisors, the conservation department of Michigan and county drain commissioners with reference hereto; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

281.61 Inland lake level; short title.

Sec. 1. This act shall be known and may be cited as the "inland lake level act of 1961".

HISTORY: New 1961, p. 206, Act 146, Imd. Eff. May 31.
CITED IN OTHER SECTIONS: Sections 281.61 to 281.86 are cited in § 281.134.

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281.62 Inland lake level; definitions.

Sec. 2. As used in this act:

(a) Normal water level of any inland lake, natural or artificial, is such a level as, considering the height above sea level, established by government surveys; the high water line as disclosed by old surveys; testimony of old inhabitants; the extent to which drainage and other artificial causes have decreased the natural ground water table of the areas; the extent to which natural causes have either decreased or increased the natural ground water table; and all other pertinent surrounding facts and circumstances, will provide the most benefit to the public and best protect the public health, welfare and safety and which will best preserve the natural resources of the state, and preserve and protect the values of properties developed around said lake as a result of the creation of the normal level.

(b) Dams mean dams, embankments, dikes, pumps, weirs, locks, gates, tubes, ditches or any other devices or construction to keep and maintain the waters in lakes at normal height and level.

(c) A public inland lake is any lake which is accessible to the public via public owned lands, waters or highways contiguous thereto, or via the bed of a navigable stream and which may be used for navigation, fishing, hunting or other lawful purpose and reasonably capable of supporting a beneficial public interest, except the Great Lakes and connecting waters.

(d) A private inland lake is any inland lake other than a public inland lake.

(e) Department means the county drain commissioner or the county road commission in counties not having a drain commissioner, and if more than 1 county is involved the combined drain commissioners or drain commissioner and road commission in counties having no drain commissioner.

(f) Interested person is any person who has a record interest in the title to, right of ingress to or reversionary right to a piece or parcel of land which would be affected by a permanent change in the natural or normal mean level of a natural or artificial public or private inland lake, and in all cases, whether having such interest or not, the Michigan department of conservation shall be an interested person.

(g) Conservation department is the state conservation department.

HISTORY: New 1961, p. 206, Act 146, Imd. Eff. May 31.

281.63 Inland lake level; petition; maintenance.

Sec. 3. The board of supervisors of any county in which the whole or any part of the waters of any inland lake is situated may upon its own motion, or shall within 90 days following receipt of a petition to the board of 2/3 of the freeholders owning lands abutting the lake, cause to be determined the normal height and level of the waters in the inland lake for the protection of the public health, welfare and safety and the conservation of the natural resources of this state, or to preserve property values around a lake. When a court determined lake level is established, the board of supervisors of the county or counties in which the waters are situated shall proceed with the necessary steps to construct or maintain, or both, sufficient dams to keep and maintain the water in the lake at its normal height and level. The board may drill wells to supply a lake with additional water in order to raise the level thereof or pump water from some other source, or in case it is necessary to lower the level thereof may arrange for the pumping of water from the lake.

HISTORY: New 1961, p. 207, Act 146, Imd. Eff. May 31;—Am. 1962, p. 20, Act 25, Eff. Mar. 28, 1963;—Am. 1969, p. 353, Act 175, Eff. Mar. 20, 1970.

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281.64 Deposit for preliminary costs.

Sec. 4. The board of supervisors, by resolution, may require a cash deposit sufficient to cover the preliminary costs when a petition is received from freeholders before further proceedings are undertaken pursuant to the petition.

HISTORY: New 1961, p. 207, Act 146, Imd. Eff. May 31.

281.65 Determination of expediency; financing; multicounty lake.

Sec. 5. Whenever the board of supervisors of any county deems it expedient to have determined and established the normal height and level of the waters in any inland lake, natural or artificial, situated in the county, the board, by resolution, shall determine the expediency of and the method of financing the initial costs and maintenance of any project at a regular or special meeting, and direct the department to establish a special assessment district if required.

The board shall also direct the prosecuting attorney of the county to institute by proper petition in the circuit court of the county a proceeding for determination.

When the waters of any inland lake are situated in 2 or more counties, the normal height and level of the waters of such lakes may be determined in the same manner if the boards of supervisors of all counties involved determine it to be expedient and by resolution may direct the department and prosecuting attorney of 1 or more counties to institute proceedings.

HISTORY: New 1961, p. 207, Act 146, Imd. Eff. May 31;—Am. 1962, p. 20, Act 25, Eff. Mar. 28, 1963;—Am. 1969, p. 354, Act 175, Eff. Mar. 20, 1970.

281.66 Special assessment bonds; lake level orders, procedure.

Sec. 6. The special assessment district may issue bonds or lake level orders in anticipation of special assessments. All proceedings relating to the making, levying and collection of special assessments herein authorized and the issuance of bonds or lake level orders in anticipation of the collection thereof shall conform as near as may be to the proceedings for levying special assessments and issuing special assessment bonds or lake level orders as set forth in Act No. 40 of the Public Acts of 1956, as amended, being sections 280.1 to 280.623 of the Compiled Laws of 1948.

HISTORY: New 1961, p. 208, Act 146, Imd. Eff. May 31.

281.67 Tax anticipation notes; issuance.

Sec. 7. The special assessment district may issue tax anticipation notes subject to the provisions of Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2 of the Compiled Laws of 1948.

HISTORY: New 1961, p. 208, Act 146, Imd. Eff. May 31.

281.68 Institution of proceedings by director of conservation.

Sec. 8. If the conservation department deems it expedient to have the normal height and level of any inland lake determined, the conservation commission shall by resolution authorize the director to institute by proper petition on behalf of the state, in the circuit court of any county in which the lake or any part is situated, a proceeding for determination. The conservation department may likewise join with the board of supervisors of any counties of the state in instituting proceedings for determination as set forth in this act.

HISTORY: New 1961, p. 208, Act 146, Imd. Eff. May 31.

281.69 Special assessment district; establishment.

Sec. 9. The department, when instructed by resolution of the board of supervisors, shall establish a special assessment district including therein all parcels of land and political subdivisions and each parcel of land owned by the department of natural resources which are benefited by the establishment of a lake level. The board of supervisors may delegate to the department such other ministerial duties including

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preparation, assembling and computation of statistical data for use by the board and the superintending, construction and maintenance of any project under this act.

HISTORY: New 1961, p. 208, Act 146, Imd. Eff. May 31;—Am. 1962, p. 20, Act 25, Eff. Mar. 28, 1963;—Am. 1969, p. 354, Act 175, Eff. Mar. 20, 1970.

281.70 Hearing; notice, service; determination of lake level.

Sec. 10. Upon receipt of petitions filed under this act the court shall fix a day of hearing, shall direct the prosecuting attorney or the department of natural resources to give notice thereof by publication in 1 or more newspapers of general circulation in the county, and if the waters of the inland lake are situated in 2 or more counties, in 1 or more newspapers in general circulation in each of the counties in which the lake or any part thereof is situated. The notice shall be published at least once each week for 6 successive weeks prior to the date fixed for the hearing. The court shall direct that copies of the published notice of hearing shall be served by certified mail at least 3 weeks prior to the date set for hearing to each person whose name appears upon the latest city or township tax assessment roll as owning lands within the special assessment district, at the address shown on the roll. If no address appears thereon then no notice need be mailed to the person. The department shall make an affidavit of mailing. The failure to receive any notice properly mailed shall not constitute a jurisdictional defect invalidating proceedings under this act. The prosecuting attorney shall also serve notice on the department of natural resources.

The court shall hear proofs and allegations of all parties interested. The court shall determine the level to be established and maintained and shall have continuing jurisdiction and may provide for departure from the normal level as may be necessary to accomplish the purposes of this act. The court shall confirm the special assessment district boundaries within 60 days following the lake level determination.

HISTORY: New 1961, p. 208, Act 146, Imd. Eff. May 31;—Am. 1969, p. 354, Act 175, Eff. Mar. 20, 1970.

281.71 Gifts; purchase or condemnation by board of supervisors; dam in adjoining county.

Sec. 11. The board of supervisors of any county in which the whole or any portion of the waters of any inland lake are situated may acquire in the name of the county, by gift, grant, purchase or by condemnation proceedings any existing dam which may affect the level of the waters in the lake and any or all sites for dams or interests and rights in land needed or convenient in order to carry out the purposes of this act, and may proceed to construct and maintain any dam that may be determined by the board to be necessary for the purpose of maintaining the normal height and level of the waters of any lake as provided in section 3. A dam may be constructed and maintained in a county next adjoining the county in which the lake or part thereof is located.

HISTORY: New 1961, p. 209, Act 146, Imd. Eff. May 31.

281.72 Gifts; purchase or condemnation by department of conservation; construction of dam.

Sec. 12. The conservation department may acquire in the name of the state by gift, grant, purchase or by condemnation proceedings any existing dam which may affect the level of the waters in any inland lake, and may acquire by such means any or all sites for dams and rights in land needed or convenient in order to carry out the purpose of this act and may proceed to construct and maintain any dam that may be determined by the commission to be necessary for the purpose of maintaining the normal height and level of any inland lake.

HISTORY: New 1961, p. 209, Act 146, Imd. Eff. May 31.

281.73 Dams in navigable streams.

Sec. 13. Nothing herein contained shall be construed to alter, limit, abridge or amend the provisions of law applicable to the location, construction and maintenance

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of dams in navigable streams or provide for the determination, establishment or maintenance of the level of waters impounded by such dams.

HISTORY: New 1961, p. 209, Act 146, Imd. Eff. May 31;—Am. 1969, p. 354, Act 175, Eff. Mar. 20, 1970.

281.74 Condemnation of private property.

Sec. 14. The board of supervisors of any county in this state or the conservation department, within the limitations of the state constitution, may take private property for the uses or purposes specified in this act and to institute and prosecute proceedings for that purpose.

HISTORY: New 1961, p. 209, Act 146, Imd. Eff. May 31.

281.75 Condemnation procedure.

Sec. 15. Whenever the conservation department or the board of supervisors of any county in the state determines by proper resolution that it is necessary to condemn private property for the purpose of this act the condemnation proceedings shall be commenced and conducted in accordance with the provisions of law applicable to the taking of private property for highway purposes by the state, or chapter 20 or chapter 21 of Act No. 40 of the Public Acts of 1956, as amended, being section 280.461 to section 280.538, inclusive, of the Compiled Laws of 1948.

HISTORY: New 1961, p. 209, Act 146, Imd. Eff. May 31.

281.76 Gifts; grants in aid to board of supervisors, apportionment.

Sec. 16. The board of supervisors of any county of this state in which is situated, wholly or in part, the waters of any inland lake may receive and accept in the name of the county, gifts or grants in aid, for the purpose of carrying out the provisions of this act, from persons and from other governmental units. If the waters of the inland lake are situated in 2 or more counties, gifts and grants in aid shall be apportioned to the respective counties as the facts may require and as determined by the donor or grantor.

HISTORY: New 1961, p. 209, Act 146, Imd. Eff. May 31.

281.76a Federal participation contracts; private contracts; approval by conservation department.

Sec. 16a. The board of supervisors of any county or counties in which the whole or any portion of any inland lake is situated may contract or make agreement with the federal government, or any agency thereof, in connection with a project for the maintenance of the normal lake level, whereby the federal government will pay the whole or any part of the cost of the project or will perform the whole or any part of the work connected therewith. The contract or agreement may include any specific terms required by act of congress or federal regulation as a condition for participation on the part of the federal government. The contract or agreement may provide that any payments made or work done by the public corporation shall relieve it in whole or in part from assessment for the cost of the project. The board of supervisors of any county or counties may contract or make agreement with any private corporation or with any public corporation, or any agency thereof, in respect to any matter connected with the construction or maintenance of such a project. The conservation department shall approve all contracts and agreements before being executed and copies of all plans and specifications shall be filed with and maintained by the conservation department as public records. No such contract or agreement, or anything in consequence thereof, shall in any manner limit any lawful public use of an inland lake, or infringe upon or invade the state's public trust therein.

HISTORY: Add. 1964, p. 38, Act 33, Imd. Eff. May 4.

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281.77 Gifts; grants in aid to department of conservation.

Sec. 17. The conservation department in carrying out the purposes of this act may receive and accept, on behalf of the state, gifts and grants in aid from persons and other governmental units.

HISTORY: New 1961, p. 210, Act 146, Imd. Eff. May 31.

281.78 Plans and specifications; bids, work relief project.

Sec. 18. Whenever the board of supervisors causes to be constructed and maintained a dam as may have been determined to be necessary, plans and specifications therefor shall be prepared by a registered engineer under the direction of the board and bids may be advertised for the doing of the work in such manner as the board shall direct by resolution. The contract shall be let to the lowest responsible bidder giving adequate security for the performance of his contract but the board may reserve the right to reject any and all bids. The board may erect and maintain a dam as a work relief project in accordance with the provisions of the law applicable thereto.

HISTORY: New 1961, p. 210, Act 146, Imd. Eff. May 31.

281.79 Expenses; special assessment.

Sec. 19. The expense of determining the normal height and water level of any public inland lake, the expense of constructing and maintaining any dam, together with the cost and expense of acquiring lands and other property by condemnation necessary thereto, may be assessed, levied and collected upon the taxable property within the special assessment district.

HISTORY: New 1961, p. 210, Act 146, Imd. Eff. May 31;—Am. 1969, p. 355, Act 175, Eff. Mar. 20, 1970.

281.80 Computation of entire cost; items included.

Sec. 20. Within 10 days after the letting of contracts, or in case of an appeal, then forthwith after the appeal has been decided the department shall make a computation of the entire cost of a project under this act, which shall include (1) all the expense of laying out and designating the special assessment districts, which item of expense shall include the entire cost of the survey; (2) the expense of locating, establishing and constructing of any dam or embankments; (3) the fees and expenses of special commissioners; (4) the compensation to be paid the board of review; (5) the cost of construction of bridges and culverts; (6) the contracts for the construction of a dam, or other work to be done on the project; (7) the estimated cost of an appeal if the apportionment made by the department is not sustained; (8) the estimated cost of inspection; (9) the cost of publishing all notices required; (10) all costs of the circuit court; (11) attorney fees for legal services in connection with the project; and (12) interest on bonds for the first year, if bonds are to be issued. The department may add not less than 10% nor more than 15% of the gross sum to cover contingent expenses, and the entire sum so ascertained shall be deemed to be the cost of the project to establish a lake level.

HISTORY: New 1961, p. 210, Act 146, Imd. Eff. May 31.

281.81 Public lake, fish ladders.

Sec. 21. If the lake is a public lake, the department of natural resources may join with any board of supervisors in the proceedings thereafter taken and may intervene for the protection and conservation of the natural resources of the state. The department of natural resources may require the installation of fish ladders or other devices to permit the free passage of fish.

HISTORY: New 1961, p. 210, Act 146, Imd. Eff. May 31;—Am. 1969, p. 355, Act 175, Eff. Mar. 20, 1970.

281.82 Unauthorized change of level; penalty.

Sec. 22. Any unauthorized person who changes the level of any lake, the level of which has been established under the provisions of this act, is guilty of a misdemeanor

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and may be fined not to exceed $1,000.00 or imprisoned not to exceed 1 year in the county jail, or both.

HISTORY: New 1961, p. 211, Act 146, Eff. May 31, 1961.

281.83 Artificial lakes.

Sec. 23. No normal water level shall be established under this act for an artificial lake created for the purpose of providing a reservoir for a municipal water supply system unless petitioned for by the governing body of the municipality.

HISTORY: New 1961, p. 211, Act 146, Eff. May 31, 1961.

281.84 Inspection; report; repairs; penalty; costs.

Sec. 24. (1) The department of each county shall cause an inspection to be made of each control structure on all inland lakes, natural or artificial, within the county which have a normal level established under this act or any previous act governing lake levels by a registered professional engineer every 3 years from the date of completion of new dams. An inspection report shall be submitted promptly to the director of the department of natural resources in such form and manner as he may prescribe. If the report discloses any need for repairs or any change in condition of the dam that relates to its safety, the department, after inspection, may require the department of the county either to make necessary repairs within 6 months following the inspection or to remove the dam if public safety is endangered.

(2) Any person failing to comply with any of the foregoing provisions, or falsely representing dam conditions is guilty of misconduct in office.

(3) Whenever inspection discloses the necessity, the department without petition may expend an amount not to exceed $1,500.00 for maintenance and repair of each lake level project. If the funds of the department are not sufficient to meet this expenditure the department shall charge the special assessment district therefor according to benefits received.

HISTORY: New 1961, p. 211, Act 146, Eff. May 31, 1961;—Am. 1969, p. 353, Act 175, Eff. Mar. 20, 1970.

281.85, 281.85a Repealed. 1969, p. 355, Act 175, Eff. Mar. 20, 1970.

Sections related to procedures for repairs, maintenance, relocating, or altering of lake level projects in excess of $500.00 and for obtaining permit to construct artificial lake of more than 5 acres or to substantially alter any existing waterway.

281.86 Repeal.

Sec. 26. Act No. 377 of the Public Acts of 1921, being sections 281.1 to 281.30 of the Compiled Laws of 1948, Act No. 39 of the Public Acts of 1937, being sections 281.51 to 281.57 of the Compiled Laws of 1948, Act No. 194 of the Public Acts of 1939, as amended, being sections 281.101 to 281.121 of the Compiled Laws of 1948, Act No. 319 of the Public Acts of 1941, being sections 281.151 to 281.157 of the Compiled Laws of 1948 and Act No. 276 of the Public Acts of 1945, as amended, being sections 281.201 to 281.227 of the Compiled Laws of 1948, are hereby repealed, except that actions and petitions to establish and maintain an inland lake level now in process may be concluded under those acts or commenced under this act.

HISTORY: New 1961, p. 211, Act 146, Imd. Eff. May 31.

281.101-281.121 Repealed. 1961, p. 211, Act 146, Imd. Eff. May 31.

Sections provided for determination and maintenance of normal height and level of waters in inland lakes of state.

Act 184, 1963, p. 272; Eff. Sep. 6.

AN ACT to require approval of the department of natural resources before erection of dams; to provide fees for granting approval; and to provide a penalty for failure to comply with the provisions of this act and the rules adopted thereunder. Am. 1970, p. 156, Act 68, Eff. Apr. 1, 1971.

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The People of the State of Michigan enact:

281.131 Dams; permits for construction.

Sec. 1. No person shall construct or permit construction of any dam on land owned by him impounding more than 5 acres or with a head of 5 or more feet without first obtaining a permit approving the plans for such construction from the department of natural resources.

HISTORY: New 1963, p. 272, Act 184, Eff. Sep. 6;—Am. 1970, p. 156, Act 68, Eff. Apr. 1, 1971.
CITED IN OTHER SECTIONS: Sections 281.131 to 281.135 are cited in § 46.22.

281.132 Dams; submission of plans; inspection of construction; fees for permit, underspill; permit for repair or reconstruction.

Sec. 2. (1) The department shall require the submission of detailed plans prepared by a registered professional engineer, the proper clearing of the land to be flooded and provisions for an adequate water supply and water depths before issuing a permit approving construction of a dam. The department may inspect the dam during construction and after completion, and may inspect a dam constructed or enlarged after the effective date of this 1969 amendatory act at any time and require the owner either to make the necessary repairs or to remove the dam if the public safety is endangered.

(2) Any person making application for a permit shall pay to the department the following fees: No fee for dams with a head less than 5 feet; $200.00 for a dam with a head of 5 feet but less than 8 feet in height; $400.00 for a dam with a head of 8 feet but less than 20 feet in height; and $600.00 for a dam with a head of 20 feet or more in height. The fees shall be deposited to the credit of the fish and game protection fund to defray the cost of reviewing plans and specifications and field inspections during and after construction. "Head of a dam" means the difference in nearest 1/20 foot between pond head waters and downstream tail water.

(3) The director of the department of natural resources may require that a dam with a head of 10 feet or more shall be equipped with an underspill device that will discharge water from the lake bottom.

(4) A permit shall be required for repair or reconstruction where the previously existing dam failed for whatever reason.

(5) A delay of 1 year or more in commencing construction after issuance of a permit shall require application for formal extension of the permit.

HISTORY: New 1963, p. 272, Act 184, Eff. Sep. 6;—Am. 1970, p. 156, Act 68, Eff. Apr. 1, 1971.

281.132a Lake level; establishment; special assessment district.

Sec. 2a. Prior to 60 days following construction of any impoundment created by a dam authorized by this act with a head of 5 feet or over, or impounding 5 or more acres, the permittee, subject to the provisions of Act No. 146 of the Public Acts of 1961, as amended, being sections 281.61 to 281.86 of the Compiled Laws of 1948, shall petition the county board of supervisors for a court-established lake level and establishment of a special assessment district for future maintenance of the lake level. The permittee shall record the court order establishing the lake level with the register of deeds, and advise the department of natural resources in writing of such compliance.

HISTORY: Add. 1970, p. 156, Act 68, Eff. Apr. 1, 1971.

281.132b Permit; issuance; conditions.

Sec. 2b. A permit may be issued if, in the opinion of the director of the department of natural resources, the presence of an impoundment will not have a significant adverse effect on fish, wildlife or recreational values in the watershed or infringe on the public rights in the waters of the state.

HISTORY: Add. 1970, p. 157, Act 68, Eff. Apr. 1, 1971.

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281.132c Hazardous condition of existing dam; report, repairs.

Sec. 2c. When, in the opinion of the department, a hazardous condition may exist in the structure of an existing dam, the department may require the owner of the dam to submit a report prepared by a registered professional engineer to the department on the condition of the dam. The report shall include statements as to whether leakage is present, whether there are any signs of disintegration or erosion of the material of the dam or the abutments or of the foundation, and shall also include statements of any other changes in the condition of the dam that relate to its safety. After an inspection, the department may require the owner to make necessary repairs or to remove the dam if the public safety is endangered.

HISTORY: Add. 1970, p. 157, Act 68, Eff. Apr. 1, 1971.

281.133 Rules governing construction; permit cancellation, grounds.

Sec. 3. The department of natural resources is authorized to promulgate rules in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948, governing standards and methods of construction and materials used so as to insure the structural soundness of any dam. The department may cancel any permit issued by it upon failure of the permittee to comply with its conditions or with the approved plan of construction.

HISTORY: New, 1963, p. 273, Act 184, Eff. Sep. 6;—Am. 1970, p. 157, Act 68, Eff. Apr. 1, 1971.

281.134 Board of supervisors; rights as to construction of dams.

Sec. 4. Nothing contained in this act shall abridge the rights of the boards of supervisors of the several counties to approve the construction of any dam as is provided in Act No. 156 of the Public Acts of 1851, as amended, being sections 46.21 and 46.22 of the Compiled Laws of 1948, and in Act No. 146 of the Public Acts of 1961, as amended, being sections 281.61 to 281.86 of the Compiled Laws of 1948, or under such other restrictions as any board of supervisors may lawfully impose.

HISTORY: New 1963, p. 273, Act 184, Eff. Sep. 6.

281.135 Construction without permit; violation of act; penalty.

Sec. 5. Any person who constructs, or permits to be constructed upon his land, a dam without first obtaining a permit as provided in this act, or violates any provision of this act or lawful rule adopted thereunder, is guilty of a misdemeanor.

HISTORY: New, 1963, p. 273, Act 184, Eff. Sep. 6;—Am. 1970, p. 157, Act 68, Eff. Apr. 1, 1971.

281.151-281.157 Repealed. 1961, p. 211, Act 146, Imd. Eff. May 31.

Sections provided for establishment and maintenance of normal height and level of waters in certain inland lakes.

281.201-281.227 Repealed. 1961, p. 211, Act 146, Imd. Eff. May 31.

Sections defined private and public inland lakes and provided for establishment of levels thereof.

Act 20, 1964, p. 23; Imd. Eff. Apr. 29.

AN ACT to regulate the impoundment and utilization of surplus water; to prescribe the powers and duties of the water resources commission and the several boards of supervisors; and to provide penalties for the violation of this act.

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The People of the State of Michigan enact:

281.301 Surplus water act of 1964; short title.

Sec. 1. This act shall be known and may be cited as the "surplus waters act of 1964".

HISTORY: New 1964, p. 23, Act 20, Imd. Eff. Apr. 29.

281.302 Surplus water act; definitions.

Sec. 2. As used in this act:

(a) "Board" means the county board of supervisors.

(b) "Commission" means the water resources commission.

(c) "Dams" means dams, embankments, dikes, pumps, weirs, locks, gates, tubes, ditches or any other devices or construction to impound or release water.

(d) "Optimum flow" means that rate and quantity of flow in any stream as determined in accordance with the provisions of this act.

(e) "Local unit" means any city, village, township, or soil conservation district acting through its governing body.

(f) "Surplus water" means that water which may be impounded without decreasing the flow of a river or stream below its optimum flow.

(g) "Plan" means a plan adopted by the board or boards and approved by an order of the commission for the best development, utilization and conservation of the surplus water of the state.

HISTORY: New 1964, p. 23, Act 20, Imd. Eff. Apr. 29.

281.303 Request for surveys; reports.

Sec. 3. Any board or group of boards or local unit or units acting singly or in concert may request the commission to undertake a survey of the water in a river basin or watershed located or partially located in such county or counties or in local unit or units of government to determine whether there is surplus water which may be available and if so, how it may be best impounded, utilized and conserved. All studies, surveys and reports made by public and other competent authorities may be utilized by the commission in making such determinations.

HISTORY: New 1964, p. 23, Act 20, Imd. Eff. Apr. 29.

281.304 Request for surveys; involvement of other boards.

Sec. 4. If it appears to the commission, after a review of the request, that a feasible plan for the impoundment, utilization and conservation of surplus water will involve the water in counties or local units other than those making the request, the commission shall so inform the requestors. If the request were originally made by a local unit only, the board of the county in which the local unit is situated shall be informed of such decision by the commission; and unless the board joins in the request and becomes an originator of the request the commission shall discontinue any further work on the survey. The requesting board may then request the other boards to join in the request so that a complete survey of the surplus water located in all affected counties may be made. Refusal on the part of any of the other boards to join in the request shall be reported to the commission, and if the commission believes that the plan can be effectuated without the cooperation of the refusing boards, it shall enter a decision to that effect in its minutes and the boards requesting the survey may proceed in accordance with the provisions of this act.

HISTORY: New 1964, p. 23, Act 20, Imd. Eff. Apr. 29.

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281.305 Request for surveys; determination of optimum flow; plan for improvement, utilization and conservation of surplus water; factors; limitations.

Sec. 5. (1) Upon receipt of a request, the commission shall determine the optimum flow for such rivers and streams which may be substantially affected by the impounding and releasing of surplus water and upon its completion shall require the boards to prepare and submit to the commission a plan for the impoundment, best utilization and conservation of the surplus water in accordance with the purposes of this act. The commission shall cooperate and collaborate with the boards in preparation of the plan. The plan shall specify the persons who may make use of the water and the terms, conditions and restrictions under which the water may be used.

(2) In making the determination of optimum flow and in preparing the plan the commission and boards shall consider the following factors:

(a) The range of stream flow variation.

(b) The uses that are being made of the water from the stream or which may be made in the foreseeable future by any riparian owner.

(c) The stream's waste assimilation capacity, and its practical utility for domestic use, fish and wildlife habitat, recreation, municipal and industrial water supply, commercial and recreational navigation, including portages, public and private utilities and water storage purposes.

(d) Such other factors which appear to the commission necessary adequately to protect and preserve the rights of riparians on the streams involved.

(3) No plan shall permit the impounding of water when the flow is below the optimum flow. This act shall not be construed to authorize the diversion of water from one watershed to another.

HISTORY: New 1964, p. 24, Act 20, Imd. Eff. Apr. 29.

281.306 Public hearing; determination of optimum flow; notices.

Sec. 6. (1) Before making a determination of optimum flow, the commission shall hold a public hearing thereon. The commission shall fix the time and place for the public hearing and shall publish notice thereof. The hearing shall be held not less than 180 days after the date of the first publication. The notice shall be published once during each of 2 separate weeks in at least 1 newspaper of general circulation in each county which requested the survey or later joined therein. Notice shall be given by first class mail to each owner or party in interest of upper and lower riparian property which will be affected by the aforesaid determination and whose name appears upon the most recent local tax assessment records. The notice shall be mailed at least 60 days prior to the date of the hearing at the address shown on the tax records. At the hearing any interested person may appear, present witnesses, and submit evidence.

Order making determination of optimum flow; finality, review, parties.

(2) Upon the completion of the hearing, the commission, if it believes it to be in the furtherance of the public interest, shall enter an order making a determination of optimum flow. The order shall become final 30 days after the mailing of a copy of it by certified mail to those interested persons who appeared and testified or filed a written statement at the hearing. The order shall be subject to review as to questions of law only by a writ of superintending control in an action in the nature of certiorari brought before the order becomes final. Only an owner or party in interest of upper or lower riparian property affected by the order who appeared, testified, or filed a written statement at the hearing, considering himself aggrieved by the order, shall have the right to file a petition for a writ of superintending control in the nature of certiorari in the circuit court for the county of Ingham or in the circuit court for any county which requested the survey or joined therein.

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Public hearing, proposed plan, notices, review, order of approval.

(3) After the order of determination has become final, the commission shall hold a public hearing on the proposed plan as submitted by the board. The commission shall fix the time and place for the public hearing and shall publish notice in the manner provided in subsection (1). The hearing shall be held not less than 30 days after the date of the first publication. Notice shall be given by first class mail to such persons and in such manner as is provided in subsection (1) and shall be mailed at least 30 days prior to the date of the hearing. At the hearing, any interested person may appear, present witnesses and submit evidence. If the commission finds that the proposed plan is in the public interest and in compliance with the provisions of this act, it shall enter an order approving the plan. The order shall become final 30 days after the mailing of a copy of it by certified mail to those interested persons who appeared and testified or filed a written statement at the hearing. The order shall be subject to review as is provided in subsection (2).

HISTORY: New 1964, p. 24, Act 20, Imd. Eff. Apr. 29.

281.307 Transmission of plans to boards; adoption, dams, supervision.

Sec. 7. (1) When the order has become final, the commission shall transmit the plan to all the boards involved and if adopted by them, the boards may construct, operate and maintain, either singly or jointly, the dams necessary to impound the surplus waters and to make use or disposition of the surplus water in accordance with the plan. The commission shall maintain supervision over the execution of the plan to the extent it considers necessary for the purpose of protecting the public interest of the state.

Contracts; responsibility for construction.

(2) For the carrying out and effectuation of the plan, the boards, either singly or jointly, may establish such governmental agency or commission as may be necessary, may hire such employees or assistants as may be required and may enter into such contracts with each other and any person as may be necessary to carry out the purposes of this act. The boards constructing, maintaining or operating the dams shall be responsible for the proper construction, maintenance and operation of the dams, and they shall be in full and complete charge thereof and of the impoundments created thereby.

HISTORY: New 1964, p. 25, Act 20, Imd. Eff. Apr. 29.

281.308 Gifts; exchange, condemnation by boards; restrictions on financing.

Sec. 8. For the purpose of carrying out the provisions of this act, the boards may receive and accept in the name of the county gifts and grants of land and other property and grants in aid from persons, corporations, the federal government, and any state or federal governmental unit, and may buy, sell, exchange or condemn land and other property or property interests, including the rights of riparian owners to surplus waters, in any county where the land and property may be located. The commission, if direct acceptance by the boards is not possible, may accept the gifts or grants on their behalf. The boards shall not use any moneys of the county for the purpose of carrying out the terms and provisions of this act but shall finance the construction, operation and maintenance of the dams wholly and solely from such gifts or grants in aid that may be received and from such fees and charges as may be made for the use of the surplus water.

HISTORY: New 1964, p. 25, Act 20, Imd. Eff. Apr. 29.

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281.309 Commission; gifts, grants in aid.

Sec. 9. The commission in carrying out the purposes of this act may receive and accept, on behalf of the state, gifts and grants in aid from the federal government, persons, corporations and other governmental units.

HISTORY: New 1964, p. 26, Act 20, Imd. Eff. Apr. 29.

281.310 Use of increased flowage; waste assimilation; rates for usage.

Sec. 10. All increased flowage resulting from operation of a plan shall be available for nonconsumptive use to all riparians. No person shall utilize for waste assimilation, or divert from the stream any surplus water created by release from dams operated under the provisions of this act except in accordance with the plan. The amount of surplus water released from any impoundment shall be determined by the commission by the use of well recognized engineering computations. The boards may charge users of the surplus water for waste assimilation or consumptive use, except those making an incidental, noncommercial or recreational use, a reasonable fee or rate for the quantity of water or for the benefits they receive. Those users who contribute to the construction, maintenance or operation of the dams may be charged a reduced fee or no fee, but the fees and rates charged by the boards shall be sufficient at all times to defray all costs, expenses and other financial burdens assumed by the boards in the construction, maintenance and operation of the dams.

HISTORY: New 1964, p. 26, Act 20, Imd. Eff. Apr. 29.

281.311 Commission; authority; permits for iron ore beneficiation.

Sec. 11. Nothing in this act shall be construed so as to abridge the authority of the commission as it presently exists. Permits granted by the commission in accordance with Act No. 143 of the Public Acts of 1959, being sections 323.251 to 323.258 of the Compiled Laws of 1948, shall not be affected by this act. The granting of future permits under Act No. 143 of the Public Acts of 1959 shall proceed without regard to anything contained in this act.

HISTORY: New 1964, p. 26, Act 20, Imd. Eff. Apr. 29.

281.312 Surplus water act of 1964; rules and regulations.

Sec. 12. The commission shall make rules and regulations in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: New 1964, p. 26, Act 20, Imd. Eff. Apr. 29.

281.313 Redetermination of optimum flow; modification of plan.

Sec. 13. After a determination or plan has been in effect for 5 years, any riparian owner may petition the commission for a redetermination of the optimum flow or modification of the plan and upon a showing of substantial changes in conditions, the commission shall hold hearings as provided in section 6 and may redetermine the optimum flow or modify the plan.

HISTORY: New 1964, p. 26, Act 20, Imd. Eff. Apr. 29.

281.314 Violation of act; penalty.

Sec. 14. Any person knowingly violating any of the provisions of this act, or any rule or regulation promulgated by the commission, or any written order of the commission in pursuance thereof, is guilty of a misdemeanor.

HISTORY: New 1964, p. 26, Act 20, Imd. Eff. Apr. 29.

281.315 Nonapplication of act to river management districts.

Sec. 15. This act shall not apply within the boundaries of any river management district created under the local river management act.

HISTORY: New 1964, p. 26, Act 20, Imd. Eff. Apr. 29.

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Act 320, 1947, p. 533; Imd. Eff. Jul. 1.

AN ACT to create the Michigan state waterways commission, and to prescribe its powers and duties; to provide for the acquisition, construction and maintenance of harbors and channels, and to provide for the granting of concessions; to prescribe the powers and duties of the state and the several political subdivisions thereof; to impose a specific tax on fuel sold or used in producing or generating power for propelling vessels on the navigable waters lying within the boundaries of this state, and to provide for the disposition thereof; to provide for the regulation and control of boating within the boundaries of this state; to provide for state participation in certain federal programs; and to make an appropriation to carry out the provisions of this act.

The People of the State of Michigan enact:

281.501 Waterways commission; definition.

Sec. 1. As used in this act:

(a) "Commission" means the Michigan state waterways commission.

(b) "Director" means the administrative director of the commission.

(c) "Waterway" means any body of water of whatever size, whether of natural or artificial origin.

(d) "Navigable water" means any waterway now navigable in fact by vessels, or capable of being made navigable by vessels through artificial improvements, and shall include the structures and facilities created to facilitate navigation.

(e) "Harbor" means a portion of a lake or other body of water either naturally or artificially protected so as to be a place of safety for vessels, including the artificially protective works, the public lands ashore and the structures and facilities provided within the enclosed body of water and ashore for the mooring and servicing of vessels and the servicing of their crews and passengers.

(f) "Person" includes any individual, firm, partnership, corporation, company, association, joint stock association or body politic, except the United States and this state, and includes any trustee, receiver, assignee or other similar representative thereof.

(g) "Watercraft" means any contrivance now known or hereafter invented, used or designed for navigation on water, including but not limited to any vessel, ship, boat, motor vessel, steam vessel, vessel operated by machinery, motorboat, sailboat, barge, scow, tugboat and rowboat, except watercraft used or owned by the United States.

(h) "Vessel" means all watercraft except:

(1) Watercraft used for commercial fishing;

(2) Watercraft used by the Sea Scout department of the Boy Scouts of America chiefly for training scouts in seamanship;

(3) Watercraft owned by this state or any political subdivision of this state or by the federal government; and

(4) Watercraft, when used in interstate or foreign commerce, and watercraft used or owned by any railroad company or railroad car ferry company.

(5) Watercraft, when used in trade, including watercraft when used in connection with an activity which constitutes a person's chief business or means of livelihood.

(i) "Gasoline" means gasoline, casing head or natural gasoline, benzole, benzine and naphtha; also, any liquid prepared, advertised, offered for sale, sold for use as, or used for, the generation of power for the propulsion of motor vehicles or watercraft, including any product obtained by blending together any one or more products of petroleum, with or without other products, and regardless of the original character of the petroleum products so blended, if the resultant product so obtained is capable of use

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for the generation of power for the propulsion of motor vehicles or watercraft, it being the intention that the blending of such products, regardless of their name or characteristics, shall conclusively be presumed to produce motor fuel, unless such resultant product be entirely incapable for use as such. The term shall not include diesel fuel or commercial or industrial naphthas or solvents manufactured, imported, received, stored, distributed, sold or used exclusively for purposes other than as a fuel for motor vehicles or watercraft.

(j) "Secretary of state" means the secretary of state of this state, acting directly or through his duly authorized deputy, investigators, agents and employees.

(k) "Retail fuel dealer" includes any person or persons, both private and municipal, who engage in the business of selling or distributing fuel within the state.

HISTORY: CL 1948, 281.501;—Am. 1948, p. 25, Act 16, Imd. Eff. April 29;—Am. 1959, p. 346, Act 237, Imd. Eff. Aug. 12;—Am. 1960, p. 45, Act 56, Imd. Eff. Apr. 20.

CITED IN OTHER SECTIONS: Sections 281.501 to 281.511 are cited in § 205.42.

281.502 Waterways commission; members, appointment, oath, expenses, removal; rules; chairman, term; quorum; reports; offices.

Sec. 2. There is hereby created and established a state commission to be known and designated as the Michigan state waterways commission. The commission shall consist of 5 members, who shall be appointed by the governor, with the advice and consent of the senate. Members shall qualify by taking and filing the constitutional oath of office. No member of the commission shall receive any salary for his services as a commissioner, but may be reimbursed for actual and necessary expenses incurred in performance of official duties. The members of the commission may be removed by the governor for inefficiency, neglect of duty, misuse of office, or malfeasance in office, in the manner provided by law for the removal of other public officers for like causes. Vacancies shall be filled for the unexpired term in like manner as original appointments. The commission shall, immediately upon its appointment, organize, adopt a seal, and make, amend and revise such rules and regulations as shall be necessary in the administration of this act. The commission at such organization meeting shall elect from its members a chairman and vice chairman to serve for 1 year and annually thereafter shall elect such officers, each to serve until his successor is appointed and qualified. No action shall be taken by the commission by less than a majority of its members. On or before the fifteenth day of January each year in which a regular session of the legislature is held the commission shall make to the governor a report covering the operations of the commission for the preceding biennial period, and shall make such special reports as shall be requested by the governor. It shall be the duty of the board of state auditors to provide suitable offices and equipment for the use of the commission.

HISTORY: CL 1948, 281.502.

CITED IN OTHER SECTIONS: The above section is cited in § 16.358.

281.503 Waterways commission; director, appointment, qualifications, term, compensation, duties, assistants, salaries, expenses.

Sec. 3. There is hereby established the office of administrative director of the commission. The director qualified by a record of experience in connection with boating shall be appointed by the commission to serve for an indefinite term, during his efficient, honest and businesslike execution of his duties. He shall receive such compensation as the commission may determine, not in excess of $8,400.00, and shall be reimbursed for all traveling and other expenses incurred by him in the discharge of his official duties. The director shall be charged with the administration of this act in accordance with the policies established by the commission. The director, subject to the approval of the commission, is hereby authorized to employ such assistants, and to make such expenditures as may be necessary in carrying out the provisions of this act. The salaries of all employees, and the necessary expenses while traveling in perform-

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ing any of their duties, shall be paid in the same manner as the salaries and expenses of other state employees are paid.

HISTORY: CL 1948, 281.503;—Am. 1955, p. 315, Act 212, Eff. Oct. 14.

281.504 Waterways commission; powers and duties.

Sec. 4. The commission shall have and be vested with the following powers and duties:

(a) To acquire, construct, and maintain harbors, channels, and facilities for vessels in the navigable waters lying within the boundaries of the state of Michigan.

(b) To acquire, by purchase, lease, gift or condemnation such lands, rights of way and easements necessary for harbors and channels; and the commission shall be considered a state agency under the provisions of Act No. 149 of the Public Acts of 1911, relative to condemnation by state agencies.

(c) To acquire, by purchase, lease, gift or condemnation suitable areas on shore for disposal of the material from dredging.

(d) To enter into any contracts or agreements that may be necessary in carrying out the provisions of this act, including agreements to hold and save the United States free from damages due to the construction and maintenance by the United States of such works as the United States shall undertake.

(e) To provide for the granting of concessions within the boundaries of harbors, so as to furnish the public gas, oil, food and other facilities.

(f) To represent the state of Michigan and the governor of Michigan in it and his relationships with the chief of engineers, United States army, and his authorized agents for the purposes set forth herein.

HISTORY: CL 1948, 281.504.

NOTE: Act 149, 1911, above referred to, is Compilers' § 213.21 et seq.

281.505 Waterways commission; authority of local agencies to enter contracts with commission, inland waterways or channels.

Sec. 5. The several counties, townships, cities and villages of this state, within the jurisdiction of which are situated inland waterways connected with or connecting the waters of the great lakes, or within which channels to nearby inland lakes and streams may be constructed or opened for navigation and shelter of light draft vessels, are hereby authorized by majority vote of their respective legislative bodies, to enter into contracts and agreements with the commission in the accomplishment of the purposes herein set forth.

HISTORY: CL 1948, 281.505.

281.506 Facilities in harbors and connecting waterways; use.

Sec. 6. Facilities in harbors and connecting waterways established under the provisions of this act shall be open to all on equal and reasonable terms.

HISTORY: CL 1948, 281.506

281.507 Waterways commission; financing of local agencies to obtain United States participation; contracts with war department.

Sec. 7. The commission is hereby authorized to take such action as may be necessary to provide the finances required of local agencies as condition for United States' participation in any project in which the commission is empowered to act and to use any part or all of the appropriation and funds otherwise available to meet such part of the requirement of local participation as the commission may deem proper, and to enter into agreements with any political subdivision of the state in connection with participation with the United States in any project in which the commission is empowered to act, and to provide such adjustments which in the judgment of the commission are deemed to be in the best interest of the state of Michigan.

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The commission may enter into any contract or agreement with the war department of the United States, or any other agency or instrumentality of the United States for the dredging of harbors, the erection of breakwaters, piers or any other device for the protection of vessels, and may do any act or enter into any contract or agreement desirable in carrying out the purposes of this act. The commission is further authorized to take such steps as may be necessary to take advantage of any act of congress heretofore or hereafter enacted which may be of assistance in carrying out the purposes of this act.

HISTORY: CL 1948, 281.507.

281.508 Appropriation; state waterways fund; disbursement.

Sec. 8. There is hereby appropriated from the general fund of the state the sum of $1,000.00 to the commission to be disbursed as provided in this act. Said appropriation shall be credited to the Michigan state waterways fund, which shall constitute a revolving fund. Such fund shall be disbursed by the commission in carrying out the provisions of this act, subject to the accounting laws of the state.

HISTORY: CL 1948, 281.508.

281.509 Tax on marine gasoline; payment.

Sec. 9. (1) There is imposed a privilege tax of 7 cents per gallon on all gasoline sold or used in this state in producing or generating power for the operation or propulsion of vessels on the waterways of this state, which tax shall be paid to the revenue division-department of treasury in the same manner and method and at the same time as now prescribed by law for the collection of a privilege tax now imposed on all gasoline used in producing or generating power for propelling motor vehicles upon the public highways of this state. The privilege tax herein imposed shall be in lieu of the tax levied under Act No. 150 of the Public Acts of 1927, as amended, being sections 207.101 to 207.186 of the Compiled Laws of 1948.

Gasoline, marine use; amount credited to waterways fund.

(2) The legislature finds that of all the gasoline sold in this state for consumption in internal combustion engines, not less than 1 ½% thereof is used for marine purposes to propel vessels on the inland and surrounding waterways of this state. The legislature declares that it is the policy of this state to use the funds derived from the sale of marine gasoline to improve boating facilities throughout this state. Effective January 1, 1968, 1 ½% of all state-imposed taxes collected on the sale of gasoline, fuel, oil, naphthene or any other propellant used in internal combustion engines, except fuel consumed in airplanes or diesel engines, shall be credited to the state waterways fund after deducting collection costs and refunds, to be disbursed by legislative action.

Treasury; revenue division; duties.

(3) The revenue division-department of treasury shall annually present to the commission an accurate total of all such gasoline taxes collected and determine the revenue derived therefrom. The revenue division-department of treasury shall then determine what portion of these revenues were derived from the sale of marine gasoline by multiplying this total by 1 ½% and shall then credit this amount to the state waterways fund.

Refunds, method of claiming.

(4) The purchaser of gasoline for the operation of vessels excepted from the provisions of this act by section 1 shall be entitled to a refund of tax paid thereon, upon filing a sworn claim with the revenue division-department of treasury, upon forms prescribed and to be furnished by it, within 6 months from the date of purchase, as shown by the invoice. The retail distributor shall furnish any purchaser with an invoice showing the amount of gasoline purchased, the date thereof, and the total amount of tax paid thereon, and every dealer or distributor shall keep a copy of the invoices issued

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for a period of 2 years subject to examination by the revenue division-department of treasury. All claims for refund shall have attached thereto the original invoice received by the purchaser and when approved by the revenue division-department of treasury such claims shall be paid out of the state waterways fund upon warrant of the department of treasury.

False statements, penalty.

(5) Any person who makes a false statement in any claim or invoice presented to the revenue division-department of treasury, or who presents to the revenue division-department of treasury any claim or invoice containing any false statement, or who collects or causes to be paid to himself or any other person any refund without being entitled thereto, shall forfeit the full amount of such claim and be guilty of a misdemeanor.

HISTORY: CL 1948, 281.509;—Am. 1948, Ex. Ses., p. 26, Act 16, Imd. Eff. Apr. 29;—Am. 1956, p. 165, Act 78, Eff. Aug. 11;—Am. 1959, p. 347, Act 237, Imd. Eff. Aug. 12;—Am. 1967, p. 630, Act 297, Eff. Sep. 1;—Am. 1967, Ex. Ses., p. 730, Act 2, Imd. Eff. Jan. 1, 1968.

281.509a Repealed. 1959, p. 348, Act 237, Imd. Eff. Aug. 12.

Section established method of claiming marine gas tax refunds and imposed penalty for false statements.

281.510 State appropriation deemed advancement; repayment from revenues; use of tax revenues to pay expenses.

Sec. 10. It is the purpose of this act, in providing for harbors and channels, that the appropriation made by the state be considered an advancement, and that the fees, taxes and other revenues received under the provisions of this act, to be credited to the Michigan state waterways fund, shall be applied against said advancement, until all advancements have been fully paid. Thereafter all such fees, taxes and revenues shall be available for continued expansion and development of harbors and connecting waterways: Provided, however, That subject to the approval of the state administrative board, the necessary expense of administration of this act, and any expense necessary to the protection of the harbors, and connecting waterways, constructed or established under the provisions of this act, or any improvement thereto necessary for the proper and adequate protecting of vessels, shall be paid from said fees, taxes and revenues before being credited to said advancements. The state administrative board shall from time to time provide for the transfer of credits to advancements from the Michigan state waterways fund to the general fund, until said advancements shall have been fully paid.

HISTORY: CL 1948, 281.510.

281.511 State acceptance of federal program for construction of harbors of refuge.

Sec. 11. In addition to the other matters contained herein, this act shall constitute prima facie evidence of the acceptance by the state of Michigan of the provisions for state participation in the federal program for construction of certain harbors of refuge within the boundaries of the state of Michigan as provided for in Public Law 14 of the 79th Congress authorized March 2, 1945, pursuant to House Document No. 446 of the 78th Congress.

HISTORY: CL 1948, 281.511.

Act 187, 1964, p. 259; Eff. Aug. 28.

AN ACT to authorize the state waterways commission to acquire on behalf of the state and manage and control certain properties; and to provide for the disposition of revenues received therefrom.

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The People of the State of Michigan enact:

281.521 Cheboygan lock and dam; acquisition by state waterways commission.

Sec. 1. The state waterways commission may purchase and receive from its owners on behalf of the state for a nominal consideration of not to exceed $1.00 and subject to an agreement that the commission maintain the property and such terms, conditions and stipulations as the commission may approve, the locks, dams, races, structures and related properties, facilities, flowage easements and real estate connected with or a part of the facility now known as the Cheboygan lock and dam, at Cheboygan, Michigan.

HISTORY: New 1964, p. 259, Act 187, Eff. Aug. 28.

281.522 Cheboygan lock and dam; leases, agreements.

Sec. 2. The commission may operate, control, maintain and lease such property and may establish and revise fees and hours of operation for the facility. It may enter into agreements with any individual, company or political subdivision with respect to water rights, water levels, controls, lockage fees and related matters.

HISTORY: New 1964, p. 259, Act 187, Eff. Aug. 28.

281.523 Cheboygan lock and dam; revenues, disposition.

Sec. 3. Revenues received by the commission under this act shall be deposited in the state treasury to the credit of the Michigan state waterways fund and shall be spent only pursuant to appropriations by the legislature.

HISTORY: New 1964, p. 259, Act 187, Eff. Aug. 28.

Act 125, 1959, p. 128; Eff. Jan. 1, 1960.

AN ACT to transfer jurisdiction of certain state properties at the Straits of Mackinac to the state waterways commission; to prescribe the powers and duties of the state waterways commission in regard thereto; and to provide for the disposition of the funds received therefrom.

The People of the State of Michigan enact:

281.531 Ferry docks at Straits of Mackinac; transfer to state waterways commission; description.

Sec. 1. The jurisdiction and control of the following described lands is hereby transferred from the state highway commissioner to the state waterways commission:

Mackinaw City Dock

Lots 1 to 6, both inclusive, of block 9 and Railroad avenue lying east of the east line of Huron avenue in Wendell's addition to Mackinaw City, Cheboygan county, Michigan.

Oil Storage Area

All that part of the unplatted portion of government lot 1 of section 18, town 39 north, range 3 west, village of Mackinaw City, Cheboygan county, Michigan, and water lots 55 and 56, block B of the plat of "Mackinaw City" as recorded in the office of the register of deeds, Cheboygan county, Michigan, described as:

Beginning at a point on the southerly line of government lot 1 of said section 18 which is 93.7 feet easterly, measured along said southerly lot line from its intersection with the former westerly line of Huron avenue according to the recorded plat of the village of Mackinaw City, said point of beginning being the center line of the existing pavement on Huron avenue; thence northeasterly along said center line at an angle of

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103° 03′ 15″ with the southerly line of said government lot 1, a distance of 418.54 feet to the northerly line of water lot 55 extended westerly; thence easterly at an angle to the right of 77° 02′ 25″, along said extension and the northerly line of said water lot 55, a distance of 410 feet more or less to the water's edge of the Straits of Mackinac; thence southerly along said water's edge, 408 feet more or less to the southerly line of government lot 1 of said section 18; thence westerly along said southerly line of said government lot 1, a distance of 520 feet more or less, to the point of beginning; reserving an easement for highway purposes in, over and upon that part of the above described property which lies westerly of a line 100 feet easterly of, measured at right angles to, and parallel with the center line of the existing pavement on Huron avenue. Subject to the reservation in favor of the Michigan Central railroad company and the New York Central railroad company as recorded in liber 122, on pages 467–469, office of the register of deeds, Cheboygan county, Michigan.

St. Ignace Dock 1

Lots 6 to 12, both inclusive, of block 2, of assessor's plat No. 5, city of St. Ignace, Mackinac county, Michigan, according to the plat thereof recorded in liber 2 of plats, on page 49, register's office, Mackinac county, Michigan.

St. Ignace Dock 2

Lots 1 and 2, block 2, assessor's plat No. 5, city of St. Ignace, Mackinac county, Michigan, according to the plat thereof recorded in liber 2 of plats, on page 49, register's office, Mackinac county, Michigan.

Also, that part of private claim 15 located south of assessor's plat No. 5, city of St. Ignace, lying between State street on the west and lake Huron on the east, city of St. Ignace, Mackinac county, Michigan.

Also, that part of the north 2/3 of private claim 14 lying between State street on the west and lake Huron on the east, city of St. Ignace, Mackinac county, Michigan.

St. Ignace Dock 3

Lots 16 to 28, both inclusive, of block 1 and entire blocks 5, 6, 7, 8, 9 and 10 of Straits subdivision, city of St. Ignace, Mackinac county, Michigan, according to the plat thereof recorded in liber 2 of plats, on page 39, register's office, Mackinac county, Michigan.

Also, that part of private claim 2 located south of the south line of Straits subdivision and east of the east line of State street, city of St. Ignace, Mackinac county, Michigan.

Also, that part of private claim 1 located north of the north line of block 1 of the partition plat of private claim 1 and east of a line 363 feet east of, measured at right angles, and parallel with the centerline of State street, city of St. Ignace, Mackinac county, Michigan.

Also, lots 6 to 15, both inclusive, block 1; lots 6 to 19, both inclusive, block 2 and lots 1 to 4, both inclusive, block 5, including the streets and alley adjacent thereto, of the partition plat of private claim 1, city of St. Ignace, Mackinac county, Michigan.

HISTORY: New 1959, p. 129, Act 125, Eff. Jan. 1, 1960.

281.532 Ferry docks at Straits of Mackinac; maintenance; relinquishment.

Sec. 2. The waterways commission shall maintain in usable condition the ferry docks and approaches thereto; and shall relinquish control of the docks and approaches for the use by the state or any of its agencies if for any reason the Mackinac Straits bridge becomes unusable, or in the event of an emergency declared by the governor.

HISTORY: New 1959, p. 130, Act 125, Eff. Jan. 1, 1960.

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281.533 Ferry docks at Straits of Mackinac; leases, concessions; rules and regulations.

Sec. 3. Subject to the provisions of this act, the state waterways commission may grant leases and concessions for the use of the properties transferred by this act. The commission shall make rules and regulations in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948, for the use of these properties by all persons without discrimination. The commission shall not grant exclusive use of the docking facilities to any person, but may lease designated areas to particular persons for the operation of commercial enterprises. The commission may make arrangements with other state agencies for use of portions of the properties transferred by this act.

HISTORY: New 1959, p. 130, Act 125, Eff. Jan. 1, 1960.

281.534 Ferry docks at Straits of Mackinac; lease to Mackinaw City, parking.

Sec. 4. The commission may enter into a lease for a period not to exceed 10 years, with not more than 2 5-year options, with the village of Mackinaw City, whereby the village agrees to operate and maintain the parking facilities located on the property described in section 1 of this act as the Mackinaw City dock under such terms and conditions as may be agreed upon by the commission and the village of Mackinaw City.

HISTORY: New 1959, p. 130, Act 125, Eff. Jan. 1, 1960.

281.535 Ferry docks at Straits of Mackinac; lease to St. Ignace, parking.

Sec. 5. The commission may enter into a lease for a period not to exceed 10 years, with not more than 2 5-year options, with the city of St. Ignace, whereby the city agrees to operate and maintain the parking facilities located on the property described in section 1 of this act as the St. Ignace docks numbers 1 and 2 under such terms and conditions as may be agreed upon by the commission and the city of St. Ignace.

HISTORY: New 1959, p. 130, Act 125, Eff. Jan. 1, 1960.

281.536 Land transferred from Mackinac Island state park commission to state waterways commission; small craft harbor facility.

Sec. 6. (1) The jurisdiction and control of the following described land is hereby transferred from the Mackinac Island state park commission to the state waterways commission:

A parcel of land beginning at the northwest corner of lot No. 88 of assessors plat No. 2, city of Mackinac Island, county of Mackinac, extending along the south side of Huron street in a westerly direction 530 feet thence to the shoreline of lake Huron in a southerly direction, the distance from Huron street to the shore of lake Huron being approximately 80 feet; thence easterly along the shore of lake Huron to the southwest corner of Lot No. 88 of assessors plat No. 2, city of Mackinac Island, county of Mackinac, and thence northerly approximately 80 feet along the west line of lot No. 88, assessors plat No. 2, city of Mackinac Island, county of Mackinac, to the point of beginning; also the docks, piers, buildings and appurtenances situated thereon or attached thereto, which are now under the jurisdiction of the Mackinac Island state park commission.

(2) The commission shall operate the properties transferred by this section as a harbor facility for small craft and shall not permit the operation of any commercial enterprise thereon except the sale of marine fuel and other supplies for small craft by the commission.

HISTORY: New 1959, p. 130, Act 125, Eff. Jan. 1, 1960.

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281.537 Disposition of revenues.

Sec. 7. All revenues received by the commission under the provisions of this act shall be deposited in the state treasury to the credit of the state waterways fund and shall be expended as appropriated by the legislature.

HISTORY: New 1959, p. 131, Act 125, Eff. Jan. 1, 1960.

281.538 Effective date of act.

Sec. 8. This act shall become effective January 1, 1960.

HISTORY: New 1959, p. 131, Act 125, Eff. Jan. 1, 1960.

Act 66, 1952, p. 72; Imd. Eff. Apr. 8.

AN ACT to authorize political subdivisions of the state to acquire, establish, construct, maintain, improve and operate harbors, channels and other navigational facilities; and to authorize ordinances and resolutions.

The People of the State of Michigan enact:

281.541 Navigational facilities of public subdivision; definitions.

Sec. 1. The term "political subdivision" used herein is defined to mean any county, city, village, township or port district of this state and any other governmental agency or subdivision, public corporation, authority or district in this state, which is or may be authorized by law to acquire, establish, construct, maintain, improve and operate harbors, channels and other navigational facilities. Whenever used in this act the term political subdivision shall include any combinations of political subdivisions acting jointly.

HISTORY: New 1952, p. 72, Act 66, Imd. Eff. Apr. 8.

281.542 Waterways; harbor guards, ordinances, harbor masters.

Sec. 2. A political subdivision is hereby authorized (a) to adopt and amend all needful rules, regulations and ordinances for the management, government and use of any waterways, harbors, channels or other navigational facilities under its control, either within or without its territorial limits; to employ harbor guards, police or a harbor master with full police powers; to fix penalties for the violation of said rules, regulations and ordinances and enforce such penalties, (b) to adopt and enact rules, regulations and ordinances designed to safeguard the public upon or beyond the limits of harbors, channels, connecting waterways or other navigational facilities within such political subdivision or its political jurisdiction, which rules shall be consistent with and conform to, as nearly as may be possible, the laws of this state, (c) to vest authority for the maintenance, operation and regulation thereof in an officer, board or body of such political subdivision by ordinances or resolution which shall prescribe the duties and powers of such officers, boards or body, and (d) to employ a regular harbor master for the harbors, channels, connecting waterways or navigational facilities under its control, or in cases where a harbor board or body is established the harbor master may be employed by such board or body.

HISTORY: New 1952, p. 73, Act 66, Imd. Eff. Apr. 8.

281.543 Waterways; jurisdiction, contents.

Sec. 3. All powers, right and authority granted to any political subdivision in this act may be exercised and enjoyed by 2 or more of them, or by this state through its appropriate agencies and 1 or more such political subdivisions acting jointly, either within or without the territorial limits of either of them, and contracts may be entered with each other for the herein provided and authorized joint action.

HISTORY: New 1952, p. 73, Act 66, Imd. Eff. Apr. 8.

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Act 53, 1961, p. 52; Imd. Eff. May 20.

AN ACT to transfer jurisdiction of certain state properties at the Straits of Mackinac from the state waterways commission to the state highway commissioner.

The People of the State of Michigan enact:

281.551 Ferry dock at Straits of Mackinac; transfer to state highway commissioner; description.

Sec. 1. The jurisdiction and control of the lands described in this section, following the designation "St. Ignace Dock 3", is hereby transferred from the state waterways commission to the state highway commissioner:

St. Ignace Dock 3

Lots 16 to 28, both inclusive, of block 1 and entire blocks 5, 6, 7, 8, 9 and 10 of Straits subdivision, city of St. Ignace, Mackinac county, Michigan, according to the plat thereof recorded in liber 2 of plats, on page 39, register's office, Mackinac county, Michigan.

Also, that part of private claim 2 located south of the south line of Straits subdivision and east of the east line of State street, city of St. Ignace, Mackinac county, Michigan.

Also, that part of private claim 1 located north of the north line of block 1 of the partition plat of private claim 1 and east of a line 363 feet east of, measured at right angles, and parallel with the center line of State street, city of St. Ignace, Mackinac county, Michigan.

Also, lots 6 to 15, both inclusive, block 1; lots 6 to 19, both inclusive, block 2 and lots 1 to 4, both inclusive, block 5, including the streets and alley adjacent thereto, of the partition plat of private claim 1, city of St. Ignace, Mackinac county, Michigan.

HISTORY: New 1961, p. 52, Act 53, Imd. Eff. May 20.

Act 257, 1952, p. 429; Eff. Sep. 18.

AN ACT to provide for the registration of certain boat liveries; to provide for the adoption of certain minimum safety standards; to provide for the inspection of such boat liveries and their equipment and watercraft, and for the issuance of certificates and passenger capacity tags by the sheriffs of the various counties; to provide for review of a denial of such certificate or finding of passenger capacity; to establish fees to finance such inspection; to define the duties of the Michigan state waterways commission concerning such boat liveries; and to prescribe penalties for violations of the provisions of this act.

The People of the State of Michigan enact:

281.561 Boat liveries; definitions.

Sec. 1. As used in this act:

(a) "Boat livery" means and includes any person who shall hold out to the general public for rent or lease any watercraft for any period of time not in excess of 1 year, except any watercraft subject to inspection under the laws of the United States, however, this shall not apply to any person owning less than 3 boats.

(b) "Watercraft" means and includes any contrivance now known, or hereafter invented, used or designed for navigation on water, whether propelled by muscular power, sail, machinery, steam or electricity. "Vessel" is synonymous with "watercraft".

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(c) "Commission" means the Michigan state waterways commission.

(d) "Person" means and includes any individual, firm, partnership, corporation, company, association, joint stock association, or body politic, except the United States and the state of Michigan; and includes any agent, trustee, receiver, assignee or other similar representative thereof.

HISTORY: New 1952, p. 429, Act 257, Eff. Sep. 18;—Am. 1967, p. 244, Act 183, Eff. Jan. 1, 1968.

281.562 Boat liveries; registration, forms.

Sec. 2. No person shall operate a boat livery within the boundaries of this state unless he shall first register, upon forms to be furnished by the commission, with the sheriff of the county within which said boat livery is located. All registrants shall furnish such information as shall reasonably be required by the commission. Such registration shall be for a period of 1 year.

HISTORY: New 1952, p. 429, Act 257, Eff. Sep. 18.

281.563 Boat liveries; safety standards.

Sec. 3. The commission shall adopt minimum safety standards for watercraft and other equipment which are rented or leased to the public by boat liveries. Such standards shall be established to insure the safety and well-being of those persons utilizing the facilities of boat liveries. Such standards shall include methods for the determination of the maximum vessel load capacity of watercraft and the maximum horsepower of any motor to be used to propel such watercraft and shall conform to recognized marine practices. Such standards shall be published and placed in operation in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948.

HISTORY: New 1952, p. 429, Act 257, Eff. Sep. 18;—Am. 1967, p. 245, Act 183, Eff. Jan. 1, 1968.

281.564 Boat liveries; inspection; certificate; passenger capacity tags.

Sec. 4. (a) The sheriff of each county, or any peace officer duly authorized by such sheriff, shall annually inspect all equipment offered for lease or rent by all boat liveries located within the boundaries of his county, and shall determine whether said equipment complies with the minimum safety standards established pursuant to the provisions of the preceding section.

(b) If, after such inspection, it is found that all such equipment complies with the aforesaid standards, the sheriff, or his duly authorized representative, shall issue to the boat livery a certificate to be furnished by the commission. Such certificate shall be prominently displayed and shall expire on December 31 in the year for which it is issued.

(c) No such certificate shall be issued unless and until all watercraft offered for lease or rent to the public have been inspected and their maximum vessel load capacity and the maximum horsepower of any motor to be used to propel such watercraft determined in compliance with the minimum safety standards established pursuant to the provisions of the preceding section, and a metal tag indicating such maximum capacities shall have been affixed to such watercraft.

(d) Such certificates and maximum vessel load capacity tags shall be furnished to the sheriff of each county by the commission for a sum not exceeding the cost of such items.

HISTORY: New 1952, p. 429, Act 257, Eff. Sep. 18;—Am. 1967, p. 245, Act 183, Eff. Jan. 1, 1968.

281.565 Violations of act.

Sec. 5. (a) Any person operating a boat livery, leasing, renting or permitting the leasing or renting of any equipment subject to the provisions of the preceding section without first obtaining such certificate shall be guilty of a misdemeanor.

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(b) Any person operating a boat livery, leasing, renting or permitting the use, leasing or renting of any watercraft subject to the provisions of the preceding section without such maximum vessel load capacity tag being affixed thereto shall be guilty of a misdemeanor.

(c) Any person operating a boat livery, leasing, renting or permitting the leasing or renting of any watercraft, subject to the provisions of the preceding section, to more persons than stated on the maximum vessel load capacity tag shall be guilty of a misdemeanor.

(d) Any person who shall rent, lease or operate any watercraft from a boat livery and shall, without the knowledge of such boat livery, permit a number of persons in excess of the figure on the maximum vessel load capacity tag to use or occupy such watercraft at one time shall be guilty of a misdemeanor.

(e) Any person operating a boat livery, leasing, renting or permitting the leasing or renting of any watercraft subject to the provisions of the preceding section, which does not contain the equipment required by law or which is equipped with a motor with a horsepower rating in excess of the maximum horsepower designated on the capacity tag shall be guilty of a misdemeanor.

(f) Any person who shall rent, lease or operate any watercraft from a boat livery and shall, without the knowledge of such boat livery, permit the operation of such watercraft without equipment prescribed by law or with a motor with a horsepower rating in excess of the maximum horsepower designated on the capacity tag shall be guilty of a misdemeanor.

(g) Any person who shall remove a metal tag indicating the maximum capacity of a watercraft and attach the same to another watercraft which has a different maximum vessel load capacity than that indicated on the tag shall be guilty of a misdemeanor.

HISTORY: New 1952, p. 430, Act 257, Eff. Sep. 18;—Am. 1967, p. 245, Act 183, Eff. Jan. 1, 1968.

281.566 Review of sheriff's and commission's orders.

Sec. 6. (a) Any boat livery denied such certificate by the sheriff of any county, or his duly authorized representative, may petition the commission for review of such denial. Such review shall be held at the situs of the boat livery.

(b) Any boat livery may petition the commission for review of the determination by the sheriff of any county, or his duly authorized representative, of the maximum vessel load capacity of its watercraft and the maximum horsepower of any motor to be used to propel such watercraft.

(c) Any person considering himself or itself aggrieved by the decision of the commission under subdivisions (a) and (b) of this section, may, within 10 days after the determination thereof, appeal to, or have the action of the commission reviewed by the circuit court of the county in which the livery is located in the manner provided for the review of the orders of other administrative bodies of this state, and rules of law applicable to such appeals or reviews shall apply.

HISTORY: New 1952, p. 430, Act 257, Eff. Sep. 18;—Am. 1967, p. 246, Act 183, Eff. Jan. 1, 1968.

281.567 Passenger capacity tags; fees.

Sec. 7. Every boat livery shall pay a fee of $1.00 to the sheriff making such investigation per each maximum vessel load capacity tag issued to the boat livery, which fee shall be deposited in the county general fund.

HISTORY: New 1952, p. 430, Act 257, Eff. Sep. 18;—Am. 1967, p. 246, Act 183, Eff. Jan. 1, 1968.

281.568 Violation of act; misdemeanor; penalty.

Sec. 8. Any person violating any of the provisions of this act shall be guilty of a misdemeanor punishable by a fine of not more than $100.00, or by imprisonment in the

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county jail for not more than 90 days, or both such fine and imprisonment in the discretion of the court.

HISTORY: New 1952, p. 430, Act 257, Eff. Sep. 18.

281.569 Repealed. 1967, p. 246, Act 183, Eff. Jan. 1, 1968.

Section stated boat livery act not operative in certain political subdivisions.

281.571-281.595 Repealed. 1959, p. 375, Act 245, Imd. Eff. Aug. 13;—1962, p. 575, Act 240, Eff. Aug. 1.

Sections regulated operation of watercraft.

Act 44, 1952, p. 45; Imd. Eff. Apr. 1.

AN ACT to authorize political subdivisions to make expenditures for coastal beach erosion investigations and studies.

The People of the State of Michigan enact:

281.601 Coastal beach erosion or protection; expenditures authorized.

Sec. 1. Any political subdivision of the state, by resolution of its legislative body adopted by a majority vote of its full membership, is hereby authorized to make expenditures from its general fund, contingent fund, or from any special funds available therefor, to undertake, either independently or in cooperation with any other political subdivision or with any agency of the state and/or federal government, investigative or study functions related to coastal beach erosion or protection.

HISTORY: New 1952, p. 45, Act 44, Imd. Eff. Apr. 1.

Act 278, 1952, p. 471; Imd. Eff. Jun. 21.

AN ACT to authorize the township boards of townships, the legislative bodies of incorporated cities and incorporated villages, or the board of county road commissioners of any county when directed by the board of supervisors of the county, to acquire interests in lands and to contract with the federal government, or any agency thereof, with respect to flood control, drainage control and beach erosion control; and to authorize participation of townships, incorporated cities and incorporated villages, and counties in such projects. Am. 1956, p. 173, Act 86, Imd. Eff. Apr. 5.

The People of the State of Michigan enact:

281.621 Flood, drainage or beach erosion control; lands, acquisition; contract with federal government, terms.

Sec. 1. The township board of any township, the legislative body of any incorporated city or incorporated village, or the board of county road commissioners of any county when directed by the board of supervisors of the county, pursuant to a resolution adopted by a two-thirds vote of the members thereof, is hereby authorized to acquire any and all interests in lands necessary to any flood control, drainage or beach erosion control project and is hereby authorized to contract with the federal government or any agency thereof, whereby the federal government or such agency will pay the whole or any part of the cost of flood control, drainage control or beach erosion control projects and/or will perform the whole or any part of the work connected

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therewith, which contract may include any specific terms, including, but not by way of limitation, the holding and saving of the United States free from damages due to the construction works, required by act of congress or federal regulation as a condition for such participation on the part of the federal government.

HISTORY: New 1952, p. 471, Act 278, Imd. Eff. Jun. 21;—Am. 1956, p. 174, Act 86, Imd. Eff. Apr. 5.

281.622 Relieved from assessment.

Sec. 2. Such a contract may provide that any payments made or work done by the federal government or such agency thereof shall relieve it in whole or in part from assessment for the cost of the project.

HISTORY: New 1952, p. 472, Act 278, Imd. Eff. Jun. 21.

281.623 Contract; provisions.

Sec. 3. Such a contract may provide for the granting, without cost to the United States, of all lands, easements and rights-of-way necessary for the construction of the project, except as otherwise provided by act of congress or federal regulation. Such a contract may also provide for the maintenance and operation of the project after completion in accordance with regulations prescribed by the secretary of the army.

HISTORY: New 1952, p. 472, Act 278, Imd. Eff. Jun. 21.

281.624 Expenditures from municipal or county funds.

Sec. 4. The township board of any township, the legislative body of any incorporated city or incorporated village, or the board of supervisors of any county, pursuant to a resolution adopted by a two-thirds vote of the members thereof, is hereby authorized in connection with any such contract to make expenditures from its general fund, contingent fund or from any special funds available therefor.

HISTORY: New 1952, p. 472, Act 278, Imd. Eff. Jun. 21;—Am. 1956, p. 174, Act 86, Imd. Eff. Apr. 5.

281.625 Assurances to federal government.

Sec. 5. The township board of any township, the legislative body of any incorporated city or incorporated village, or the board of county road commissioners of any county when directed by the board of supervisors of the county, pursuant to a resolution adopted by a two-thirds vote of the members thereof, is hereby authorized to grant to the United States such assurances as are required by federal flood control acts, and amendments thereto, and by such other federal acts existing, or which may be enacted in the future, authorizing expenditure of federal funds for flood control, drainage or beach erosion control projects.

HISTORY: New 1952, p. 472, Act 278, Imd. Eff. Jun. 21;—Am. 1956, p. 174, Act 86, Imd. Eff. Apr. 5.

281.626 Flood, drainage or beach erosion control; joint contracts.

Sec. 6. The township board of any township, the legislative body of any incorporated city or incorporated village, or the board of county road commissioners of any county when directed by the board of supervisors of the county, may provide for joint participation and a joint contract or contracts in carrying out the purposes of this act.

HISTORY: New 1952, p. 472, Act 278, Imd. Eff. Jun. 21;—Am. 1956, p. 174, Act 86, Imd. Eff. Apr. 5.

281.627 Contracts; approval by municipal finance commission; borrowings, debt and interest limitations.

Sec. 7. Such contracts as may be entered into under the provisions of this act must have prior approval of the municipal finance commission as to the financial ability of the incorporated city, incorporated village, township, or county to meet all obligations and liabilities imposed by any such contracts as to cost of lands, easements, rights-of-way, construction and/or the maintenance and operation costs of such project or projects. Any incorporated city, incorporated village, township, or the board of county road commissioners of any county when directed by the board of supervisors of the county, authorized to contract with the federal government or any agency thereof un-

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der this act may borrow funds from the federal government or any agency thereof for the purpose of carrying out the provisions of this act, which such borrowings shall be subject to the provisions of existing statutes and charter limitations which are applicable to such borrowing: Provided, That section 2 of chapter 3 of Act No. 202 of the Public Acts of 1943, as amended, being section 133.2 of the Compiled Laws of 1948, shall not apply to any such borrowings.

HISTORY: New 1952, p. 472, Act 278, Imd. Eff. Jun. 21;—Am. 1956, p. 174, Act 86, Imd. Eff. Apr. 5.

281.628 Interest in lands; easement for flood plain; acquisition; declared public purposes.

Sec. 8. For the accomplishment of the purposes of this act any city, incorporated village, township, or board of county road commissioners, may acquire any interest in land necessary to any flood control, drainage or beach erosion control project, or to preserve flood plains, by purchase, gift, exchange, condemnation or otherwise. If an easement to preserve a flood plain is acquired, the acquiring agency, in any instrument conveying such right or in any eminent domain proceedings instituted therefor, may acquire the further right to use the lands subject to such easement, or any part thereof, for any other public purpose, but only to the extent that such other uses shall be specifically enumerated in said conveyance or eminent domain proceedings. The legislative body of any such city, incorporated village or township, or the board of county road commissioners of any county when directed by the board of supervisors of the county, may institute and prosecute proceedings under the power of eminent domain in accordance with the laws of the state or any provision of any local charter relative to condemnation. In the absence of any other applicable statute townships are expressly authorized to exercise the same powers vested in cities and villages by Act No. 124 of the Public Acts of 1883, being section 213.71 et seq., Compiled Laws of 1948. Two or more adjoining cities, villages or townships are authorized to maintain such proceedings in accordance with the procedure prescribed by Act No. 81 of the Public Acts of 1925, section 123.71 et seq., Compiled Laws of 1948. The purposes contemplated by this act are hereby declared to be public purposes within the meaning of the constitution, state laws and charters relative to the power of eminent domain.

HISTORY: New 1952, p. 472, Act 278, Imd. Eff. Jun. 21;—Am. 1956, p. 174, Act 86, Imd. Eff. Apr. 5.

Act 245, 1970, p. 658; Eff. Apr. 1, 1971.

AN ACT to provide for the protection and management of shorelands; to provide for zoning and zoning ordinances; to provide certain powers and duties; to authorize certain studies; to provide for development of certain plans; to promulgate rules; and to provide for certain remedies for violations of rules.

The People of the State of Michigan enact:

281.631 Shorelands protection and management; short title.

Sec. 1. This act shall be known and may be cited as the "shorelands protection and management act of 1970".

HISTORY: New 1970, p. 658, Act 245, Eff. Apr. 1, 1971.

281.632 Shorelands protection and management; definitions.

Sec. 2. As used in this act:

(a) "Commission" means the water resources commission.

(b) "Connecting waterway" means the St. Marys river, Detroit river, St. Clair river, Keeweenaw waterway or Lake St. Clair.

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(c) "Department" means the department of natural resources.

(d) "Environmental area" means an area of the shoreland determined by the department on the basis of studies and surveys to be necessary for the preservation and maintenance of fish and wildlife.

(e) "High risk area" means an area of the shoreland which is determined by the commission on the basis of studies and surveys to be subject to erosion.

(f) "Land to be zoned" means the land in this state which borders or is adjacent to a Great Lake or a connecting waterway situated within 1,000 feet landward from the ordinary high water mark as defined in section 2 of Act No. 247 of the Public Acts of 1955, as amended, being section 322.702 of the Compiled Laws of 1948.

(g) "Local agency" means a county, city, village or township.

(h) "Shoreland" means the land, water and land beneath the water which is in close proximity to the shoreline of a Great Lake or a connecting waterway.

(i) "Shoreline" means that area of the shorelands where land and water meet.

HISTORY: New 1970, p. 658, Act 245, Eff. Apr. 1, 1971.

281.633 Shoreland engineering study; contents.

Sec. 3. Within 1 year after the effective date of this act, the commission shall make or cause to be made an engineering study of the shoreland to determine:

(a) The high risk areas.

(b) The areas of the shorelands which are platted or have buildings or structures and which require protection from erosion.

(c) The type of protection which is best suited for an area determined in subdivision (b).

(d) A cost estimate of the construction and maintenance for each type of protection determined in subdivision (c).

HISTORY: New 1970, p. 658, Act 245, Eff. Apr. 1, 1971.

281.634 Shoreland environmental study; contents.

Sec. 4. Within 1 year after the effective date of this act the department shall make or cause to be made an environmental study of the shoreland to determine:

(a) The environmental areas.

(b) The areas of marshes along and adjacent to the shorelands.

(c) The marshes and fish and wildlife habitat areas which should be protected by shoreland zoning.

HISTORY: New 1970, p. 658, Act 245, Eff. Apr. 1, 1971.

281.635 High risk area; use, regulation.

Sec. 5. The commission in accordance with section 3 shall determine if the use of a high risk area shall be regulated to prevent property loss or if suitable methods of protection shall be installed to prevent property loss. The commission shall notify a local agency of its determinations and recommendations relative to a high risk area which is in a local agency.

HISTORY: New 1970, p. 659, Act 245, Eff. Apr. 1, 1971.

281.636 Environmental area; use, regulation.

Sec. 6. The department in accordance with section 4 shall notify a local agency of the existence of any environmental area which is in a local agency and shall recommend to the commission appropriate use regulations necessary to protect an environmental area.

HISTORY: New 1970, p. 659, Act 245, Eff. Apr. 1, 1971.

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281.637 County zoning.

Sec. 7. Within 3 years after the effective date of this act a county, pursuant to rules promulgated under section 12 and Act No. 183 of the Public Acts of 1943, as amended, being sections 125.201 to 125.232 of the Compiled Laws of 1948, may zone any shoreland and land to be zoned which is in the county.

HISTORY: New 1970, p. 659, Act 245, Eff. Apr. 1, 1971.

281.638 City or village zoning.

Sec. 8. Within 3 years after the effective date of this act a city or village, pursuant to rules promulgated under section 12 and Act No. 207 of the Public Acts of 1921, as amended, being sections 125.581 to 125.591 of the Compiled Laws of 1948, may zone any shoreland and land to be zoned which is in the city or village.

HISTORY: New 1970, p. 659, Act 245, Eff. Apr. 1, 1971.

281.639 Township zoning.

Sec. 9. Within 3 years after the effective date of this act a township, pursuant to rules promulgated under section 12 and Act No. 184 of the Public Acts of 1943, as amended, being sections 125.271 to 125.301 of the Compiled Laws of 1948, may zone any shoreland and land to be zoned which is in the township.

HISTORY: New 1970, p. 659, Act 245, Eff. Apr. 1, 1971.

281.640 Zoning ordinances; water resources commission approval.

Sec. 10. An existing zoning ordinance or a zoning ordinance or a modification or amendment thereto which regulates a high risk area or an environmental area shall be submitted to the commission for approval or disapproval. The commission shall determine if the ordinance, modification or amendment adequately prevents property damage or prevents damage to an environmental area or a high risk area. If an ordinance, modification or amendment is disapproved by the commission, it shall not have force or effect until modified by the local agency and approved by the commission.

HISTORY: New 1970, p. 659, Act 245, Eff. Apr. 1, 1971.

281.641 Rules; restraining order.

Sec. 11. (1) The commission, in order to regulate the uses and development of high risk areas and environmental areas and to implement the purposes of this act, shall promulgate rules in accordance with and subject to the provisions of Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.313 of the Compiled Laws of 1948.

(2) A circuit court upon petition and a showing by the commission that a violation of a rule promulgated under subsection (1) exists, shall issue any necessary order to the defendant to correct the violation or to restrain the defendant from further violation of the rule.

HISTORY: New 1970, p. 659, Act 245, Eff. Apr. 1, 1971.

281.642 Use and management plan; contents; hearings; submission.

Sec. 12. (1) Within 18 months after the effective date of this act the commission shall, in compliance with the purposes of this act, prepare a plan for the use and management of shoreland. The plan shall include but not be limited to:

(a) An inventory and identification of the use and development characteristics of the shoreland; the general physical and man-influenced shoreline features; the existing and proposed municipal and industrial water intakes and sewage and industrial waste outfalls; and high risk areas and environmental areas.

(b) An inventory of existing federal, state, regional and local plans for the management of the shorelands.

(c) An identification of problems associated with shoreland use, development, conservation and protection.

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(d) A provision for a continuing inventory of shoreland and estuarine resources.

(e) Provisions for further studies and research pertaining to shoreland management.

(f) Identification of the high risk and environmental areas which need protection.

(g) Recommendations which shall:

(i) Provide procedures for the resolution of conflicts arising from multiple use.

(ii) Foster the widest variety of beneficial uses.

(iii) Provide for the necessary enforcement powers to assure compliance with plans and to resolve conflicts in uses.

(iv) Provide criteria for the protection of shorelands from erosion or inundation, for aquatic recreation, for shore growth and cover, for low lying lands and for fish and game management.

(v) Provide criteria for shoreland layout for residential, industrial and commercial development, and shoreline alteration control.

(vi) Provide for building setbacks from the water.

(vii) Provide for the prevention of shoreland littering, blight harbor development and pollution.

(viii) Provide for the regulation of mineral exploration and production.

(ix) Provide the basis for necessary future legislation pertaining to efficient shoreland management.

(2) Upon completion of the plan, the commission shall hold regional public hearings on the recommendations of the plan. Copies of the plan shall be submitted with the hearing records to the governor and the legislature.

HISTORY: New 1970, p. 659, Act 245, Eff. Apr. 1, 1971.

281.643 Agreements and contracts.

Sec. 13. The department and commission may enter into an agreement jointly or separately or to make contracts with the federal government, other state agencies, local agencies or private agencies for the purposes of making studies and plans for the efficient use, development, preservation or management of the state's shoreland resources. Any study, plan or recommendation shall be available to a local agency in this state which has shoreland. The recommendations and policies set forth in the studies or plans shall serve as a basis and guideline for establishing zoning ordinances and developing shoreland plans by local agencies and the commission.

HISTORY: New 1970, p. 660, Act 245, Eff. Apr. 1, 1971.

281.644 Assistance, acceptance.

Sec. 14. For the purposes of this act, the department and the commission may receive, obtain or accept any moneys, grants or grants-in-aid for the purpose of research, planning or management of shoreland.

HISTORY: New 1970, p. 660, Act 245, Eff. Apr. 1, 1971.

281.645 Engineering study implementation; federal funds.

Sec. 15. It is the intent of the legislature that any additional cost of the implementation of section 3 of this act shall only be financed from federal funds.

HISTORY: New 1970, p. 660, Act 245, Eff. Apr. 1, 1971.

281.651-281.682 Repealed. 1967, p. 660, Act 303, Eff. Jan. 1, 1968.

Sections related to motorboat registration act.

281.701-281.718 Repealed. 1966, p. 649, Act 345, Imd. Eff. Oct. 26.

Sections constituted inland lake improvement act of 1961.

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Act 291, 1965, p. 558; Eff. Mar. 31, 1966.

AN ACT to protect riparian rights and the public trust in navigable inland lakes and streams, including the St. Mary's, St. Clair and Detroit rivers, and to regulate the uses thereof; to provide for coordination between units and agencies of government, to prescribe the powers and duties of the department of conservation, other state agencies, and local units of government; and to provide remedies and penalties for violation of this act.

The People of the State of Michigan enact:

281.731 Inland lakes and streams act; short title.

Sec. 1. This act shall be known and may be cited as the "inland lakes and streams act".

HISTORY: New 1965, p. 558, Act 291, Eff. Mar. 31, 1966.

281.732 Inland lakes and streams act; definitions.

Sec. 2. As used in this act:

(a) "Lake or stream" or "water" means any navigable inland lake or stream wholly or partly within this state including the St. Mary's, St. Clair and Detroit rivers, but excluding the Great Lakes and the bays and harbors thereof.

(b) "Ordinary high water mark" means the line between upland and lake or stream bottom land which persists through successive changes in water levels, and below which the presence and action of the water is so common or recurrent as to mark upon the soil a character, distinct from that which occurs on the upland, as to the soil itself, the configuration of the surface of the soil and the vegetation. In case of an inland lake for which a level has been established by law, it means the high established level. In case of permanent removal or abandonment of a dam resulting in the water returning to its natural level it means the natural ordinary high water mark.

(c) "Bottom land" means the land area of a lake or stream, whether or not covered by water, lying below the ordinary high water mark.

(d) "Riparian owner" means a person who has riparian rights.

(e) "Riparian rights" means those rights associated with the ownership of the bank or shore of a navigable lake or stream.

(f) "Pier" means a dock, wharf or similar structure extending into or over a lake or stream and providing a means of docking, loading, unloading or servicing of watercraft.

(g) "Marina" means a facility owned or operated by a person extending into or over a lake or stream and offering service to the public or members of the marina for docking, loading or other servicing of recreational watercraft.

(h) "Bulkhead line" means a line established pursuant to the provisions of this act beyond which no dredging or filling or construction of any kind shall be allowed without a permit.

(i) "Local unit of government" means a county, city, village or township.

(j) "Department" means the department of conservation.

HISTORY: New 1965, p. 558, Act 291, Eff. Mar. 31, 1966.

281.733 Construction of act.

Sec. 3. This act shall not be construed as:

(a) Conflicting with federal authority over navigable waters.

(b) Requiring a state permit for disposal of dredge spoil on a federal dumping ground.

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(c) Abridging, modifying or superseding the power, duty, or responsibility of any state agency, or of any agency of local government, including, but not limited to, powers of zoning of land within its municipal boundaries.

(d) Applying to any riparian land owned or leased by a home rule city or port commission.

(e) Depriving a riparian owner of riparian rights.

(f) Affecting property rights secured by virtue of a swamp land grant.

(g) Limiting the right of the owner of a dam to control water levels, to dredge for flow maintenance or to maintain the dam and control structures.

(h) Applying to intake or discharge canals or channels owned or controlled for and used in connection with a public utility or industrial processing.

(i) Applying to copper or iron mining operations, whereby such operations result in the placement, removal, use or processing of copper or iron mineral tailings or copper or iron mineral deposits from such operations being placed in inland waters on bottom lands owned by or under the control of the mining company and only water which may contain a minimal amount of residue as determined by the water resources commission resulting from such placement, removal, use or processing being allowed or permitted to escape into public waters; or applying to the discharge of water from underground iron or copper mining operations subject to a determination by the water resources commission.

(j) Affecting litigation involving the state prior to the effective date of this act.

HISTORY: New 1965, p. 559, Act 291, Eff. Mar. 31, 1966.

281.734 Ordinary high water marks; department of conservation agreements with riparian owners.

Sec. 4. The department may enter into a written agreement with a riparian owner fixing the location of the ordinary high water mark for his property. In the absence of substantially changed conditions, the agreement shall be conclusive proof of such location in all matters between the state and the riparian owner and his successors in interest.

HISTORY: New 1965, p. 559, Act 291, Eff. Mar. 31, 1966.

281.735 Private or noncommercial recreational use of water; placing structures or fills without permit.

Sec. 5. (1) A riparian owner may place structures, or fill, without permit, to facilitate his private, noncommercial recreational use of the water if it does not involve a substantial fill or unreasonably interfere with use of the water by other riparians of the public.

(2) No permit shall be required for any fill, pier or structure existing as of the effective date of this act.

HISTORY: New 1965, p. 559, Act 291, Eff. Mar. 31, 1966.

281.736 Permits when required from department of conservation.

Sec. 6. After the effective date of this act a riparian owner, except where a bulkhead line has been established under this act, shall obtain a permit from the department before:

(a) Dredging, placing spoil or other materials, filling, erecting or extending any pier involving fill on bottom land.

(b) Erecting, maintaining or operating a marina on bottom land.

(c) Erecting or extending a commercial or industrial pier on bottom land.

HISTORY: New 1965, p. 559, Act 291, Eff. Mar. 31, 1966.

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281.737 Application for permit filed with department of conservation; maps and information.

Sec. 7. An application for a permit shall be filed with the department and shall be accompanied by such maps and information as required by the rules and regulations promulgated under this act.

HISTORY: New 1965, p. 560, Act 291, Eff. Mar. 31, 1966.

281.738 Review of application; recommendations; findings by department of conservation; conditional permit.

Sec. 8. Upon receiving an application, the department shall submit it for review to the state health commissioner or local health department designated by him, the water resources commission, the state waterways commission, the local unit of government and the local port commission. Each such entity desiring to submit recommendations shall do so within 30 days after receipt of the request for review. The department after consideration of the application and recommendations shall make a finding and either issue or deny a permit. In case of emergency, the department may issue a conditional permit prior to expiration of the 30-day period.

HISTORY: New 1965, p. 560, Act 291, Eff. Mar. 31, 1966.

281.739 Permit; issuance by department of conservation; recognition of riparian rights; preservation or improvement of lake or stream uses.

Sec. 9. The department shall issue a permit after hearing in accordance with section 14, if requested, if it finds that the structure or project will not adversely affect riparian rights and is either in the public interest or will not unreasonably impair the public trust. The department shall recognize all riparian rights and consider the preservation or improvement of the lake or stream and its uses, particularly those most prevalent or desirable in the water area, including but not limited to uses by or for agriculture, commerce, fisheries, industries, local government, recreation and wildlife.

HISTORY: New 1965, p. 560, Act 291, Eff. Mar. 31, 1966.

281.740 Permit; term; revocation; procedure; permanence of construction under valid permit.

Sec. 10. A permit is effective until revoked for cause but not beyond its term and may be subject to renewal. A permit may be revoked after a hearing for violation of any of its provisions, or any provision of this act, or any rule or regulation issued under this act, if such provision of the act, rule or regulation was in effect at the time of the issuance of the permit. A fill, pier or other structure completed under permit may permanently remain unless otherwise stated in the provisions of the permit.

HISTORY: New 1965, p. 560, Act 291, Eff. Mar. 31, 1966.

281.741 Bulkhead lines; establishment, hearing by department of conservation.

Sec. 11. The department on its own motion or on application of local units of government may establish a bulkhead line after holding a hearing. Upon acceptance of the bulkhead line by all local units of government, the area landward of the bulkhead line shall thereafter be under their jurisdiction as to the placement of structures and fills in the waters unless jurisdiction is returned to the state. In establishing a bulkhead line, the department shall provide for local requirements but insure that there shall be no unreasonable interference with the public trust in the adjacent waters.

HISTORY: New 1965, p. 560, Act 291, Eff. Mar. 31, 1966.

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281.742 Dredging in lakes or streams; notice to department of conservation.

Sec. 12. A public agency, local, state or federal, having authority to dredge in a lake or stream shall notify the department, before the work is commenced, as to its purpose and plan of operation including the disposal of spoil.

HISTORY: New 1965, p. 560, Act 291, Eff. Mar. 31, 1966.

281.743 Improvement and development of lakes and streams; authority of department of conservation; considerations.

Sec. 13. The department, after giving due consideration to all aspects of riparian rights, the uses of the water and the public trust therein, may undertake projects for improvement, development and maintenance of lakes or streams for recreation, fisheries, wildlife or public parks. The department may accept gifts and grants in aid of such purposes. It may also issue permits to, or enter into agreements with, or cooperate with riparian owners, lake or stream associations, local units of government and state and federal agencies for the undertaking of such improvements or facilities. Such projects shall not abridge or interfere with riparian rights. The department shall negotiate, coordinate and cooperate with state and federal agencies and authorities on their projects on lakes and streams to the extent necessary to protect riparian rights and rights of the public.

HISTORY: New 1965, p. 561, Act 291, Eff. Mar. 31, 1966.

281.744 Rules and regulations; promulgation and enforcement by department of conservation; hearings; judicial review.

Sec. 14. (1) The department may promulgate and enforce rules and regulations for carrying out the purpose of this act in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

(2) If a person is aggrieved by any action or inaction of the department, he may request a formal hearing on the matter involved, which hearing shall thereupon be conducted by the department in accordance with the provisions for contested cases in Act No. 197 of the Public Acts of 1952, as amended. This section shall not be construed as limiting the right of a riparian owner to institute proceedings in any circuit court of the state against any person when necessary to protect his rights.

(3) A determination, action or inaction of the department following such hearing shall be subject to judicial review as provided in Act No. 197 of the Public Acts of 1952, as amended. In the review the department shall have the burden of proving the correctness of any such determination, action or inaction.

HISTORY: New 1965, p. 561, Act 291, Eff. Mar. 31, 1966.

281.745 Civil actions; commencement by department of conservation; grounds.

Sec. 15. The department may commence a civil action in the circuit court of any county in which a violation occurs to enforce compliance with or restrain a violation of this act or any action contrary to an order of the department denying a permit, or to enjoin the further performance of, or order the removal of, any work or erection of any structure which has been carried out contrary to this act or after denial of a permit by the department.

HISTORY: New 1965, p. 561, Act 291, Eff. Mar. 31, 1966.

281.746 Nondeprivation of riparian owner's water frontage rights.

Sec. 16. This act shall not be construed as depriving a riparian owner of rights associated with his ownership of water frontage. A riparian owner among other rights con-

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trols any temporarily or periodically exposed bottom land to the water's edge, wherever it may be at any time, and holds such land secure against trespass in the same manner as his upland, but subject to the public trust to the ordinary high water mark.

HISTORY: New 1965, p. 561, Act 291, Eff. Mar. 31, 1966.

281.747 Violation of act; penalty.

Sec. 17. Any person who is convicted of violating any provision of this act or any rule or regulation promulgated hereunder is guilty of a misdemeanor.

HISTORY: New 1965, p. 561, Act 291, Eff. Mar. 31, 1966.

281.748 Permits to construct waterways; exceptions.

Sec. 18. (1) Unless a permit has been granted by the department or authorization has been granted by the legislature, it is unlawful:

(a) To construct, dredge, commence, extend or enlarge an artificial canal, channel, ditch, lagoon, pond, lake or similar waterway where the purpose is ultimate connection with an existing navigable stream, lake or other body of navigable water, or where any part of such artificial waterway is located within 500 feet of the ordinary high water mark of an existing navigable stream, lake or other body of navigable water.

(b) To connect any natural or artificially constructed waterway, canal, channel, ditch, lagoon, pond, lake or similar waterway with an existing body of navigable water, for navigation or any other purpose.

(2) This section does not apply to construction and repair of public highways, to boat wells and slips facilitating private, noncommercial, recreational boat use, not exceeding 50 feet in length if the spoil is not disposed of below the ordinary high-water mark of the body of water to which they are connected, to agricultural uses of land, nor to drains subject to Act No. 40 of the Public Acts of 1956, as amended, being sections 280.1 to 280.623 of the Compiled Laws of 1948.

HISTORY: Add. 1968, p. 14, Act 7, Imd. Eff. Mar. 20.

281.749 Application for permit; contents, fee.

Sec. 19. (1) Before any work or connection specified in section 18 is undertaken a person shall file an application with the department setting forth the following:

(a) The name and address of the applicant.

(b) The legal description of the lands included in the project.

(c) A summary statement of the purpose of the project.

(d) A map or diagram showing the proposal on an adequate scale with contours and cross-section profiles of the waterway to be constructed.

(e) The name and address of the secretary of any property owners' association, as recorded with the county clerk of said county, and pertaining to the body of water affected by the project or if there is no such association, the names and addresses of at least 5 persons who own real property located adjacent to the body of water. If fewer than 5 persons own real property located adjacent to the body of water, the names and addresses of the persons that own real estate so located shall be given.

(f) Such other information that may be required by the department.

(2) A fee of not less than $50.00 shall accompany the application except where the purpose of the application is to maintain any existing water structure described in section 18. The fee shall be transmitted to the state treasurer for credit to the state's general fund.

HISTORY: Add. 1968, p. 14, Act 7, Imd. Eff. Mar. 20.

281.750 Review of application; public hearings; time; notice.

Sec. 20. Upon receipt of the application, the department shall mail copies to the state department of public health, clerks of the county, city, village and township, and drain commissioner of the county, or if none the road commissioner of the county in

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which the project or body of water affected is located, and to the other persons named in subdivision (e) of section 19, accompanied by a statement that unless a written request is filed with the department within 20 days after the mailing of the copies, the department may take action to grant the application without a public hearing. If a timely request is filed, or the department so elects, it shall set the application for public hearing. At least 10 days' notice of the hearing shall be given by publication in a newspaper circulated in the county and by mailing copies of the notice to the persons named in this section.

HISTORY: Add. 1968, p. 15, Act 7, Imd. Eff. Mar. 20.

281.751 Permit; issuance; conditions; maintenance of waterway.

Sec. 21. If the department finds that the project will not injure the public trust or interest, including fish and game habitat, that the project conforms to the requirements of laws for sanitation, and that no material injury to the rights of any riparian owners on any body of water affected will result, the department shall issue a permit authorizing the enlargement of the waterway affected. The department may impose such further conditions in the permit that it finds reasonably necessary to protect public health, safety, welfare, trust and interest, and to protect private rights and property. The existing and future owners of land fronting on the artificial waterway are liable for maintenance of the waterway in accordance with the conditions of the permit.

HISTORY: Add. 1968, p. 15, Act 7, Imd. Eff. Mar. 20.

281.752 Applicability of act.

Sec. 22. This act does not apply to privately owned nonnavigable inland lakes.

HISTORY: Add. 1968, p. 15, Act 7, Imd. Eff. Mar. 20.

Act 231, 1970, p. 622; Eff. Apr. 1, 1971.

AN ACT to authorize the establishment of a system of designated wild, scenic and recreational rivers; to prescribe the powers and duties of the natural resources commission with respect thereto; to fund necessary study and comprehensive planning for the establishment of the system; to provide for planning, zoning and cooperation with local units of government; to authorize the protection of designated river frontage by acquisition, lease, easement or other means; to authorize local units of government and the commission to establish zoning districts in which certain uses of rivers and related lands may be encouraged, regulated or prohibited; to provide for limitations on uses of land and their natural resources, and on the platting of land; and to provide that assessing officers shall take cognizance of the effect of zoning on true cash value.

The People of the State of Michigan enact:

281.761 Natural river act; short title.

Sec. 1. This act shall be known and may be cited as the "natural river act of 1970".

HISTORY: New 1970, p. 622, Act 231, Eff. Apr. 1, 1971.

281.762 Natural river act; definitions.

Sec. 2. As used in this act:

(a) "Commission" means the natural resources commission.

(b) "River" means a flowing body of water or a portion or tributary thereof, including streams, creeks or impoundments and small lakes thereon.

(c) "Free flowing" means existing or flowing in natural condition without impoundment, diversion, straightening, riprapping or other modification.

(d) "Person" means an individual, partnership, firm, corporation, association or other entity.

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(e) "System" means all of those rivers or portions thereof designated under this act.

(f) "Natural river" means a river which has been designated by the commission for inclusion in the wild, scenic and recreational rivers system.

HISTORY: New 1970, p. 622, Act 231, Eff. Apr. 1, 1971.

281.763 Natural river; designation, purpose; long range plans; publicity; cooperation.

Sec. 3. The commission, in the interest of the people of the state and future generations, may designate a river or portion thereof, as a natural river area for the purpose of preserving and enhancing its values for water conservation, its free flowing condition and its fish, wildlife, boating, scenic, aesthetic, flood plain, ecologic, historic and recreational values and uses. The area shall include adjoining or related lands as appropriate to the purposes of the designation. The commission shall prepare and adopt a long range comprehensive plan for a designated natural river area which shall set forth the purposes of the designation, proposed uses of lands and waters, and management measures designed to accomplish the purposes. State land within the designated area shall be administered and managed in accordance with the plan, and state management of fisheries, streams, waters, wildlife and boating shall take cognizance of the plan. The commission shall publicize and inform private and public landowners or agencies as to the plan and its purposes, so as to encourage their cooperation in the management and use of their land in a manner consistent with the plan, and the purposes of the designation. The commission shall cooperate with federal agencies administering any federal program concerning natural river areas, and with any watershed council established under Act No. 253 of the Public Acts of 1964, being sections 323.301 to 323.320 of the Compiled Laws of 1948, when such cooperation will further the interest of the state.

HISTORY: New 1970, p. 622, Act 231, Eff. Apr. 1, 1971.

281.764 Qualifications for designation; catagories of rivers.

Sec. 4. A river qualifying for designation as a natural river area shall possess 1 or more of the natural or outstanding existing values cited in section 3 and shall be permanently managed for the preservation or enhancement of such values. Categories of natural rivers shall be defined and established by the commission, based on the characteristics of the waters and the adjoining lands and their uses, both as existing and as proposed, including such categories as wild, scenic and recreational. The categories shall be specified in the designation and the long range comprehensive plan.

HISTORY: New 1970, p. 623, Act 231, Eff. Apr. 1, 1971.

281.765 Land acquisition; purpose; interest acquired; consent.

Sec. 5. The commission may acquire lands or interests in lands adjacent to a designated natural river for the purpose of maintaining or improving the river and its environment in conformance with the purposes of the designation and the plan. Interests which may be acquired include, but are not limited to, easements designed to provide for preservation and to limit development, without providing public access and use. Lands or interests in lands shall be acquired under this act only with consent of the owner.

HISTORY: New 1970, p. 623, Act 231, Eff. Apr. 1, 1971.

281.766 Federal financial assistance programs; leases; expenditures, purposes.

Sec. 6. (1) The commission may administer federal financial assistance programs for natural river areas.

(2) The commission may enter into a lease or agreement with any person or political subdivision to administer all or part of their lands in a natural river area.

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(3) The commission may expend funds for works designed to preserve and enhance the values and uses of a natural river area and for construction, management, maintenance and administration of facilities in a natural river area conforming to the purposes of the designation, when the funds are so appropriated by the legislature.

HISTORY: New 1970, p. 623, Act 231, Eff. Apr. 1, 1971.

281.767 Public hearings; notice.

Sec. 7. Before designating a river as a natural river area, the commission shall conduct public hearings in the county seat of any county in which a portion of the designated natural river area is located. Notices of the hearings shall be advertised at least twice, not less than 30 days before the hearing, in a newspaper having general circulation in each such county and in at least 1 newspaper having general circulation in the state and 1 newspaper published in the Upper Peninsula.

HISTORY: New 1970, p. 623, Act 231, Eff. Apr. 1, 1971.

281.768 Land uses; zoning; local ordinances; state rule.

Sec. 8. After designation of a river or portion of a river as a natural river area and following the preparation of the long range comprehensive plan, the commission may determine that the uses of land along the river, except within the limits of an incorporated municipality, shall be controlled by zoning contributing to accomplishment of the purposes of this act and the natural river plan. County and township governments are encouraged to establish these zoning controls and such additional controls as may be appropriate, including but not limited to building and subdivision controls. The commission may provide advisory, planning and cooperative assistance in the drafting of ordinances to establish such controls. If the local unit does not, within 1 year after notice from the commission, have in full force and effect a zoning ordinance or interim zoning ordinance established under authority of the acts cited in section 11, the commission, on its own motion, may promulgate a zoning rule in accordance with section 13. A zoning rule may also be promulgated if the commission finds that an adopted or existing zoning ordinance fails to meet adequately guidelines consistent with this act as provided by the commission and transmitted to the local units concerned, does not take full cognizance of the purposes and objectives of this act or is not in accord with the purposes of designation of the river as established by the commission.

HISTORY: New 1970, p. 623, Act 231, Eff. Apr. 1, 1971.

281.769 Zoning ordinance or rule; purpose.

Sec. 9. A zoning ordinance adopted by a local unit of government or a zoning rule promulgated by the commission shall provide for the protection of the river and its related land resources consistent with the preservation and enhancement of their values and the objectives set forth in section 3. The ordinance or rule shall protect the interest of the people of the state as a whole. It shall take cognizance of the characteristics of the land and water concerned, surrounding development and existing uses and provide for conservation of soil, water, stream bed and banks, flood plains and adjoining uplands.

HISTORY: New 1970, p. 624, Act 231, Eff. Apr. 1, 1971.

281.770 Zoning ordinance or rule; districts establishment; powers, distance.

Sec. 10. The ordinance or rule shall establish zoning districts within which such uses of land as for agriculture, forestry, recreation, residence, industry, commerce and additional uses may be encouraged, regulated or prohibited. It may limit or prohibit the placement of structures of any class or designate their location with relation to the water's edge, to property or subdivision lines and to flood flows and may limit the subdivision of lands for platting purposes. It may control the location and design of highways and roads and of public utility transmission and distribution lines except on lands

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or other interests in real property owned by the utility on January 1, 1971. It may prohibit or limit the cutting of trees or other vegetation but such limits shall not apply for a distance of more than 100 feet from the river's edge. It may specifically prohibit or limit mining and drilling for oil and gas but such limits shall not apply for a distance of more than 300 feet from the river's edge. It may contain other provisions necessary to accomplish the objectives of this act. A zoning rule promulgated by the commission shall not control lands more than 400 feet from the river's edge.

HISTORY: New 1970, p. 624, Act 231, Eff. Apr. 1, 1971.

281.771 Local ordinance; applicable law; construction.

Sec. 11. A local unit of government in establishing a zoning ordinance, in addition to the authority and requirements of this act, shall conform to Act No. 184 of the Public Acts of 1943, as amended, being sections 125.271 to 125.301 of the Compiled Laws of 1948, or Act No. 183 of the Public Acts of 1943, as amended, being sections 125.201 to 125.232 of the Compiled Laws of 1948. Any conflict shall be resolved in favor of the provisions of this act. The powers herein granted shall be liberally construed in favor of the local unit or the commission exercising them, in such manner as to promote the orderly preservation or enhancement of the values of the rivers and related land resources and their use in accordance with a long range comprehensive general plan to insure the greatest benefit to the state as a whole.

HISTORY: New 1970, p. 624, Act 231, Eff. Apr. 1, 1971.

281.772 Districts; valuation for tax purposes.

Sec. 12. Upon adoption of a zoning ordinance or rule, certified copies of the maps showing districts shall be filed with the local tax assessing officer and the state tax commission. In establishing true cash value of property within the districts zoned, the assessing officer shall take cognizance of the effect of limits on use established by the ordinance or rule.

HISTORY: New 1970, p. 624, Act 231, Eff. Apr. 1, 1971.

281.773 Rules; enforcement; promulgation, existing use.

Sec. 13. (1) The commission shall prescribe such administrative procedures and rules and provide such personnel as it may deem necessary for the enforcement of a zoning ordinance or rule enacted in accordance herewith. A circuit court, upon petition and a showing by the commission that there exists a violation of a rule properly promulgated under this act, shall issue any necessary order to the defendant to correct the violation or to restrain the defendant from further violation of the rule.

(2) A zoning rule of the commission shall be promulgated in accordance with and subject to the provisions of Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Compiled Laws of 1948. The rule shall include procedures for receiving and acting upon applications from local units of government or landowners for change of boundaries or change in permitted uses in accordance with sections 71 to 87 of Act No. 306 of the Public Acts of 1969. An aggrieved party may seek judicial review in accordance with and subject to the provisions of sections 101 to 106 of Act No. 306 of the Public Acts of 1969.

(3) The lawful use of any building or structure and of any land or premise as existing and lawful at the time of enactment of a zoning ordinance or rule or of an amendment thereof may be continued although such use does not conform with the provisions of the ordinance, rule or amendment. The ordinance or rule shall provide for the completion, restoration, reconstruction, extension or substitution of nonconforming uses upon such reasonable terms as may be set forth in the zoning ordinance or rule.

HISTORY: New 1970, p. 624, Act 231, Eff. Apr. 1, 1971.

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281.774 National wild and scenic river system; administration.

Sec. 14. Nothing in this act shall preclude a component of the system from becoming a part of the national wild and scenic river system under the federal wild and scenic rivers act, Public Law 90-542, approved October 2, 1968. The commission may enter into written cooperative agreements for joint federal-state administration of rivers which may be designated under Public Law 90-542.

HISTORY: New 1970, p. 625, Act 231, Eff. Apr. 1, 1971.

281.775 Area plans; approval; rules.

Sec. 15. The commission shall approve preliminary and final plans for site or route location, construction or enlargement of utility transmission lines, publicly provided recreation facilities, access sites, highways, roads, bridges or other structures and for publicly developed water management projects, within a designated natural river area, except within the limits of a city or incorporated village. It may require any measure necessary to control damaging erosion or flow alteration during or in consequence of construction. Rules concerning such approvals and requirements shall be promulgated under the provisions of Act No. 306 of the Public Acts of 1969, as amended.

HISTORY: New 1970, p. 625, Act 231, Eff. Apr. 1, 1971.

281.776 Construction of act.

Sec. 16. This act may not be construed to prohibit a reasonable and lawful use of any other natural resource which will benefit the general welfare of the people of this state and which is not inconsistent with the purpose of this act.

HISTORY: New 1970, p. 625, Act 231, Eff. Apr. 1, 1971.

Act 228, 1965, p. 389; Eff. Mar. 31, 1966.

AN ACT to regulate vessels carrying passengers for hire; to authorize the state waterways commission to prescribe standards, rules and regulations; to prescribe penalties for violations of this act; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

281.801 Vessels carrying passengers for hire; definitions.

Sec. 1. As used in this act:

(a) "Watercraft" means any contrivance used or designed for navigation on water, including but not limited to any vessel, ship, boat, motor vessel, steam vessel, vessel operated by machinery, motorboat, sailboat, barge, scow, tugboat or rowboat.

(b) "Vessel" means any watercraft engaged in carrying passengers for hire, directly or indirectly, irrespective of the method of operation or propulsion, except:

(1) Watercraft which are subject to inspection and which carry a current certificate as an approved vessel carrying passengers for hire under the laws of the United States.

(2) Watercraft which are owned by the United States.

(3) Any vessel under 16 feet in length on which are carried 3 passengers or less.

(c) "Passenger" means every person carried on board a passenger-carrying vessel, except:

(1) The owner or his representative.

(2) The master and the bona fide members of the crew engaged in the business of the vessel who have contributed no consideration for their carriage and who are paid for their services.

(3) Any employee of the owner of the vessel engaged in the business of the owner.

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(4) Any bona fide guest on board a vessel which is being used exclusively for pleasure purposes.

(d) "Commission" means the state waterways commission.

HISTORY: New 1965, p. 390, Act 228, Eff. Mar. 31, 1966.

281.802 Registration; forms, content; period covered.

Sec. 2. No person shall operate a vessel carrying passengers for hire on waters within the boundaries of this state unless he first registers with the commission upon appropriate forms furnished by the commission. All registrants shall furnish such information as shall reasonably be required by the commission. The registration shall be for the period of 1 year.

HISTORY: New 1965, p. 390, Act 228, Eff. Mar. 31, 1966.

281.803 Minimum safety standards for vessels and equipment.

Sec. 3. (1) The commission shall adopt minimum safety standards for vessels carrying passengers for hire. The standards shall be established to insure the safety and well-being of those persons utilizing vessels carrying passengers for hire. The standards shall include methods for determining that every vessel is of a structure suitable for carrying passengers, has suitable accommodations for passengers and crew, and is in a condition to warrant the belief that it can be used in navigation with safety to life and property.

(2) The commission shall adopt minimum safety standards pertaining to the equipping and operating of vessels including but not limited to the identification of the vessel, minimum public liability and property damage insurance, fire protection apparatus and materials, pumps, lifeboats, life floats, life rafts, life preservers, ring buoys, buoyant cushions, boilers, motors, engines, steam pressure allowed, unfired pressure vessels, fusible plugs, steering gear, safety valves, whistles, horns, bells, gangways, stairways, woodwork, fuels, including propane gas, gases, explosives and dangerous cargoes.

(3) The commission shall adopt minimum safety standards which shall include methods for the determination of maximum safe passenger capacity of vessels carrying passengers for hire.

(4) The minimum safety standards established herein may include suitable means and tests to determine the sufficiency of the structure and of the equipment of vessels carrying passengers for hire, including but not limited to inclining tests, hammer tests of boilers and hydrostatic tests of boilers.

HISTORY: New 1965, p. 390, Act 228, Eff. Mar. 31, 1966.

281.804 Inspection certificates; periodic inspection of vessels and equipment; certificate display.

Sec. 4. (1) The commission, annually or oftener if it has good cause to believe it reasonable, shall inspect or cause to be inspected every vessel carrying passengers for hire and the equipment carried thereon, and shall determine whether the vessel and equipment complies with the minimum safety standards established pursuant to the provisions of section 3.

(2) The commission in the course of its inspection shall ascertain the maximum safe passenger capacity of the vessel determined in compliance with the minimum safety standards established pursuant to the provisions of section 3.

(3) If, after the inspection, it is found that the vessel and equipment complies with the standards, the commission shall issue to the owner of the vessel a certificate to be

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furnished by the commission. The maximum safe passenger capacity of the vessel shall be indorsed upon the certificate. The certificate shall be prominently displayed on the vessel at all times while being operated upon the waterways of this state.

HISTORY: New 1965, p. 390, Act 228, Eff. Mar. 31, 1966.

281.805 Pilots' licenses; standards; period covered.

Sec. 5. The commission shall adopt minimum standards for the licensing of pilots of vessels carrying passengers for hire. No person shall operate any vessel carrying passengers for hire unless he shall have obtained a pilot's license from the commission in compliance with the minimum standards. The license shall be for a period of not to exceed 5 years. The pilot's license shall be available for immediate production at all times during which any vessel which he is operating is carrying passengers for hire.

HISTORY: New 1965, p. 391, Act 228, Eff. Mar. 31, 1966.

281.806 Petition for review of certificate or license; review of determination of nonsafety capacity of vessels; judicial review.

Sec. 6. (1) Any person denied a certificate or license by the commission may petition the commission for review of the determination of the maximum safe passenger capacity of the vessel.

(2) Any person who owns or operates a vessel carrying passengers for hire may petition the commission for review of the determination of the maximum safe passenger capacity of the vessel.

(3) Any person considering himself aggrieved by the decision of the commission under subdivisions (1) and (2) of this section, within 10 days after the determination thereof, may appeal to or have the action of the commission reviewed by the circuit court for the county in which the home port of the vessel is located, or in the circuit court for the county of Wayne, in the manner provided for the review of orders of other administrative bodies of the state, and rules of law applicable to such appeal of reviews shall apply.

HISTORY: New 1965, p. 391, Act 228, Eff. Mar. 31, 1966.

281.807 Certificate of inspection and pilots' license; requirements.

Sec. 7. (1) No person shall operate a vessel carrying passengers for hire without first obtaining a certificate of inspection.

(2) No person shall operate a vessel carrying passengers for hire without first having received a pilot's license.

(3) No person while operating a vessel carrying passengers for hire shall permit more persons to occupy the vessel at 1 time than is stated on the certificate.

HISTORY: New 1965, p. 391, Act 228, Eff. Mar. 31, 1966.

281.808 Inspection and pilots' license; fees.

Sec. 8. For each inspection provided under the provisions of this act, the owner of each vessel shall pay the commission an inspection fee according to the following schedule: Vessels with an overall length of 16 feet or less, $15.00; overall length over 16 feet but less than 21 feet, $20.00; overall length of 21 feet but less than 26 feet, $25.00; overall length of 26 feet but less than 31 feet, $30.00; overall length of 31 feet but less than 36 feet, $35.00; overall length of 36 feet but less than 41 feet, $40.00; overall length of 41 feet but less than 45 feet, $45.00; overall length of 45 feet or more, $50.00. For each pilot's license issued under the provisions of this act, the person so licensed shall pay to the commission the sum of $5.00. All of the fees received under this act shall be deposited by the commission in the state treasury for credit to the waterways fund.

HISTORY: New 1965, p. 391, Act 228, Eff. Mar. 31, 1966.

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281.809 Annual report by commission.

Sec. 9. The commission on or before January 1 of each year shall make a report to the governor containing a detailed statement of the names and numbers of vessels examined and certified pursuant to the provisions of this act, the names and number of vessels to which certificates were refused and stating the reasons for the refusal, the names and number of persons examined and licensed, the names and number of persons to whom licenses were refused and stating the reasons therefor, and such other information as may be deemed necessary and useful, and any additional information which may be requested by the governor.

HISTORY: New 1965, p. 391, Act 228, Eff. Mar. 31, 1966.

281.810 Investigation of violations; power of commission.

Sec. 10. The commission shall investigate all violations of this act and for such purpose the commission may subpoena witnesses and compel their attendance, and may administer all necessary oaths to any witnesses thus summoned or who shall appear.

HISTORY: New 1965, p. 392, Act 228, Eff. Mar. 31, 1966.

281.811 Violation of act; penalty.

Sec. 11. Any person violating any of the provisions of this act or any of the rules and regulations established hereunder is guilty of a misdemeanor and is subject to a fine of not more than $1,000.00 or by imprisonment in the county jail for not more than 90 days, or both. Where the person is the owner of a vessel operated in violation of this act or the rules and regulations established hereunder, the vessel so operated may be attached and proceeded against to satisfy any fines levied against the owner.

HISTORY: New 1965, p. 392, Act 228, Eff. Mar. 31, 1966.

281.812 Rules and regulations; promulgation.

Sec. 12. To carry out the purposes of this act the commission shall promulgate rules and regulations in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: New 1965, p. 392, Act 228, Eff. Mar. 31, 1966.

281.813 Repeal.

Sec. 13. Act No. 113 of the Public Acts of 1909, as amended, being sections 408.251 to 408.287 of the Compiled Laws of 1948, is repealed.

HISTORY: New 1965, p. 392, Act 228, Eff. Mar. 31, 1966.

Act 345, 1966, p. 643; Imd. Eff. Oct. 26.

AN ACT to provide for the improvement of certain inland lakes; to authorize the dredging and removal of undesirable materials from lakes; to authorize the acquisition of lands and other property by gift, grant, purchase or condemnation; to authorize the raising of money by taxation and special assessments for the purpose of this act; to provide for review and appeal; to prescribe the duties and powers of the legislative bodies of local units of government and the department of conservation; and to repeal certain acts and parts of acts.

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The People of the State of Michigan enact:

281.901 Inland lake improvement acts; short title.

Sec. 1. This act shall be known and may be cited as the "inland lake improvement act of 1966".

HISTORY: New 1966, p. 643, Act 345, Imd. Eff. Oct. 26.

281.902 Inland lake improvements act; definitions.

Sec. 2. As used in this act:

(a) "Public inland lake" means any lake which is accessible to the public via publicly owned lands or highways contiguous thereto, or via the bed of a stream, except the Great Lakes and connecting waters.

(b) "Private inland lake" means any inland lake other than a public inland lake.

(c) "Inland lake" means a public inland lake or a private inland lake.

(d) "Interested person" means any person who has a record interest in the title to, right of ingress to, or reversionary right to a piece or parcel of land which would be affected by a permanent change in the bottom land of a natural or artificial, public or private inland lake, or adjacent swampland. In all cases, whether having such interest or not, the department of conservation shall be an interested person.

(e) "Conservation department" means the state department of conservation.

(f) "Local unit" means a city, village, township or county.

(g) "Local governing body" means the legislative body of any local unit.

(h) Preliminary costs include costs of the engineering feasibility report, economic study, estimate of total cost and cost of setting up the assessment district.

(i) "Benefit" or "benefits" means advantages resulting from a project to public corporations, the inhabitants of public corporations, the inhabitants of this state and property within public corporations. The term includes benefits which result from elimination of pollution and elimination of flood damage, elimination of water conditions which jeopardize the public health or safety; increase of the value or use of lands and property arising from improving a lake or lakes as a result of the lake project and the improvement or development of a lake for conservation of fish and wildlife and the use, improvement or development of a lake for fishing, wildlife, boating, swimming or any other recreational, agricultural or conservation uses.

HISTORY: New 1966, p. 643, Act 345, Imd. Eff. Oct. 26.

281.903 Petition for improvement of lake; local governing bodies' powers; lake boards.

Sec. 3. (1) The local governing body of any local unit in which the whole or any part of the waters of any public inland lake is situated, upon its own motion or by petition of 2/3 of the freeholders owning lands abutting the lake, for the protection of the public health, welfare and safety and the conservation of the natural resources of this state, or to preserve property values around a lake, may provide for the improvement of a lake, or adjacent swampland, and may take steps necessary to remove and properly dispose of undesirable accumulated materials from the bottom of the lake or swamp by dredging, ditching, digging or other related work.

(2) Upon receipt of the petition or upon its own motion, the local governing body of a local unit within 60 days shall set up a lake board as provided in section 4 which shall proceed with the necessary steps for improving the lake or to void the proposed project.

HISTORY: New 1966, p. 644, Act 345, Imd. Eff. Oct. 26.

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281.904 Lake boards; membership, appointment, organization; conservation department functions.

Sec. 4. (1) The lake board shall consist of a member of the board of supervisors appointed by the chairman of the board of supervisors of each county affected by the lake improvement project; a representative of each local unit appointed by the legislative body of the local unit, other than a county, affected by the project; the county drain commissioner, or a member of the county road commission in counties not having a drain commissioner; and a representative of the department of conservation. The lake board shall elect a chairman and a secretary. A majority of the members of the lake board shall constitute a quorum and the concurrence of a majority in any matter within their duties shall be required for its determination.

(2) The conservation department upon request of the lake board shall provide whatever technical data it has available and make recommendations in the interests of conservation.

HISTORY: New 1966, p. 644, Act 345, Imd. Eff. Oct. 26.

281.905 Petitioning freeholders; number, requirement for improvements.

Sec. 5. Action may be initiated under section 3 relating to any private inland lake only upon petition of 2/3 of the freeholders owning lands abutting the lake.

HISTORY: New 1966, p. 644, Act 345, Imd. Eff. Oct. 26.

281.906 Preliminary costs; revolving funds, assessments.

Sec. 6. The county board of supervisors may provide for a revolving fund to pay for the preliminary costs of improvement projects within the county. The preliminary costs shall be assessed to the property owners in the assessment district by the lake board after notice of the hearing is given pursuant to Act No. 162 of the Public Acts of 1962, as amended, and shall be repaid to the fund where the project is not finally constructed.

HISTORY: New 1966, p. 644, Act 345, Imd. Eff. Oct. 26.

281.907 Institution of proceedings for improvement; conflicts with local law.

Sec. 7. (1) Whenever a local governing body, in accordance with section 3, deems it expedient to have a lake improved, it, by resolution, shall direct the lake board to institute proceedings as prescribed in this act.

(2) When the waters of any inland lake are situated in 2 or more local units, the improvement of such lake may be determined jointly in the same manner as provided in this act, if the local governing body of all local units involved determines it to be expedient in accordance with section 3 and, by resolution, directs the lake board to institute proceedings as hereinafter prescribed. Where local ordinances and charters conflict, the provisions of this act shall govern.

HISTORY: New 1966, p. 644, Act 345, Imd. Eff. Oct. 26.

281.908 Conservation department; initiation of improvements.

Sec. 8. If the conservation department deems it expedient, in accordance with section 3, to have a lake dredged or improved, the director may petition the local governing body or governing bodies in which the lake is located for an improvement of the lake. The conservation department may likewise join with the local governing body of any local unit in instituting proceedings for improvements as set forth in this act.

HISTORY: New 1966, p. 645, Act 345, Imd. Eff. Oct. 26.

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281.909 Lake board; determination of scope of project; establishment of special assessment districts; ministerial duties.

Sec. 9. The lake board, when instructed by resolution of the local governing body, shall determine the scope of the project and establish a special assessment district including therein all parcels of land and local units which will be benefited by the improvement of the lake. The local governing body may delegate to the lake board such other ministerial duties including preparation, assembling and computation of statistical data for use by the board and the superintending, construction and maintenance of any project under this act, as it may be necessary.

HISTORY: New 1966, p. 645, Act 345, Imd. Eff. Oct. 26.

281.910 Engineering and economic reports; cost estimates.

Sec. 10. (1) The lake board shall retain a registered professional engineer to prepare an engineering feasibility report, an economic study report and an estimate of cost. The report shall include, when applicable, recommendations for normal lake levels and the methods for maintaining such levels.

(2) The engineering feasibility report shall include the methods proposed to carry out the recommended improvements, such as dredging, removal, disposal and disposal areas for undesirable materials from the lake. The report shall include an investigation of the ground water conditions and possible effects on lake levels from removal of bottom materials. A study of existing nutrients and an estimate of possible future conditions shall be included. Estimate of costs of right of way shall be included.

(3) The estimate of costs shall show probable assessments for the project. The economic report shall analyze the existing local tax structure and the effects of the proposed assessments on the local units involved. A copy of the report shall be furnished to each member of the lake board.

HISTORY: New 1966, p. 645, Act 345, Imd. Eff. Oct. 26.

281.911 Review of reports by board; determinations of practicability; public hearings; notice.

Sec. 11. Within 60 days after his receipt of the reports, the chairman shall hold a meeting of the lake board to review the reports required under section 10 and to determine the practicability of the project. The hearing shall be public and notice of the hearing shall be published twice in a newspaper of general circulation in each local unit to be affected. The first publication shall be not less than 20 days prior to the time of the hearing. The board shall determine the practicability of the project within 10 days after the hearing unless it is determined at the hearing that more information is needed before the determination can be made. Upon receipt of such additional information the board shall make its determination forthwith.

HISTORY: New 1966, p. 645, Act 345, Imd. Eff. Oct. 26.

281.912 County contributions toward costs of improvement.

Sec. 12. The county board of supervisors may provide up to 25% of the cost of a lake improvement project on any public inland lake.

HISTORY: New 1966, p. 645, Act 345, Imd. Eff. Oct. 26.

281.913 Approval of plans and cost estimates; sufficiency of petition; resolution; publication; assessment roll.

Sec. 13. If the lake board determines the project to be practicable by resolution, it shall determine to proceed with the project and shall approve the plans and estimate of costs as originally presented or as revised, corrected, amended or changed and shall also determine the sufficiency of the petition for the improvement. The resolution shall be published once in a newspaper of general circulation in each local unit to be affected. After the resolution has been published, the sufficiency of the petition shall

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not thereafter be subject to attack except in an action brought in a court of competent jurisdiction within 30 days after publication. The lake board after finally accepting the special assessment district shall make out an assessment roll based upon benefits to be derived from the proposed lake improvement and it shall direct the assessing official of each local unit to be affected to join in making an assessment roll in which shall be entered and described all the parcels of land to be assessed, with the names of the respective owners thereof, if known, and the total amount to be assessed against each parcel of land and against each local unit to be affected, which amount shall be such relative portion of the whole sum to be levied against all parcels of land and local units in the special assessment district as the benefit to such parcel of land and local unit bears to the total benefit to all parcels of land and local units in the special assessment district. When the assessment roll has been completed, each assessing official shall affix thereto his certificate stating that it was made pursuant to a resolution of the lake board adopted on a specified date, and that in making the assessment roll he has according to his best judgment conformed in all respects to the directions contained in such resolution and the statutes of the state.

HISTORY: New 1966, p. 645, Act 345, Imd. Eff. Oct. 26.

281.914 Report of assessment to lake board; review; notice and hearing; confirmation.

Sec. 14. The assessment roll shall be reported to the lake board by the assessing official of the local unit or units initiating the proceeding and filed in the office of the clerk of each local unit to be affected. Before confirming the assessment roll the lake board shall appoint a time and place when it will meet and review the same and hear any objections thereto, and shall publish notice of the hearing and the filing of the assessment roll twice prior to the hearing in a newspaper of general circulation in each local unit to be affected, the first publication to be at least 10 days before the hearing. Notice of the hearing shall also be given in accordance with Act No. 162 of the Public Acts of 1962, being sections 211.741 to 211.745 of the Compiled Laws of 1948. The hearing may be adjourned from time to time without further notice. Any person or local unit objecting to the assessment roll shall file his objection thereto in writing with the chairman before the close of the hearing or within such further time as the lake board may grant. After the hearing the lake board may confirm the special assessment roll as reported to it or as amended or corrected by it, or may refer it back to the assessing officials for revision or may annul it and direct a new roll to be made. When a special assessment roll has been confirmed the clerk of each local unit shall indorse thereon the date of the confirmation. After confirmation the special assessment roll and all assessments thereon shall be final and conclusive unless attacked in a court of competent jurisdiction within 30 days after notice of confirmation has been published in the same manner as the notice of hearing.

HISTORY: New 1966, p. 646, Act 345, Imd. Eff. Oct. 26.

281.915 Special assessments; installments, interest, penalties.

Sec. 15. Upon the confirmation of the assessment roll, the lake board may provide that the same shall be payable in 1 or more approximately equal annual installments, not exceeding 30. The amount of each installment, if more than 1, need not be extended upon the special assessment roll until after confirmation. The first installment of a special assessment shall be due on or before such time after confirmation as the board shall fix, and the several subsequent installments shall be due at intervals of 12 months from the due date of the first installment or from such other date as the board shall fix. All unpaid installments prior to their transfer to the tax roll of each local unit involved shall bear interest, payable annually on each installment due date, at a rate to be set by the board, not exceeding 6% per annum, from such date as shall be fixed by

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the board. Future due installments of an assessment against any parcel of land may be paid to the treasurer of each local unit at any time in full, with interest accrued to the due date of the next installment. If any installment of a special assessment is not paid when due, then it shall be deemed to be delinquent and there shall be collected thereon, in addition to interest as above provided, a penalty at the rate of 1/2 of 1% for each month, or fraction thereof, that it remains unpaid before being reported to the township board for reassessment upon the tax roll.

HISTORY: New 1966, p. 646, Act 345, Imd. Eff. Oct. 26.

281.916 Special assessments; liens.

Sec. 16. All special assessments contained in any special assessment roll, including any part thereof deferred as to payment, shall constitute a lien from the date of confirmation of such roll, upon the respective parcels of land assessed. The lien shall be of the same character and effect as the lien created for taxes in each local unit and shall include accrued interest and penalties. No judgment or decree or any act of the board vacating a special assessment shall destroy or impair the lien upon the premises assessed for such amount of the assessment as may be equitably charged against the same, or as by a regular mode of proceeding might be lawfully assessed thereon.

HISTORY: New 1966, p. 647, Act 345, Imd. Eff. Oct. 26.

281.917 Special assessments; collections.

Sec. 17. When any special assessment roll shall be confirmed the lake board shall direct the assessments made therein to be collected. The clerk of each local unit involved shall thereupon deliver to the treasurer of each local unit the special assessment roll, to which he shall attach his warrant commanding the treasurer to collect the assessments therein in accordance with the directions of the lake board in respect thereto. The warrant shall further require the treasurer on September 1 following the date when any assessments or any part thereof have become due to submit to the lake board a sworn statement setting forth the names of the persons delinquent, if known, a description of the parcels of land upon which there are delinquent assessments and the amount of such delinquency, including accrued interest and penalties computed to September 1 of such year. Upon receiving the special assessment roll and warrant the treasurer shall collect the several amounts assessed therein as they become due.

HISTORY: New 1966, p. 647, Act 345, Imd. Eff. Oct. 26.

281.918 Delinquent assessments; reassessment.

Sec. 18. If the treasurer reports as delinquent any assessment or part thereof, the lake board shall certify the same to the assessing official of each local unit, who shall reassess on the annual tax roll of such local unit, of such year in a column headed "special assessments" the sum so delinquent, with interest and penalties to September 1 of such year, and an additional penalty of 6% of the total amount. Thereafter the statutes relating to taxes shall be applicable to such reassessments in each local unit.

HISTORY: New 1966, p. 647, Act 345, Imd. Eff. Oct. 26.

281.919 Division of land parcels; uncollected assessment apportioned.

Sec. 19. If any parcel of land is divided after a special assessment thereon has been confirmed and before the collection thereof, the lake board may require the assessment official to apportion the uncollected amounts between the several divisions thereof and the report of the apportionment when confirmed by the lake board shall be conclusive upon all parties. If the interested parties do not agree in writing to the apportionment, then before confirmation, notice of hearing shall be given to all the interested parties, either by personal service or by publication as provided in case of an original assessment roll.

HISTORY: New 1966, p. 647, Act 345, Imd. Eff. Oct. 26.

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281.920 Additional special assessments.

Sec. 20. If the assessments in any special assessment roll prove insufficient for any reason, including the noncollection thereof, to pay for the improvement for which they were made or to pay the principal and interest on the bonds issued in anticipation of the collection thereof, then the lake board shall make additional pro rata assessments to supply the deficiency but the total amount assessed against any parcel of land shall not exceed the value of the benefits received from the improvement.

HISTORY: New 1966, p. 647, Act 345, Imd. Eff. Oct. 26.

281.921 Special assessments; invalidity and new assessments.

Sec. 21. Whenever, in the opinion of the lake board, any special assessment is invalid by reason of irregularities or informalities in the proceedings, or if any court of competent jurisdiction adjudges such assessment illegal, the lake board, whether the improvement has been made or not, whether any part of the assessment has been paid or not, may proceed from the last step at which the proceedings were legal and cause a new assessment to be made for the same purpose for which the former assessment was made. All proceedings on such reassessment and for the collection thereof shall be conducted in the same manner as provided for the original assessment. Whenever an assessment or any part thereof levied upon any premises has been so set aside, if the same has been paid and not refunded, the payment so made shall be applied upon the reassessment.

HISTORY: New 1966, p. 647, Act 345, Imd. Eff. Oct. 26.

281.922 Special assessments; exempt lands.

Sec. 22. The governing body of any department of the state or any of its political subdivisions, municipalities, school districts, townships, counties, whose lands are exempt by law, by resolution, may agree to pay the special assessments against such lands, in which case the assessment, including all the installments thereof, shall be a valid claim against the local unit.

HISTORY: New 1966, p. 648, Act 345, Imd. Eff. Oct. 26.

281.923 Borrowing and bond issues by lake board.

Sec. 23. The lake board may borrow money and issue the bonds of the special assessment district therefor in anticipation of the collection of special assessments to defray the cost of any improvement made under this act after the special assessment roll has been confirmed. The bonds shall not exceed the amount of the special assessments in anticipation of the collection of which they are issued and shall bear interest at a rate not exceeding 5% per annum. Collections on special assessments to the extent pledged for the payment of bonds shall be set aside in a special fund for the payment of the bonds. The issuance of special assessment bonds shall be governed by the provisions of the general laws of the state applicable thereto and in accordance with Act No. 202 of 1943, as amended. Bonds may be issued in anticipation of the collection of special assessments levied in respect to 2 or more public improvements but no special assessment district shall be compelled to pay the obligation of any other special assessment district. The local governing body may pledge the full faith and credit of a local unit for the prompt payment of the principal of and interest on the bonds as they become due. The pledge of full faith and credit of the local unit shall be included within the total limitation prescribed by section 5 of chapter 5 of Act No. 202 of the Public Acts of 1943, being section 135.5 of the Compiled Laws of 1948. Bonds issued under this act shall be executed by the chairman and secretary of the lake board and the interest coupons to be attached thereto shall be executed by the officials causing their facsimile signatures to be affixed thereto.

HISTORY: New 1966, p. 648, Act 345, Imd. Eff. Oct. 26.

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281.924 Condemnation; law applicable.

Sec. 24. Whenever the lake board determines by proper resolution that it is necessary to condemn private property for the purpose of this act, the condemnation proceedings shall be commenced and conducted in accordance with Act No. 149 of the Public Acts of 1911, as amended, being sections 213.21 to 213.41 of the Compiled Laws of 1948.

HISTORY: New 1966, p. 648, Act 345, Imd. Eff. Oct. 26.

281.925 Gifts and grants in aid; acceptance by lake board.

Sec. 25. (1) The lake board may receive and accept gifts or grants in aid, for the purpose of carrying out the provisions of this act.

(2) The lake board may contract or make agreement with the federal government or any agencies thereof whereby the federal government will pay the whole or any part of the costs of a project or will perform all or any part of the work connected therewith. The contract or agreement may include any specific terms required by act of congress or federal regulation as a condition for participation on the part of the federal government.

HISTORY: New 1966, p. 648, Act 345, Imd. Eff. Oct. 26.

281.926 Gifts and grants in aid; acceptance by conservation department.

Sec. 26. The conservation department in carrying out the purposes of this act may receive and accept, on behalf of the state, gifts and grants in aid.

HISTORY: New 1966, p. 648, Act 345, Imd. Eff. Oct. 26.

281.927 Advertisement for bids; letting of contracts; work relief projects.

Sec. 27. The chairman of the lake board shall advertise for bids. The contract shall be let to the lowest bidder giving adequate security for the performance of his contract, but the lake board shall reserve the right to reject any and all bids. The local governing body may improve a lake as a work relief project in accordance with the provisions of the law applicable thereto.

HISTORY: New 1966, p. 648, Act 345, Imd. Eff. Oct. 26.

281.928 Costs of projects; computation.

Sec. 28. Within 10 days after the letting of contracts, or in case of an appeal, then forthwith after the appeal has been decided, the lake board shall make a computation of the entire cost of a project under this act, which shall include all preliminary costs and engineering and inspection costs incurred: (1) the fees and expenses of special commissioners; (2) the compensation to be paid the board; (3) the contracts for dredging, or other work to be done on the project; (4) the estimated cost of an appeal if the apportionment made by the lake board is not sustained; (5) the estimated cost of inspection; (6) the cost of publishing all notices required; (7) all costs of the circuit court; (8) attorney fees for legal services in connection with the project; and (9) interest on bonds for the first year, if bonds are to be issued. The lake board may add not less than 10% nor more than 15% of the gross sum to cover contingent expenses, including additional necessary hydrological studies by the department of conservation, and the entire sum so ascertained shall be deemed to be the cost of the lake improvement project.

HISTORY: New 1966, p. 649, Act 345, Imd. Eff. Oct. 26.

281.929 Conservation department intervention.

Sec. 29. Whenever a public inland lake is to be improved the conservation department may intervene for the protection and conservation of the natural resources of the state.

HISTORY: New 1966, p. 649, Act 345, Imd. Eff. Oct. 26.

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281.930 Repeal.

Sec. 30. Act No. 140 of the Public Acts of 1961, being sections 281.701 to 281.718 of the Compiled Laws of 1948, is repealed.

HISTORY: New 1966, p. 649, Act 345, Imd. Eff. Oct. 26.

Act 303, 1967, p. 644; Eff. Jan. 1, 1968.

AN ACT to promote the safe use of the waters of this state; to provide for the numbering of motorboats; to provide for regulations relative to the operation of vessels and motorboats on such waters and to the use of waters of this state for boating; to prescribe the duties and responsibilities of owners and operators of vessels and motorboats; to prescribe the powers and duties of certain state departments; to provide for the disposition of revenue; to provide for penalties; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

281.1001 Marine safety act; short title.

Sec. 1. This act shall be known and may be cited as the "marine safety act".

HISTORY: New 1967, p. 644, Act 303, Eff. Jan. 1, 1968.

CITED IN OTHER SECTIONS: Sections 281.1001 to 281.1199 are cited in § 600.8511.

281.1002 Marine safety act; definitions; administrative.

Sec. 2. As used in this act:

(a) "Waters of this state" means any waters within the jurisdiction of this state.

(b) "Commission" means the state conservation commission.

(c) "Department" means the state department of conservation.

(d) "Director" means the director of the state department of conservation.

(e) "Political subdivision" means any county, metropolitan authority, city, village, township or combination thereof in this state. Whenever a body of water is located in more than 1 political subdivision, all of such subdivisions shall act individually in order to comply with the provisions of this act, except where the problem is confined to a specific area of the body of water only the political subdivision in which the problem waters lie shall act.

HISTORY: New 1967, p. 644, Act 303, Eff. Jan. 1, 1968.

281.1004 Marine safety act; definitions; marine safety program.

Sec. 4. As used in this act:

(a) "Marine safety program" means marine law enforcement, search and rescue operations, water safety education, recovery of drowned bodies and boat livery inspections.

(b) "State aid" means payment made by the state to a county for the conduct of a marine safety program.

(c) "Authorized expenditures" means those expenditures determined by the director to be reasonable and necessary for the adequate and proper conduct of a marine safety program. The director shall prepare and maintain a schedule of such authorized expenditures and amend the same from time to time.

HISTORY: New 1967, p. 645, Act 303, Eff. Jan. 1, 1968.

281.1006 Marine safety act; definitions; vessels and owners.

Sec. 6. As used in this act:

(a) "Boating safety certificate" means a certificate issued by the director evidencing that the holder thereof has successfully completed a state approved course of instruction in boating safety.

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(b) "Vessel" means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

(c) "Motorboat" means any vessel propelled by machinery, whether or not machinery is the principal source of propulsion.

(d) "Lifeboat" means a small boat used solely for lifesaving purposes and does not include dinghies, tenders, speedboats or other types of craft carried aboard vessels and used for other than lifesaving purposes.

(e) "Person" means an individual, partnership, firm, corporation, association or other entity.

(f) "Owner" means a person, other than a lien holder, having the property in or title to a vessel. The term includes a person entitled to the use or possession of a vessel, subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as security or vendor under a conditional sales contract.

HISTORY: New 1967, p. 645, Act 303, Eff. Jan. 1, 1968.

281.1008 Marine safety act; definitions; vessel operation.

Sec. 8. As used in this act:

(a) "Operate" means to navigate or otherwise use a vessel.

(b) "Slow—no wake speed" means a very slow speed whereby the wake or wash created by the vessel would be minimal.

(c) "High speed boating" means a speed at or above which a motorboat reaches a planing condition.

(d) "Regatta", "boat race", "marine parade", "tournament", or "exhibition" each mean an organized water event of limited duration which is conducted according to a prearranged schedule.

(e) "Anchored rafts" means all types of nonpowered rafts used for recreational purposes which are anchored seasonally on waters of this state.

(f) "Starboard" means right and reference is to the starboard side of a vessel or to the right side of the vessel.

(g) "Port" means left and reference is to the port side of a vessel or to the left side of the vessel.

HISTORY: New 1967, p. 645, Act 303, Eff. Jan. 1, 1968.

281.1011 Administration by department of conservation; representation by sheriffs association; advisory council.

Sec. 11. (1) The department shall be responsible for administration of the provisions of this act except as otherwise provided herein. The Michigan sheriffs' association shall designate an advisory representative to the department who shall transmit information, advice and recommendations relative to county marine activities and assist in the coordination of state and county marine safety programs.

(2) The director may establish a boating and water safety advisory council of such membership as he may determine appropriate. The council members shall serve without pay.

HISTORY: New 1967, p. 646, Act 303, Eff. Jan. 1, 1968.

281.1012 Regulations of waterborne vehicles; exclusive diving, fishing, swimming or water ski areas; special local regulations.

Sec. 12. The department may regulate the operation of vessels, water skis, water sleds, aquaplanes, surfboards or other similar contrivances on the waters of this state. Where special regulations are determined necessary the department may establish vessel speed limits; prohibit the use of vessels, water skis, water sleds, aquaplanes, surfboards or other similar contrivances; restrict the use of vessels, water skis, water

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sleds, aquaplanes, surfboards or other similar contrivances by day and hour; establish and designate areas restricted solely to boating, skin or scuba diving, fishing, swimming or water skiing; and, prescribe any other regulations relating to the use or operation of vessels, water skis, water sleds, aquaplanes, surfboards or other similar contrivances which will assure compatible use of state waters and best protect the public safety. The department shall prescribe special local regulations in such a manner as to make the regulations uniform with other special local regulations established on other waters of this state insofar as is reasonably possible.

HISTORY: New 1967, p. 646, Act 303, Eff. Jan. 1, 1968.

281.1013 Department; rule making powers.

Sec. 13. The department shall establish all rules as authorized by this act in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: New 1967, p. 646, Act 303, Eff. Jan. 1, 1968.

281.1014 Special rules and regulations for waterborne vehicles; preparation; presentation; notice and hearing.

Sec. 14. The department may initiate investigations and inquiries into the need for special rules for the use of vessels, water skis, water sleds, aquaplanes, surfboards or other similar contrivances on any of the waters of this state. When controls for such activities are deemed necessary, or changes or amendments to or repeal of an existing regulation required, a regulation shall be prepared and presented to the commission for consideration. Upon approval by the commission, notice of a public hearing shall be made in a newspaper of general circulation in the area wherein the regulations are to be imposed, amended or repealed, at least 15 calendar days prior to the hearing. Interested persons shall be afforded an opportunity to present their views on the proposed rule either orally or in writing.

HISTORY: New 1967, p. 646, Act 303, Eff. Jan. 1, 1968.

281.1015 Special rules; submission to local governing body; procedure for approval or disapproval.

Sec. 15. The proposed rule shall then be submitted to the governing body of the political subdivision in which the controlled waters lie. Within 30 calendar days the governing body shall inform the department that it approves or disapproves of the proposed rule. If the required information is not received within the time specified, the department shall consider the proposed rule meets the approval of the concerned political subdivision. If the governing body disapproves the proposed rule, no further action shall be taken. If the governing body approves the proposed rule, or when the 30-calendar day period has elapsed without a reply having been received from the governing body, the rule shall be adopted as specified in this act.

HISTORY: New 1967, p. 646, Act 303, Eff. Jan. 1, 1968.

281.1016 Special rules; request from local governmental units; procedure.

Sec. 16. Local political subdivisions which believe that special local rules of the type authorized by this act are needed on waters subject to their jurisdiction shall inform the department and request assistance. All such requests shall be in the form of an official resolution approved by a majority of the governing body of the concerned political subdivision. Upon receipt of such resolutions the department shall proceed as required by the provisions of sections 14 and 15.

HISTORY: New 1967, p. 647, Act 303, Eff. Jan. 1, 1968.

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281.1017 Local ordinances; identical to state rule; changes, amendment, repeal; enforcement.

Sec. 17. (1) Local political subdivisions within whose jurisdiction specially controlled waters lie shall enact a local ordinance identical in all respects to the established state rule. Whenever the department changes, amends or repeals an existing rule, the concerned local political subdivision shall change, amend or repeal the previously enacted ordinance to assure uniformity with state regulations.

(2) The sheriff or his authorized deputies shall enforce local ordinances enacted in accordance with the provisions of this act.

(3) Local political subdivisions may enact as an ordinance any or all of sections 2 to 8, 31 to 34, 36, 61, 62, 71 to 79, 91 to 98, 101, 111 to 113, 151, 152 and 161 to 168.

HISTORY: New 1967, p. 647, Act 303, Eff. Jan. 1, 1968.

281.1021 Revenue; deposition; marine safety fund.

Sec. 21. The revenue received under this act shall be deposited in the state treasury to the credit of the marine safety fund which is created. All moneys now in the state treasury to the credit of the watercraft law enforcement fund are transferred to the marine safety fund. The legislature shall appropriate from the marine safety fund for water safety education programs and for the administration and enforcement of this act, including state aid to counties, but not in excess of revenues received under this act.

HISTORY: New 1967, p. 647, Act 303, Eff. Jan. 1, 1968.

281.1023 Marine safety program; state aid to counties; expenditures.

Sec. 23. Each county of the state shall be entitled to receive state aid as provided in this act. The board of supervisors of any county desiring to conduct a marine safety program shall submit to the department by November 1 of each year an estimate of authorized expenditures for the following calendar year, in such form and containing such information as the department may require. Within 90 days after the close of each calendar year, the board of supervisors of each such county shall submit to the department a statement of authorized expenditures actually incurred, in such form and containing such information as the department may require. Statements or supplements thereto received subsequent to the 90-day period shall not be eligible for state aid.

HISTORY: New 1967, p. 647, Act 303, Eff. Jan. 1, 1968.

281.1024 Marine safety program; state aid, allocation to counties.

Sec. 24. The amount of state aid to be allocated to a county pursuant to this act shall be determined by the department. The department shall review the county's statement of authorized expenditures actually incurred and if satisfied shall provide state aid in an amount not to exceed 2/3 of the county's estimated authorized expenditures for the past calendar year. If the county's authorized expenditures actually incurred for the past calendar year exceed the county's estimated authorized expenditures for that calendar year the department, if it deems it to be in the best interests of the state and adequate funds have been appropriated by the legislature for state aid to counties, may provide state aid in excess of 2/3 of the county's estimated authorized expenditures for that calendar year, but not in excess of 2/3 of the county's authorized expenditures actually incurred. If the amount appropriated by the legislature for state aid to counties is insufficient to pay the full amount to which the counties are entitled the department shall prorate available appropriations equitably among the various counties.

HISTORY: New 1967, p. 647, Act 303, Eff. Jan. 1, 1968.

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281.1025 Marine safety program; audits of county records; refunds to state.

Sec. 25. Annually the department of the treasury shall audit the county records pertaining to the marine safety program to assure the proper disposition of these moneys in accordance with the provisions of this act and rules. If the audit reveals a refund of state aid moneys is due the state the county treasurer, within 30 days of the completion of the audit, shall send to the department the amount of the refund due the state which the director shall return to the marine safety fund.

HISTORY: New 1967, p. 648, Act 303, Eff. Jan. 1, 1968.

281.1026 Marine safety program; cooperation with county sheriffs; records; reports.

Sec. 26. The department and the county sheriffs shall cooperate in the conduct of the marine safety program. The county sheriffs shall maintain records and submit reports in such form and containing such information as the department may require.

HISTORY: New 1967, p. 648, Act 303, Eff. Jan. 1, 1968.

281.1027 Rules; adoption.

Sec. 27. The department may adopt such rules as may be necessary to carry out the provisions of this section.

HISTORY: New 1967, p. 648, Act 303, Eff. Jan. 1, 1968.

281.1031 Motorboats; numbering requirement, systems, exemptions; certificate of number.

Sec. 31. A person shall not operate or give permission for the operation of any motorboat on the waters of this state unless the motorboat is numbered in accordance with this act, or in accordance with applicable federal law, or in accordance with a federally approved numbering system of another state, and unless the certificate of number awarded to the motorboat is in full force and effect, and the identifying number is displayed on each side of the bow of the motorboat as required by this act. Motorboats having a valid marine document issued by the bureau of customs of the United States government or any federal agency successor thereto, a motorboat from a country other than the United States temporarily using the waters of this state, a motorboat whose owner is the United States, or a ship's lifeboat, are not subject to the numbering provisions of this act. Motorboats of a class so constructed or used that numbering would not materially aid in their identification and of a class not required to be numbered by federal law may also be exempted from the numbering provisions of this act by regulations established by the director.

HISTORY: New 1967, p. 648, Act 303, Eff. Jan. 1, 1968.

281.1032 Motorboats; certificate of number; operation with federal or foreign state registration.

Sec. 32. The owner of any motorboat for which a current certificate of number has been awarded pursuant to any federal law or a federally approved numbering system of another state, if the motorboat is operated on the waters of this state more than 90 days, shall make application for a certificate of number therefor in the manner prescribed in section 33.

HISTORY: New 1967, p. 648, Act 303, Eff. Jan. 1, 1968.

281.1033 Application for number; requirement, filing, form, fee, certificate number; inspection; affixing number to boat; numbering system.

Sec. 33. (1) On or before January 1, 1969, the owner of each motorboat requiring numbering by this state shall file an application for number with the secretary of state on forms provided by him. The application shall be signed by the owner of the motorboat and shall be accompanied by a fee of $5.00. Any agency of this state, political

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subdivision of this state, or tax-supported college or university of this state, shall be provided registration numbers for motorboats required to be numbered under this act without payment of the fee. Upon receipt of the application in approved form, the secretary of state shall enter it upon the records of his office and issue to the applicant a certificate of number containing the number awarded to the motorboat, the name and address of the owner and such other information as the secretary of state deems necessary. The certificate of number shall be pocket size and whenever the motorboat is in use the operator shall present it for inspection upon demand of any peace officer.

(2) The owner of any motorboat having been issued a certificate of number for the motorboat shall paint on or attach in a permanent manner to each side of the forward half of the motorboat the identification number in block characters of good proportion, not less than 3 inches in height, reading from left to right, as high above the water line as practical. The color of the numbers shall contrast with the color of the hull and shall be maintained so as to be distinctly visible and legible. There shall be a hyphen or space between the prefix letters and the numerals, and a hyphen or space between the numerals and the suffix letters. The hyphen or space shall be equal to the width of the letter "M". No number other than the number awarded to a motorboat under this act, or granted reciprocity under this act, shall be painted, attached or otherwise displayed on either side of the bow of the motorboat.

(3) There may be issued a numbering renewal decal or other device indicating that the certificate of number is in full force and effect. Display of the decal or other device shall be as prescribed by rule adopted by the department.

(4) The numbering system adopted pursuant to this act shall be in accordance with the overall system of numbering established by the secretary of the department in which the United States coast guard operates.

HISTORY: New 1967, p. 648, Act 303, Eff. Jan. 1, 1968.

281.1034 Certificates of number; expiration, renewal.

Sec. 34. Initial certificates of number awarded pursuant to this act shall expire on December 31, 1971, and thereafter certificates of number and renewals thereof shall expire at the end of each 3-year interval, unless sooner canceled as provided in this act.

HISTORY: New 1967, p. 649, Act 303, Eff. Jan. 1, 1968.

281.1035 Notice of abandonment; destruction or sale of motorboat, change of address; surrender of certificate; duplicate certificate; fee.

Sec. 35. (1) The owner of any motorboat shall notify the secretary of state within 15 days if the motorboat is destroyed or abandoned, is sold or an interest therein transferred either wholly or in part to another person, or if his address no longer conforms to the address appearing on the certificate of number. The notice shall consist of a surrender of the certificate of number on which the proper information shall be noted on a place to be provided thereon. When the surrender of the certificate is by reason of the motorboat being destroyed or abandoned, the secretary of state shall cancel the certificate and enter such fact in his records and the number may be then reassigned.

(2) If the surrender is by reason of a change of address on the part of the owner, the new address shall be recorded by the secretary of state and upon payment of a fee of $1.00 a certificate of number bearing such information shall be returned to the owner. The transferee of a motorboat registered under this act, within 15 days after acquiring it, shall make application to the secretary of state for transfer to him of the certificate of number issued to the motorboat, giving his name, address and the number of the motorboat and pay to the secretary of state a fee of $1.00. Upon receipt of the application and fee the secretary of state shall transfer the certificate of number issued for the motorboat to the new owner. Unless the application is made and the fee paid within

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15 days, the motorboat shall be deemed to be without certificate of number and a person shall not operate the motorboat until a certificate is issued.

(3) If any certificate of number is lost, mutilated or illegible, the owner of the motorboat may obtain a duplicate of the certificate upon application and payment of a fee of $2.00.

HISTORY: New 1967, p. 649, Act 303, Eff. Jan. 1, 1968.

281.1036 Manufacturers and dealers; certificate of number; temporary use in demonstration; fee.

Sec. 36. A manufacturer of motorboats requiring numbering by this act, or a person, firm or corporation engaged in the sale of motorboats requiring numbering by this act, upon application to the secretary of state, upon forms provided by him, may obtain certificates of number for use in the testing or demonstrating of such motorboat upon payment of $10.00 for each registration. Certificates of number so issued may be used by the applicant only in the testing or demonstrating of motorboats by temporary placement of the numbers on the motorboats tested or demonstrated. Any 1 certificate issued pursuant to this section may be used on only 1 motorboat at any given time. The temporary placement of numbers shall be as prescribed by this act, or rules adopted hereunder.

HISTORY: New 1967, p. 649, Act 303, Eff. Jan. 1, 1968.

281.1037 Secretary of state; certificate of number.

Sec. 37. The secretary of state may award any certificate of number directly or may authorize any person to act as his agent for the awarding thereof.

HISTORY: New 1967, p. 650, Act 303, Eff. Jan. 1, 1968.

281.1038 Secretary of state; public records; annual compilation and publication.

Sec. 38. All records of the secretary of state made or kept pursuant to this act shall be public records except as otherwise provided in this act. Annually the secretary of state shall compile all registration numbers and names of persons to whom such numbers have been assigned. This compilation shall be furnished to all police agencies requesting a copy of same without cost. Individuals desiring copies of the annual registration list may obtain the same by payment of a reasonable fee established by the secretary of state.

HISTORY: New 1967, p. 650, Act 303, Eff. Jan. 1, 1968.

281.1051 Casualties involving vessels; rendering of assistance by operator.

Sec. 51. The operator of a vessel involved in a collision, accident or other casualty, so far as he can do so without serious danger to his own vessel, crew and passengers, shall render reasonable assistance to any persons affected by the collision, accident or other casualty, including the transporting of injured persons to a physician or surgeon for medical or surgical treatment if it is apparent that treatment is necessary or when requested by the injured persons.

HISTORY: New 1967, p. 650, Act 303, Eff. Jan. 1, 1968.

281.1052 Casualties involving vessels; exchange of identification.

Sec. 52. In the case of collision, accident or other casualty involving a vessel, the operator shall stop his vessel and give his name and address and identification of his vessel, and the name and address of the owner of the vessel if he is not the operator, to the operator or occupants of any other vessel involved or to the owner or his agents of any property damaged by the accident.

HISTORY: New 1967, p. 650, Act 303, Eff. Jan. 1, 1968.

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281.1053 Casualties resulting in death; report.

Sec. 53. In the case of collision, accident or other casualty involving a vessel, the operator, if the collision, accident or other casualty results in death to any person, shall report the collision, accident or other casualty to the nearest peace officer, state police post or the sheriff of the county in which the collision, accident or other casualty occurred without delay and in any event, not later than 48 hours following the collision, accident or other casualty.

Any report of a death or drowning as the result of an accident involving a vessel and made to any peace officer other than the sheriff of the county in which the collision, accident or other casualty occurred shall be reported without delay by the peace officer to the sheriff of the county in which the collision, accident or other casualty occurred.

HISTORY: New 1967, p. 650, Act 303, Eff. Jan. 1, 1968.

281.1054 Reports of property damage.

Sec. 54. In the case of collision, accident or other casualty involving a vessel, the operator, if the collision, accident or other casualty results in injury to a person or damage to property of $100.00 or more, shall report the collision, accident or other casualty to the nearest peace officer, state police post or the sheriff of the county in which the collision, accident or other casualty occurred without delay and in any event not later than 120 hours following the collision, accident or other casualty.

HISTORY: New 1967, p. 650, Act 303, Eff. Jan. 1, 1968.

281.1055 Peace officers; investigation; reports.

Sec. 55. A peace officer receiving a report or investigating the collision, accident or other casualty involving a vessel shall prepare and submit within 15 days a complete report thereof to the director of the department of state police and the sheriff of the county wherein the collision, accident or other casualty involving a vessel occurred, in such form and containing such information as the director of state police may require.

HISTORY: New 1967, p. 650, Act 303, Eff. Jan. 1, 1968.

281.1056 Reports; copies, fees, admissibility in evidence.

Sec. 56. All collision, accident or other casualty reports involving a vessel shall be without prejudice and shall be for the information of the department. Provided, any person upon the payment of $2.00 to the department shall be furnished a copy of the report. The report required in section 55 shall not be admissible in any court.

HISTORY: New 1967, p. 651, Act 303, Eff. Jan. 1, 1968.

281.1057 Reports; transmission of information to federal officials.

Sec. 57. In accordance with any request duly made by an authorized official or agency of the United States, any information compiled or otherwise available to the secretary of state and the director of state police pursuant to this act shall be transmitted to such official or agency of the United States for analytical and statistical purposes.

HISTORY: New 1967, p. 651, Act 303, Eff. Jan. 1, 1968.

281.1061 Educational programs; establishment; youthful boat operators training program; certificates of completion.

Sec. 61. (1) In order to protect the public interest in the prudent and equitable use of the waters of this state and enhance the enjoyment of pleasure boating and other recreational water sports thereon, the department shall establish and pursue comprehensive educational programs designed to advance boating and general water safety.

(2) The department shall put into effect a program to train youthful boat operators and shall issue a boating safety certificate to those who satisfactorily complete such program. For the purpose of giving the courses of instruction and awarding boating

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safety certificates, the director may designate as his agent any person he deems qualified to act in such capacity. No charge shall be made for any instruction given or the award of boating safety certificates.

HISTORY: New 1967, p. 651, Act 303, Eff. Jan. 1, 1968.

281.1062 Motorboat operators; children, age restrictions; supervision.

Sec. 62. (1) Children less than 12 years of age may be permitted to operate motorboats on the waters of this state only when accompanied by at least one person 16 years of age or older. Children between the ages of 12 and 16 may be permitted to operate motorboats on the waters of this state only when accompanied by at least one person 16 years of age or older, or without such adult supervision when in possession of a boating safety certificate issued subsequent to satisfactorily completing a department approved course in boating safety. When so operating, the boating safety certificate shall be in the possession of the minor operator and shall be presented upon demand of any peace officer. The provisions of this section shall not be applicable to any motorboat powered by less than 6 horsepower motors.

HISTORY: New 1967, p. 651, Act 303, Eff. Jan. 1, 1968.

281.1071 Operation of vessels; rules of the road.

Sec. 71. (1) When vessels are being operated in such a manner so as to make collision imminent or likely, the following rules shall apply:

(a) When 2 vessels are approaching each other head-on, or nearly so, the operator of each shall cause his vessel to pass on the port side of the other.

(b) When overtaking a vessel proceeding in the same direction, the operator of the overtaking vessel, unless it is not feasible to do so, shall pass on the port side of the vessel ahead.

(c) When 2 vessels are approaching each other at right angles or obliquely so as to involve risk of collision, other than when 1 vessel is overtaking another, the operator of the vessel which has the other on his own port side shall hold his course and speed, and the operator of the vessel which has the other on his own starboard side shall give way to the other by directing his course to starboard so as to cross the stern of the other vessel or, if necessary to do so, shall slacken his speed, stop or reverse.

(d) When a motorboat and a vessel under sail are proceeding in such a manner so as to involve risk of collision, the operator of the motorboat shall give way to the vessel under sail.

(e) When a motorboat and a vessel not propelled by sail or mechanical means are proceeding in such manner as to involve risk of collision, the operator of the motorboat shall give way to the other vessel.

(f) When, by any of the rules provided in this section, the operator of a vessel is required to give way to the other, the operator of the other vessel shall maintain his direction and speed.

(2) Nothing in this section shall relieve the operator of a vessel otherwise privileged by the provisions of this section from the duty to operate with due regard for the safety of all persons using the waters of this state.

HISTORY: New 1967, p. 651, Act 303, Eff. Jan. 1, 1968.

281.1072 Operation of vessels; speed; interference with use of waters by others.

Sec. 72. A person operating or propelling a vessel upon the waters of this state shall operate it in a careful and prudent manner and at such a rate of speed so as not to endanger unreasonably the life or property of any person. A person shall not operate any vessel at a rate of speed greater than will permit him, in the exercise of reasonable care, to bring the vessel to a stop within the assured clear distance ahead. A person

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shall not operate a vessel in a manner so as to interfere unreasonably with the lawful use by others of any waters.

HISTORY: New 1967, p. 652, Act 303, Eff. Jan. 1, 1968.

281.1073 Operation of vessels; persons under influence of drugs or intoxicating liquor; owner's obligations.

Sec. 73. A person who is under the influence of intoxicating liquor or narcotic drugs, barbital or any derivation of barbital, or any person who is an habitual user of narcotic drugs, barbital or any derivative of barbital, shall not operate, propel or be in actual physical control of any vessel upon any waters of this state. The owner of any vessel or any person having it in charge or in control thereof shall not knowingly authorize or knowingly permit the vessel to be propelled or operated by any person who is under the influence of any intoxicating liquor or narcotic drugs, barbital or any derivative of barbital, or any person who is an habitual user of narcotic drugs, barbital or any derivative of barbital.

HISTORY: New 1967, p. 652, Act 303, Eff. Jan. 1, 1968.

281.1074 Reckless operation of waterborne vehicles; penalty.

Sec. 74. A person who operates any vessel, upon any of the waters of this state, carelessly and heedlessly in disregard of the rights or safety of others, or without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or property, is guilty of reckless operation of a vessel and shall be punished as provided in section 166. A person who navigates, steers or controls himself while being towed on water skis, water sled, surfboard or similar contrivances, upon any of the waters of this state, carelessly and heedlessly in disregard of the rights or safety of others, or without due caution and circumspection and in a manner so as to endanger or be likely to endanger any person or property, is guilty of reckless operation of water skis, water sleds, surfboards or similar contrivances.

HISTORY: New 1967, p. 652, Act 303, Eff. Jan. 1, 1968.

281.1075 Operation of vessels; direction of travel; distance from other objects.

Sec. 75. Persons operating vessels on the waters of this state in areas not marked by well defined channels, canals, rivers or stream courses shall operate in a counterclockwise fashion insofar as it is reasonably possible. They shall maintain a distance of 100 feet from any dock, raft, buoyed or occupied bathing area, buoyed diver's flag, or vessel moored or at anchor, except when proceeding at a slow—no wake speed and except when engaged in picking up or dropping off water skiers, as long as such operation is otherwise conducted with due regard to the safety of persons and property and in accordance with the laws of this state.

HISTORY: New 1967, p. 652, Act 303, Eff. Jan. 1, 1968.

281.1076 Operation of vessels; prohibited in certain areas.

Sec. 76. A person shall not operate a vessel on any of the waters of this state within a lawfully authorized restricted area clearly marked by buoys, beacons or other distinguishing devices as being prohibited to vessels.

HISTORY: New 1967, p. 653, Act 303, Eff. Jan. 1, 1968.

281.1077 Towing of persons; time when prohibited; penalty.

Sec. 77. An operator of any vessel shall not have in tow or otherwise be assisting in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance during the period of 1 hour after sunset to 1 hour prior to sunrise. Any person permitting himself to be towed on water skis, water sled, surfboard or similar contrivance in violation of any of the provisions of this act is guilty of a misdemeanor.

HISTORY: New 1967, p. 653, Act 303, Eff. Jan. 1, 1968.

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281.1078 Towing of persons; additional occupants of vessel, requirement; rear view mirrors; exceptions.

Sec. 78. (1) A person shall not operate on the waters of this state a vessel having in tow or otherwise assisting a person on water skis, water sled, aquaplane, surfboard or other similar contrivance, unless there is in the vessel, in addition to the operator, at least 1 competent person in a position to observe the progress of the person being towed. An observer shall be considered competent if he can, in fact, render assistance if necessary.

All motorboats engaged in the propulsion of a person on water skis, water sled, aquaplane, surfboard or similar contrivance, shall be equipped with a 170 degree wide angle rear view mirror affixed in a manner as will permit the operator to observe the progress of the person being towed.

(2) The provisions of this section shall not apply to vessels used by duly constituted ski schools in the giving of instructions, or to vessels used in sanctioned ski tournaments, competitions, expositions or trials therefor, or to motorboats less than 16 feet in length actually operated by the person being towed and so constructed as to be incapable of carrying the operator in or on the motorboat.

HISTORY: New 1967, p. 653, Act 303, Eff. Jan. 1, 1968.

281.1079 Vessels; use of portions unintended for occupancy prohibited; exceptions.

Sec. 79. Any occupant or operator of any vessel underway on the waters of this state shall not sit, stand or walk upon any portion of the vessel not specially designed for such purpose, except when immediately necessary for the safe and reasonable navigation or operation of the vessel.

HISTORY: New 1967, p. 653, Act 303, Eff. Jan. 1, 1968.

281.1091 Capacity plate; requirement; manufacturers; definition.

Sec. 91. (1) Every vessel less than 26 feet in length designed to carry 2 or more persons and to be propelled by machinery as its principal source of power or designed to be propelled by oars, if manufactured or offered for original sale in this state, on or after January 1, 1968, shall have affixed permanently thereto by the manufacturer a capacity plate as required by this act. As used in this act, "manufacture" means to construct or assemble a vessel or alter a vessel in such manner as to change its weight capacity.

HISTORY: New 1967, p. 653, Act 303, Eff. Jan. 1, 1968.

281.1092 Capacity plate; form, contents, position.

Sec. 92. A capacity plate shall bear the following information permanently marked thereon in such manner as to be clearly visible and legible from the position designed or normally intended to be occupied by the operator of the vessel when under way:

(a) For all vessels designed for or represented by the manufacturer as being suitable for use with outboard motor: the total weight of persons, motor, gear and other articles placed aboard which the vessel is capable of carrying with safety under normal conditions; the recommended number of persons commensurate with the weight capacity of the vessel and the presumed weight in pounds of each person, in no instance shall the presumed weight per person be less than 150 pounds; clear notice that the information appearing on the capacity plate is applicable under normal conditions and that the weight of the outboard motor and associated equipment is considered to be part of total weight capacity; the maximum horsepower of the motor vessel is designed or intended to accommodate.

(b) For all other vessels to which this act applies: the total weight of persons, gear and other articles placed aboard which the vessel is capable of carrying with safety un-

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der normal conditions; the recommended number of persons commensurate with the weight capacity of the vessel and the presumed weight in pounds of each person, in no instance shall the presumed weight per person be less than 150 pounds; clear notice that the information appearing on the capacity plate is applicable under normal conditions.

HISTORY: New 1967, p. 653, Act 303, Eff. Jan. 1, 1968.

281.1093 Capacity plate; contents; formula for determining capacity; uniformity with other jurisdictions.

Sec. 93. The information relating to maximum capacity required to appear on capacity plates shall be determined in accordance with such methods and formulas as shall be prescribed by rules adopted by the department. In prescribing the methods and formulas, the department shall be guided by and give due regard to the necessity for uniformity in methods and formulas lawful for use in determining small vessel capacity in the several states and to any methods and formulas which may be recognized or recommended by the United States coast guard, or any agency successor thereto.

HISTORY: New 1967, p. 654, Act 303, Eff. Jan. 1, 1968.

281.1094 Capacity plate; affixation by other than manufacturer; rules.

Sec. 94. Any vessel to which this act applies not having a capacity plate meeting the requirements of law affixed thereto by the manufacturer thereof may have one affixed by any other person in accordance with such rules as the department may prescribe, and may thereafter be offered for sale in this state, but no action taken pursuant to this act, or in the manner described in this act, shall relieve any manufacturer from liability for failure to comply with the requirements of this act.

HISTORY: New 1967, p. 654, Act 303, Eff. Jan. 1, 1968.

281.1095 Capacity plate; warranty by manufacturer; horsepower limitations.

Sec. 95. The information appearing on a capacity plate shall be deemed to warrant that the manufacturer or the person affixing the capacity plate as permitted by this act has correctly and faithfully employed a method and formula for the calculation of maximum weight capacity prescribed by the department and that the information appearing on the capacity plate with respect to maximum weight capacity and recommended number of persons is the result of the application of such method and formula; and with respect to information concerning horsepower limitations that such information is not a deliberate or negligent misrepresentation.

HISTORY: New 1967, p. 654, Act 303, Eff. Jan. 1, 1968.

281.1096 Capacity plate requirements; alternative compliance; authorization.

Sec. 96. If a vessel required by this act to have a capacity plate affixed thereto is of such design or construction as to make it impracticable or undesirable to affix the plate, the manufacturer or other person having the responsibility for affixing the plate may represent the impracticability or undesirability to the director in writing. Upon determination by the department that the representation has merit and that a proper and effective substitute for the capacity plate which will serve the same purpose is feasible, the department may authorize alternative compliance which shall be deemed compliance with the capacity plate requirements of this act.

HISTORY: New 1967, p. 654, Act 303, Eff. Jan. 1, 1968.

281.1097 Exemption of unconventional vessels by rule; effective date.

Sec. 97. The department may exempt by rules from the requirements of this act vessels which it finds to be of such unconventional design or construction that the information required on capacity plates would not assist in promoting safety or is not rea-

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sonably obtainable. The requirements of sections 91 to 98 shall be effective January 1, 1968.

HISTORY: New 1967, p. 654, Act 303, Eff. Jan. 1, 1968.

281.1098 Excessive loading or power; prima facie negligence.

Sec. 98. Exceeding the loading or horsepower limits as established by the capacity plate is prima facie evidence of careless operation of a vessel.

HISTORY: New 1967, p. 655, Act 303, Eff. Jan. 1, 1968.

281.1101 Divers; placement of buoys and flag; time.

Sec. 101. Any person diving or submerging in any of the waters of this state with the aid of a diving suit or other mechanical diving device shall place a buoy or boat in the water at or near the point of submergence. The buoy or boat shall bear a red flag not less than 14 inches by 16 inches with a 3-1/2 inch white stripe running from 1 upper corner to a diagonal lower corner. The flag shall be in place only while actual diving operations are in progress.

HISTORY: New 1967, p. 655, Act 303, Eff. Jan. 1, 1968.

281.1111 Life saving devices; type and number required.

Sec. 111. All vessels when in operation, shall be provided with life saving devices as follows: 1 coast guard approved life preserver, vest, ring buoy or buoyant cushion for each person on board. All motorboats as herein defined, in addition to life saving devices, shall be provided with safety equipment as follows: 1 coast guard approved B-1 type fire extinguisher on motorboats of closed or semiclosed construction and less than 26 feet in length; at least 2 coast guard approved B-1 type fire extinguishers on motorboats of closed or semiclosed construction and 26 feet to less than 40 feet in length; and at least 3 coast guard approved B-1 type fire extinguishers on motorboats of closed or semiclosed construction and 40 feet to not more than 65 feet in length; 1 hand or power-operated whistle or horn on motorboats 26 to 40 feet in length; 1 power-operated whistle or horn on motorboats 40 to 65 feet in length.

HISTORY: New 1967, p. 655, Act 303, Eff. Jan. 1, 1968.

281.1112 Lights; time; types; placement on vessel.

Sec. 112. When in operation between sunset and sunrise motorboats powered by less than 11 horsepower shall be equipped with 1 white light, either lantern or flashlight ready at hand, which shall be exhibited in sufficient time as to be visible by and to warn other craft of position and prevent collisions. Motorboats of less than 26 feet in length and powered by 11 or more horsepower when in operation between sunset and sunrise shall be equipped with and exhibit 1 white light aft, visible 2 miles, a combination light forward, red to port and green to starboard, visible 1 mile, and motorboats from 26 feet to 65 feet in length when in operation between sunset and sunrise shall be equipped with and exhibit 1 white light aft, visible 2 miles, a white light forward, visible 2 miles, a red side light to port and a green side light to starboard, visible 1 mile.

HISTORY: New 1967, p. 655, Act 303, Eff. Jan. 1, 1968.

281.1113 Engine exhaust mufflers; types.

Sec. 113. Every motorboat being operated on the waters of this state and being propelled by a permanently or temporarily attached motor shall be provided and equipped with a stock factory muffler, underwater exhaust or other modern device capable of adequately muffling the sound of the exhaust of the engine of such motorboat. The mufflers shall be kept closed, and the exhaust or device kept in proper working order by any person operating or in charge of the motorboat at all times when the engine is in operation. The term "capable of adequately muffling the sound of the ex-

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haust of the engine" means the motor's exhaust at all times shall be so muffled or suppressed as not to create excessive or unusual noise.

HISTORY: New 1967, p. 655, Act 303, Eff. Jan. 1, 1968.

281.1131 Liability of vessel owner for negligent operation; presumption of consent to use.

Sec. 131. The owner of a vessel shall be liable for any injury occasioned by the negligent operation of the vessel, whether the negligence consists of a violation of the provisions of the statutes of this state, or in the failure to observe such ordinary care in the operation as the rules of the common law require. The owner shall not be liable unless the vessel is being used with his expressed or implied consent. It shall be presumed that the vessel is being operated with the knowledge and consent of the owner if it is driven at time of the injury by his or her son or daughter, spouse, father, mother, brother, sister or other immediate member of the owner's family.

HISTORY: New 1967, p. 655, Act 303, Eff. Jan. 1, 1968.

281.1132 Responsibility of vessel owner for damage caused by vessel wake.

Sec. 132. The owner of any vessel operated upon the waters of this state shall be personally responsible for any damage to life or property resulting from a wake or swell created by the negligent operation or propulsion of such vessel, where the vessel is being operated with his consent.

HISTORY: New 1967, p. 656, Act 303, Eff. Jan. 1, 1968.

281.1141 Buoys or beacons; permit for placement; application, revocation; removal.

Sec. 141. The department may authorize, through the issuance of revocable permits, the placing of buoys or beacons in the waters of this state to mark obstruction to navigation, to designate bathing areas, to designate vessel anchorages, or for any other purpose if it will promote safety or navigation. Any person who desires to place buoys or beacons in the waters of this state, without expense to the state, shall make application to the department in such form and containing such information as the department may require. Buoys or beacons, except for mooring buoys, shall not be placed in the waters of this state unless authorized by the department in writing. When authorization has been granted, the buoys or beacons shall be placed only in accordance with the terms of the permit and shall be deemed lawfully placed. If buoys or beacons are placed in the waters of this state without a permit having been issued, the department may order their removal. If, in the judgment of the department, buoys or beacons authorized by it are found to be improperly placed or that the reason for their placement no longer exists or that the buoys or beacons do not conform to the uniform system of marking established by state regulation, the department may revoke the permit authorizing their placement and may order their removal. Revocation of permits and orders of removal shall be by written notice to the person placing the buoys or beacons or to the person to whom the permit was issued at his last known address, directing the removal within a specified time. The person to whom the notice is directed shall remove the buoys or beacons in accordance with the instructions. If the person fails to remove the buoys or beacons within the specified time, the department may cause their removal, and the cost and expense of the removal shall be charged against the person authorized to place the buoys or beacons or, where authorization has not been granted, the person placing such buoys or beacons and shall be recoverable through any court of competent jurisdiction.

HISTORY: New 1967, p. 656, Act 303, Eff. Jan. 1, 1968.

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281.1142 Buoys or beacons; uniform marking system.

Sec. 142. The department shall establish a uniform waterway marking system for the marking of all buoys and beacons authorized by the provisions of this act to be placed in the waters of this state.

HISTORY: New 1967, p. 656, Act 303, Eff. Jan. 1, 1968.

281.1143 Buoys or beacons; compliance with federal law or regulations; permits.

Sec. 143. Sections 141 and 142 shall not exempt any person from compliance with applicable federal law or regulation, and they shall not be construed to require the securing of a state revocable permit if a permit therefor has been obtained from an authorized agency of the United States.

HISTORY: New 1967, p. 656, Act 303, Eff. Jan. 1, 1968.

281.1144 Buoys or beacons; use as moorings; moving, removal or damaging.

Sec. 144. A person shall not moor or fasten a vessel to a lawfully placed buoy or beacon, except mooring buoys, or willfully move, remove or damage such buoy or beacon.

HISTORY: New 1967, p. 656, Act 303, Eff. Jan. 1, 1968.

281.1145 Anchored rafts; order for removal as navigation hazard.

Sec. 145. Whenever, in the opinion of the director, an anchored raft presents a hazard to navigation, the department may order its relocation or removal.

HISTORY: New 1967, p. 656, Act 303, Eff. Jan. 1, 1968.

281.1151 Regattas; permit; authorization, rules, applications.

Sec. 151. The department may authorize the holding of regattas, motorboat or other boat races, marine parades, tournaments, exhibitions or trials therefor on any waters of this state. It shall adopt and from time to time may amend rules concerning the conduct of such marine events. Whenever a regatta, motorboat or other boat race, marine parade, tournament, exhibition or trials therefor is proposed to be held, the person in charge thereof, at least 30 days prior thereto, shall file an application with the department for permission to hold the regatta, motorboat or other boat race, marine parade, tournament, exhibition or trials therefor. The application shall set forth the date, time and location where it is proposed to hold such regatta, motorboat or other boat race, marine parade, tournament or exhibition, and it shall not be conducted without authorization of the department in writing.

HISTORY: New 1967, p. 657, Act 303, Eff. Jan. 1, 1968.

281.1152 Regattas; compliance with federal law; waiver of provisions of act.

Sec. 152. Section 151 shall not exempt any person from compliance with applicable federal law or regulation, and it shall not be construed to require the securing of a state permit if a permit therefor has been obtained from an authorized agency of the United States. The department in its permit may waive the provisions of sections 31, 71, 75, 77, 78, 91 to 98 and 111 to 113, as well as the registration provisions of the laws of this state, and any of the rules issued by the department, insofar as they apply to vessels participating in races or regattas or trials sanctioned by the department.

HISTORY: New 1967, p. 657, Act 303, Eff. Jan. 1, 1968.

281.1161 Peace officers; stopping of vessels; duty of operator; inspection and testing of equipment; arrests without warrant.

Sec. 161. (1) The operator or person in charge of any vessel being used or operated on the waters of this state, upon being hailed by any peace officer empowered to enforce the provisions of this act or the provisions of any local ordinance or rules established under this act, shall immediately bring the vessel to a stop or maneuver it in

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such manner as will permit the officer to come alongside. The operator or person in charge of the vessel and any other person on board shall give his correct name and address, exhibit the certificate of number awarded for the vessel, submit to a reasonable inspection of the vessel and to a reasonable inspection and test of the equipment of the vessel.

(2) A peace officer who observes any violation by any person of any of the provisions of this act or of a provision of any local ordinance or rule established under this act may forthwith arrest the person without a warrant.

HISTORY: New 1967, p. 657, Act 303, Eff. Jan. 1, 1968.

281.1162 Arrest without warrant; arraignment before magistrate; applicable offenses.

Sec. 162. Whenever a person is arrested without a warrant for any violation of this act or of a provision of any local ordinance or rule established in conformity with this act, punishable as a misdemeanor, the arrested person shall be taken, without unreasonable delay, before a magistrate within the county in which the offense charged is alleged to have been committed and who has jurisdiction of the offense and is nearest or most accessible with reference to the place where the arrest is made, in any of the following cases:

(a) When the person is arrested upon a charge of negligent homicide.

(b) When the person is arrested under section 73.

(c) When a person is arrested under section 74. When in the existing circumstances it does not appear that releasing the person pending the issuance of a warrant will constitute a public menace, the arresting officer may proceed in such cases as provided by section 163.

HISTORY: New 1967, p. 657, Act 303, Eff. Jan. 1, 1968.

281.1163 Arrest without warrant; notice to appear; time; place; appearance; acceptance of pleas.

Sec. 163. (1) When a person is arrested without a warrant for any violation of this act punishable as a misdemeanor, or of a provision of any local ordinance or rule established in conformity with this act, under conditions not referred to in section 162, the arresting officer shall prepare in duplicate a written notice to appear in court containing the name and address of the person, the offense charged, and the time and place when and where the person shall appear in court. If the arrested person so demands, he shall be taken before a magistrate as provided in section 162 in lieu of being given the notice.

(2) The time specified in the notice to appear shall be within a reasonable time after the arrest unless the person arrested demands an earlier hearing.

(3) The place specified in the notice to appear shall be before a magistrate within the township or county in which the offense charged is alleged to have been committed and who has jurisdiction of the offense.

(4) Appearance may be made in person, by representation or by mail. When appearance is made by representation, or mail, the magistrate may accept the plea of guilty or not guilty for purposes of arraignment, with the same effect as though the person personally appeared before him. The magistrate, by giving 5 days' notice of the date of appearance, may require appearance in person at the time and place designated in the notice.

HISTORY: New 1967, p. 657, Act 303, Eff. Jan. 1, 1968.

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281.1164 Arrest without warrant; nonresidents; recognizance; receipt and summons; failure to appear; depositing moneys; embezzlement.

Sec. 164. (1) When a person not a resident of this state is arrested without warrant for any violation of this act under conditions not referred to under section 162, the officer making the arrest, upon demand of the arrested person, shall forthwith take the person before a magistrate of the vicinity to answer to the complaint made against him. If no magistrate is available or immediate trial cannot be had, the person arrested may recognize to such officer for his appearance by leaving with him a sum of money not to exceed $25.00.

(2) In all cases the officer making the arrest shall give a receipt to the person arrested for the moneys so deposited with him together with a written summons as provided in section 163.

(3) If the offender fails to appear as required, the deposit shall be forfeited as in other cases of default in bail in addition to any other penalty provided in this act.

(4) Every officer taking a deposit under this section within 48 hours thereafter shall deposit it with the magistrate named in the notice to appear, together with the facts relating to such arrest. Failure to make the report and deposit the money is embezzlement of public money.

HISTORY: New 1967, p. 658, Act 303, Eff. Jan. 1, 1968.

281.1165 Officers or magistrates; misconduct; removal; construction of statute.

Sec. 165. (1) Any officer or magistrate violating any of the provisions of sections 163 or 164 is guilty of misconduct in office and is subject to removal from office.

(2) The provisions of sections 163 and 164 shall govern all peace officers in making arrests without a warrant for violations of this act and shall not be construed as preventing the execution of a warrant for the arrest of the person as in other cases of misdemeanors when it may be necessary.

HISTORY: New 1967, p. 658, Act 303, Eff. Jan. 1, 1968.

281.1166 Violation of act; penalties.

Sec. 166. Unless otherwise specified under this act a violation of any of the provisions of this act or rules established in conformity with it, is a misdemeanor. A political subdivision having adopted any local ordinance in conformity with this act may provide that any violation thereof is a misdemeanor. Any person convicted of reckless operation of a vessel as defined in section 74, or of operating a vessel while under the influence of intoxicating liquor or narcotic drugs, in addition to any other penalty, may be refused by the court having jurisdiction of the violation, the right of operating any vessel on any of the waters of this state for a period of not more than 2 years.

HISTORY: New 1967, p. 658, Act 303, Eff. Jan. 1, 1968.

281.1167 Negligent crippling or homicide; penalty.

Sec. 167. A person who, by the operation of any vessel at an immoderate rate of speed or in a careless, reckless or negligent manner, but not wilfully or wantonly, injures so as to cripple or cause the death of another is guilty of a misdemeanor, and shall be imprisoned in the state prison for not more than 2 years or fined not more than $2,000.00, or both.

HISTORY: New 1967, p. 658, Act 303, Eff. Jan. 1, 1968.

281.1168 Felonious operation of watercraft; penalty.

Sec. 168. Any person who operates any vessel carelessly and heedlessly in wilful and wanton disregard of the rights or safety of others, or without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or property and thereby injures so as to cripple any person, but not causing

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death, is guilty of the offense of felonious operation and shall be imprisoned in the state prison for not more than 2 years or fined not more than $2,000.00, or both.

HISTORY: New 1967, p. 659, Act 303, Eff. Jan. 1, 1968.

281.1169 Negligent homicide included in charge of manslaughter.

Sec. 169. The crime of negligent homicide shall be deemed to be included within every crime of manslaughter charged to have been committed in the operation of any vessel and where a defendant is charged with manslaughter committed in the operation of any vessel, if the jury finds the defendant not guilty of the crime of manslaughter, the jury may render a verdict of negligent homicide.

HISTORY: New 1967, p. 659, Act 303, Eff. Jan. 1, 1968.

281.1170 Nonresidents; secretary of state as attorney for service of summons; service; procedure; sufficiency; death, appointment of secretary as attorney, abatement of actions; costs; applicability to all courts.

Sec. 170. (1) The operation by a nonresident of a vessel upon the waters of this state, or the operation on the waters of this state of a vessel owned by a nonresident if operated with his consent, expressed or implied, is the appointment by the nonresident of the secretary of state as his true and lawful attorney, upon whom may be served the summons in any action against him, growing out of any accident or collision in which such nonresident may be involved while operating a vessel on the waters of this state, or in which the vessel may be involved while being so operated. The operation is a signification of his agreement that any summons against him which is so served shall have the same legal force and validity as if served on him personally within this state. Service of summons shall be made by leaving a copy thereof with the secretary of state, or his deputy, who shall keep a record of each process and the day and hour of service. Service shall be sufficient service upon the nonresident, if notice of the service and a copy of the summons are forthwith either served upon the defendant personally by the sheriff or constable of the county in which he resides or sent by certified mail by the plaintiff or his attorney to the defendant. If personal service of the notice and copy of summons is had upon the defendant, the officer making the service shall so certify in his return which shall be filed with the court having jurisdiction of the cause. If service is made by certified mail, then the plaintiff or his attorney shall make an affidavit showing that he has made service of the notice and summons upon the defendant by certified mail, and the affiant shall attach thereto a true copy of the summons and notice so served and the return receipt of the defendant and shall file the affidavit and attached papers with the court having jurisdiction of the cause. The court in which the action is pending may order such extension of time as is necessary to afford the defendant reasonable opportunity to defend the action.

(2) The death of a nonresident does not revoke the appointment by him of the secretary of state as his true and lawful attorney upon whom may be served the summons in an action against him growing out of any such accident or collision; and any action growing out of such accident or collision may be commenced or prosecuted against his executor or administrator duly appointed by the state, territory or district of the United States or foreign country in which the nonresident was domiciled at the time of his death. Service of the summons shall be made upon the secretary of state, and personal service of such notice and the copy of the summons be upon his executor or administrator, in like manner, with the same force and effect as service upon the nonresident during his lifetime.

(3) Any action or proceeding pending in any court of this state, in which the court has obtained jurisdiction of the nonresident pursuant to the provision of this section, shall not abate by reason of the death of the nonresident, but his executor or administrator duly appointed in the state, territory or district of the United States or foreign

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country in which he was domiciled at the time of his death, upon the application of the plaintiff in the action and upon such notice as the court may prescribe, shall be brought in and substituted in the place of the decedent, and the action or proceeding shall continue.

(4) The court shall include as taxable costs, in addition to other legal costs against the plaintiff in case the defendant prevails in the action, the actual traveling expenses of the defendant from his residence to the place of trial and return, not to exceed the sum of $100.00.

(5) The provisions of this section shall apply to actions commenced in all courts of this state having civil jurisdiction, including justice courts.

HISTORY: New 1967, p. 659, Act 303, Eff. Jan. 1, 1968.

281.1197 Act not to affect owner's rights under laws of United States.

Sec. 197. This act shall not be construed to affect any of the rights of an owner under the laws of the United States.

HISTORY: New 1967, p. 660, Act 303, Eff. Jan. 1, 1968.

281.1198 Repeals; exceptions.

Sec. 198. Except as provided in section 199, Act No. 245 of the Public Acts of 1959, as amended, being sections 281.651 to 281.682 of the Compiled Laws of 1948, is repealed.

HISTORY: New 1967, p. 660, Act 303, Eff. Jan. 1, 1968.

281.1199 Effective date; exceptions.

Sec. 199. This act shall take effect on January 1, 1968, except that motorboats numbered for the period ending December 31, 1968, shall be numbered under the provisions of Act No. 245 of the Public Acts of 1959, as amended.

HISTORY: New 1967, p. 660, Act 303, Eff. Jan. 1, 1968.

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CHAPTER 282. SOIL CONSERVATION DISTRICTS

SOIL CONSERVATION DISTRICTS
Act 297 of 1937

282.1 Soil conservation districts law; short title.
282.2 Declaration of policy.
282.3 Soil conservation district law; definitions.
282.4 Soil conservation committee; membership, terms; powers, duties.
282.5 Soil conservation districts; creation, procedure.
Hearing; notice; determination; boundaries; subsequent petitions.
Administrative practicability, determination; referendum.
Expenses, payment; rules; informalities.
Results, publication; committee determination.
Directors; district organization; application; name; certificate.
Subsequent petitions.
Additional territory; petitions; evidence of establishment.
Boundary line changes; petition, hearing, certificate.
Cities and villages.
Name, procedure to change.
282.6 Election of three directors for each district.
282.7 Directors; appointment, qualifications, term; chairman; quorum; employees.
282.8 Powers of districts and directors.
282.13 Cooperation between districts.
282.14 State agencies to cooperate; agreements.
282.15 Discontinuance of districts; procedure; referendum.
282.15a Soil conservation districts; consolidation, petition, notice of hearing.
Order of consolidation.
Certificate of due organization.
Board of directors, term.
Transfer of assets, liabilities, records, documents, writings, property.
282.16 Appropriations.

Act 297, 1937, p. 552; Eff. Oct. 29.

AN ACT to declare the necessity of creating governmental subdivisions of the state, to be known as "soil conservation districts," to engage in conserving soil resources and preventing and controlling soil erosion; to establish the state soil conservation committee, and to define its powers and duties; to provide for the creation of soil conservation districts; to define the powers and duties of soil conservation districts, and to provide for the exercise of such powers, including the power to acquire property by purchase, gift, and otherwise; to empower such districts to adopt programs and regulations for the discontinuance of the land-use practices contributing to soil wastage and soil erosion, and the adoption and carrying out of soil-conserving land-use practices, and to provide for the enforcement of such programs and regulations; to provide for establishing boards of adjustment in connection with land-use regulations, and to define their functions and powers; to provide for financial assistance to such soil conservation districts, and making an appropriation for that purpose; to declare the effect of this act, and for other purposes.

The People of the State of Michigan enact:

282.1 Soil conservation districts law; short title.

Sec. 1. Short title. This act may be known and cited as the soil conservation districts law.

HISTORY: CL 1948, 282.1.

COMPILERS' NOTE: The catchlines following the act section numbers were incorporated as part of the act as enacted.

CITED IN OTHER SECTIONS: Sections 282.1 to 282.16 are cited in § 16.282.

282.2 Declaration of policy.

Sec. 2. Declaration of policy. It is hereby declared to be the policy of the legislature to provide for the conservation of the soil and soil resources of this state, and for the control and prevention of soil erosion, and thereby to preserve natural resources, control floods, prevent impairment of dams and reservoirs, assist in maintaining the navig-

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ability of rivers and harbors, preserve wildlife, protect the tax base, protect public lands, and protect and promote the health, safety, and general welfare of the people of this state.

HISTORY: Am. 1945, p. 457, Act 280, Eff. Sept. 6;—CL 1948, 282.2.

282.3 Soil conservation district law; definitions.

Sec. 3. As used in this act:

(1) "District" or "soil conservation district" means a governmental subdivision of this state, and a public body corporate and politic, organized in accordance with this act, for the purposes, with the powers, and subject to the restrictions set forth.

(2) "Director" means 1 of the members of the governing body of a district, elected or appointed in accordance with this act.

(3) "Committee" or "state soil conservation committee" means the agency created in section 4.

(4) "Petition" means a petition filed under the provisions of subsection (a) of section 5 for the creation of a district.

(5) "Nominating petition" means a petition filed under the provisions of section 6 to nominate candidates for the office of director of a soil conservation district.

(6) "State" means this state.

(7) "Agency of this state" includes the government of this state and any subdivision, agency or instrumentality, corporate or otherwise, of the government of this state.

(8) "United States" or "agencies of the United States" includes the United States of America, the soil conservation service of the United States department of agriculture, and any other agency or instrumentality, corporate or otherwise, of the United States of America.

(9) "Government" or "governmental" includes the government of this state, the government of the United States, and any subdivision, agency or instrumentality, corporate or otherwise, of either of them.

(10) "Land occupier" or "occupier of land" includes any person of legal age, firm or corporation who shall hold title to, or shall be in possession of, any lands 3 acres or more in extent lying within a district organized under this act, whether as owner, lessee, renter, tenant or otherwise.

(11) "Due notice" means notice published at least twice, with an interval of at least 7 days between the 2 publication dates, in a newspaper or other publication of general circulation within the appropriate area, or if no publication of general circulation is available, by posting at a reasonable number of conspicuous places within the appropriate area, such posting to include, where possible, posting at public places where it may be customary to post notices concerning county or municipal affairs generally. At any hearing held pursuant to the notice, at the time and place designated in the notice, adjournment may be made from time to time without the necessity of renewing the notice for such adjourned dates.

(12) "Land owner" includes any person, firm or corporation who shall hold title to or has contracted to purchase any lands lying within a district organized under this act.

HISTORY: Am. 1945, p. 457, Act 280, Eff. Sept. 6;—CL 1948, 282.3;—Am. 1970, p. 612, Act 229, Imd. Eff. Nov. 25.

282.4 Soil conservation committee; membership, terms; powers, duties.

Sec. 4. State soil conservation committee. (a) There is hereby established, to serve as an agency of the state and to perform the functions conferred upon it in this act, the state soil conservation committee. The committee shall consist of 7 members. The following shall serve as members of the committee: the dean of agriculture located at Michigan state college, East Lansing, Michigan; the commissioner of agriculture, the

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director of the state department of conservation, and 4 practical farmers who shall be appointed by the governor from among the directors of the several districts, for terms of 4 years, except in 1945 2 shall be appointed for a term of 2 years and 2 for a term of 4 years; terms to begin July 1 of the odd year. The committee may invite the secretary of agriculture of the United States of America to appoint 1 person to serve with the above-mentioned members as a member of the committee. The committee shall keep a record of its official actions, shall adopt a seal, which seal shall be judicially noticed, and may perform such acts, hold such public hearings, and promulgate such rules and regulations as may be necessary for the execution of its functions under this act.

(b) The state soil conservation committee may employ an administrative officer and such technical experts and such other agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties, and compensation. The committee may call upon the attorney general of the state for such legal services as it may require. It shall have authority to delegate to its chairman, to 1 or more of its members, or to 1 or more agents or employees, such powers and duties as it may deem proper. It shall be supplied with suitable office accommodations at the seat of the state government or such place as the committee shall designate, and shall be furnished with the necessary supplies and equipment. Upon request of the committee, for the purpose of carrying out any of its functions, the supervising officer of any state agency, or of any state institution of learning shall, insofar as may be possible under available appropriations, and having due regard to the needs of the agency to which the request is directed, assign or detail to the committee members of the staff or personnel of such agency or institution of learning, and make such special reports, surveys, or studies as the committee may request.

(c) The committee shall designate its chairman annually. The 4 farmer members shall hold office, except as provided in section 4(a), for 4 years or until their successor is appointed and qualified. The non-farmer members shall hold office so long as they shall retain the office by virtue of which they shall be serving on the committee. A majority of the committee shall constitute a quorum, and the concurrence of a majority in any matter within their duties shall be required for its determination. The farmer members of the committee shall receive compensation of $10.00 per day for their services, when attending committee meetings, and shall be entitled to expenses, including traveling expenses, necessarily incurred in the discharge of their duties on the committee. The non-farmer members shall receive no compensation for their services on the committee, but shall be entitled to expenses, including traveling expenses, necessarily incurred in the discharge of their duties on the committee. The committee shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations, and orders issued or adopted; and shall provide for an annual audit of the accounts of receipts and disbursements.

(d) In addition to the duties and powers hereinafter conferred upon the state soil conservation committee, it shall have the following duties and powers:

(1) To offer such assistance as may be appropriate to the directors of soil conservation districts, organized as provided hereinafter, in the carrying out of any of their powers and programs.

(2) To keep the directors of each of the several districts organized under the provisions of this act informed of the activities and experience of all other districts organized hereunder, and to facilitate an interchange of advice and experience between such districts and cooperation between them.

(3) To approve and coordinate the programs of the several soil conservation districts organized hereunder.

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(4) To secure the cooperation and assistance of the United States and any of its agencies, and the state and any of its agencies, in the work of such districts, and to formulate such policies and procedures, as the committee deems necessary relative to the extension of aid in any form from federal or state agencies to such districts.

(5) To disseminate information throughout the state concerning the activities and programs of the soil conservation districts organized hereunder, and to encourage the formation of such districts in areas where their organization is desirable.

(6) Members of the committee cannot accept any position created by the committee for which salary is paid, nor may they engage in any business that is promoted by the committee as part of or contributes to the soil conservation program.

HISTORY: Am. 1945, p. 458, Act 280, Eff. Sept. 6;—CL 1948, 282.4.

282.5 Soil conservation districts; creation, procedure.

Sec. 5. (a) Any 25 occupiers of land lying within the limits of the territory proposed to be organized into a district may file a petition with the committee asking that a soil conservation district be organized to function in the territory described in the petition. The petition shall set forth:

(1) The proposed name of the district.

(2) That there is need, in the interest of the public health, safety and welfare, for a soil conservation district to function in the territory described in the petition.

(3) A description of the territory proposed to be organized as a district, which description shall not be required to be given by metes and bounds or by legal subdivisions, but shall be deemed sufficient if generally accurate.

(4) A request that the committee duly define the boundaries for the district; that a referendum be held within the territory so defined on the question of the creation of a soil conservation district in the territory and that the committee determine that such a district be created. Where more than 1 petition is filed covering parts of the same territory, the committee may consolidate all or any such petitions.

Hearing; notice; determination; boundaries; subsequent petitions.

(b) Within 30 days after a petition has been filed with the committee, it shall give notice of a proposed hearing upon the question of the desirability and necessity, in the interest of the public health, safety and welfare of the creation of the district, upon the question of the appropriate boundaries to be assigned to the district, upon the propriety of the petition and other proceedings taken under this act, and upon all questions relevant to such inquiries. All occupiers of land within the limits of the territory described in the petition and of lands within any territory considered for addition to the described territory and all other interested parties, shall have the right to attend the hearings and to be heard. If it appears upon the hearing that it may be desirable to include within the proposed district territory outside of the area within which notice of the hearing has been given, the hearing shall be adjourned and notice of further hearing shall be given throughout the entire area considered for inclusion in the district, and such further hearing held. After the hearing, if the committee determines, upon the facts presented at the hearing and upon such other relevant facts and information as may be available, that there is need, in the interest of the public health, safety and welfare, for a soil conservation district to function in the territory considered at the hearing, it shall make and record its determination, and shall define, by metes and bounds or by legal subdivisions, the boundaries of the district. In making the determination and in defining the boundaries, the committee shall give due weight and consideration to the topography of the area considered, the composition of soils therein, the distribution of erosion, the prevailing land-use practices, the desirability and necessity of including within the boundaries the particular lands under consideration and the benefits the lands may receive from being included within the bounda-

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ries, the relation of the proposed area to existing watersheds and agricultural regions and to other soil conservation districts already organized or proposed for organization under this act and such other physical, geographical and economic factors as are relevant. The territory to be included within the boundaries need not be contiguous. If the committee determines after the hearing, after due consideration of the relevant facts, that there is no need for a soil conservation district to function in the territory considered at the hearing, it shall make and record its determination and deny the petition. After 6 months have expired from the date of the denial of any petition, subsequent petitions covering the same or substantially the same territory may be filed and new hearings held and determinations made thereon.

Administrative practicability, determination; referendum.

(c) After the committee has made and recorded a determination that there is need, in the interest of the public health, safety and welfare, for the organization of a district in a particular territory and has defined the boundaries thereof, it shall consider the question whether the operation of a district within such boundaries with the powers conferred upon soil conservation districts in this act is administratively practicable and feasible. To assist the committee in the determination of such administrative practicability and feasibility, the committee, within a reasonable time after entry of the finding that there is need for the organization of the proposed district and the determination of the boundaries thereof, shall hold a referendum within the proposed district upon the proposition of the creation of the district, and give notice of the referendum. The question shall be submitted by ballots upon which the words "For creation of a soil conservation district of the lands below described and lying in the county of ..... and ....." and "Against creation of a soil conservation district of the lands below described and lying in the county of ..... and ....." shall be printed or mimeographed with a square before each proposition and a direction to insert an X mark in the square before 1 or the other of the propositions as the voter may favor or oppose creation of the district. The ballot shall set forth the boundaries of the proposed district as determined by the committee. All occupiers of lands lying within the boundaries of the territory, as determined by the committee, shall be eligible to vote in the referendum.

Expenses, payment; rules; informalities.

(d) The committee shall pay all expenses for the issuance of the notices and the conduct of the hearings and referenda and shall supervise the conduct of the hearings and referenda. It shall issue appropriate rules governing the conduct of the hearings and referenda and providing for the registration of all eligible voters or prescribing some other appropriate procedure for the determination of those eligible as voters in the referendum. No informalities in the conduct of the referendum or in any matters relating thereto, shall invalidate the referendum or the result thereof if notice thereof has been given substantially as herein provided and the referendum shall have been fairly conducted.

Results, publication; committee determination.

(e) The committee shall publish the result of the referendum and thereafter consider and determine whether the operation of the district within the defined boundaries is administratively practicable and feasible. If the committee determines that the operation of the district is not administratively practicable and feasible, it shall record its determination and deny the petition. If the committee determines that the operation of the district is administratively practicable and feasible, it shall record its determination and proceed with the organization of the district. In making its determination the committee shall give due regard and weight to the attitudes of the occupiers of lands lying within the defined boundaries, the number of land occupiers eligible to vote in

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the referendum who have voted, the proportion of the votes cast in the referendum in favor of the creation of the district to the total number of votes cast, the approximate wealth and income of the land occupiers of the proposed district, the probable expense of carrying on erosion-control operations within the district, and such other economic and social factors as may be relevant to such determination. The committee shall not determine that the operation of the proposed district within the defined boundaries is administratively practicable and feasible unless at least a majority of the votes cast in the referendum upon the proposition of creation of the district have been cast in favor of the creation of the district.

Directors; district organization; application; name; certificate.

(f) If the committee determines that the operation of the proposed district within the defined boundaries is administratively practicable and feasible, it shall appoint 2 directors to act, with the 3 directors elected as provided hereinafter, as the governing body of the district. The district is a governmental subdivision of this state and a public body corporate and politic, upon the taking of the following proceedings:

The directors shall present to the secretary of state an application signed by them, which shall set forth, and the application need contain no detail other than the mere recitals: (1) that a petition for the creation of the district was filed with the committee pursuant to this act, and that the proceedings specified in this act were taken pursuant to the petition; that the application is being filed in order to complete the organization of the district as a governmental subdivision and a public body, corporate and politic; and that they are the directors; (2) the name and official residence of each of the directors, together with a certification evidencing their right to office; (3) the term of office of each of the directors; (4) the name which is proposed for the district and (5) the location of the principal office of the directors of the district. The application shall be subscribed and sworn to by each of the directors before an officer authorized by the laws of this state to take and certify oaths, who shall certify upon the application that he personally knows the directors and knows them to be the officers as affirmed in the application, and that each has subscribed thereto in the officer's presence. The application shall be accompanied by a statement by the committee, which shall certify, and such statement need contain no detail other than the mere recitals, that a petition was filed, notice issued and hearing held; that the committee did duly determine that there is need, in the interest of the public health, safety and welfare, for a soil conservation district to function in the proposed territory and did define the boundaries thereof; that notice was given and a referendum held on the question of the creation of the district, and that the result of the referendum showed a majority of the votes cast to be in favor of the creation of the district; that thereafter the committee did duly determine that the operation of the proposed district is administratively practicable and feasible. The statement shall set forth the boundaries of the district as they have been defined by the committee.

The secretary of state shall examine the application and statement and if he finds that the name proposed for the district is not identical with that of any other soil conservation district or so nearly similar as to lead to confusion or uncertainty, he shall receive and file them and shall record them in an appropriate book of record in his office. If the secretary of state finds that the name proposed for the district is identical with that of any other soil conservation district, or so nearly similar as to lead to confusion and uncertainty, he shall certify such fact to the committee, which shall thereupon submit to the secretary of state a new name for the district, which shall not be subject to such defects. Upon receipt of the new name, free of defects, the secretary of state shall record the application and statement, with the name so modified in an appropriate book of record in his office. When the application and statement have been made, filed and recorded, the district shall constitute a governmental subdivision of

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this state and a public body corporate and politic. The secretary of state shall issue to the directors a certificate, under the seal of the state, of the due organization of the district, and shall record the certificate with the application and statement. The boundaries of the district shall include the territory as determined by the committee but in no event shall they include any area included within the boundaries of another soil conservation district organized under this act.

Subsequent petitions.

(g) After 6 months have expired from the date of entry of a determination by the committee that operation of a proposed district is not administratively practicable and feasible and denial of a petition pursuant to its determination, subsequent petitions may be filed and action taken thereon in accordance with this act.

Additional territory; petitions; evidence of establishment.

(h) Petitions for including additional territory within an existing district may be filed with the committee and the proceedings provided for in the case of petitions to organize a district shall be observed in the case of petitions for inclusion. The committee shall prescribe the form for the petitions, which shall be as nearly as may be in the form prescribed for petitions to organize a district. Where the total number of land occupiers in the area proposed for inclusion is less than 25, the petition may be filed when signed by a majority of the occupiers of the area, in which case no referendum need be held. In referenda upon petitions for inclusion, all occupiers of land lying within the proposed additional area shall be eligible to vote.

In any suit, action or proceeding involving the validity or enforcement of, or relating to, any contract, proceeding or action of the district, the district shall be deemed to have been established in accordance with this act upon proof of the issuance of the certificate by the secretary of state. A copy of the certificate certified by the secretary of state is admissible in evidence in any suit, action or proceeding and shall be proof of the filing and contents thereof.

Boundary line changes; petition, hearing, certificate.

(i) Petitions signed by a majority of the members of each of the governing bodies of adjoining soil conservation districts may be filed with the committee asking that the boundary line between the districts be changed. The committee shall prescribe the form of the petitions, which shall set out the existing boundary line between the districts and the proposed new boundary. Within 30 days after a petition has been filed with the committee, it shall give notice of a public hearing upon the question of the proposed change of boundary. All occupiers of lands lying within the districts and all other interested persons have the right to attend the hearings and be heard. After the hearing, the committee shall determine, upon the facts presented at the hearing and upon other available facts and information, whether the operation of the districts within the proposed new boundaries would be administratively practicable and feasible. In making its determination, the committee shall give due consideration to the declaration of policy and to the standards provided in section 5, relative to the organization of districts. If after the hearing, the committee determines that the operation of the districts within the proposed new boundaries will be administratively practicable and feasible, it shall record its determination and notify the chairmen of the governing bodies of the districts of its determination. The chairmen shall present to the secretary of state an application, signed by them for a certificate evidencing the change of boundary. The application shall be accompanied by a statement by the committee certifying that the boundary between the districts has been changed in accordance with the procedures prescribed in this section, and setting forth the new boundary line. When the application and statement have been filed with the secretary of state, the

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change of boundary shall be effective and the secretary of state shall issue to the directors of each of the districts a certificate evidencing the change of boundary.

Cities and villages.

(j) Boundaries of soil conservation districts which exclude cities and incorporated villages are extended to include these municipalities. Land owners and land occupiers of cities and incorporated villages have the same rights and privileges as accorded other land owners and land occupiers under this act.

Name, procedure to change.

(k) The board of directors of a soil conservation district may petition the committee to change the district's name. The petition form shall be provided by the committee. The committee shall give due consideration to the petition and if the request is deemed needed and practical shall approve the change in name and request the secretary of state to enter the new name in its official records of the district.

HISTORY: Am. 1945, p. 459, Act 280, Eff. Sep. 6;—CL 1948, 282.5;—Am. 1951, p. 193, Act 160, Imd. Eff. Jun. 6;—Am. 1970, p. 613, Act 229, Imd. Eff. Nov. 25.

282.6 Election of three directors for each district.

Sec. 6. Election of 3 directors for each district. Nominating petitions will be filed with the state soil conservation committee to nominate candidates for directors of such district at the time of the hearing. The committee shall have authority to extend the time within which nominating petitions may be filed. No such nominating petition shall be accepted by the committee, unless it shall be subscribed by 25 or more occupiers of lands lying within the boundaries of such district. Land occupiers may sign more than 1 such nominating petition to nominate more than 1 candidate for director. The committee shall give due notice of an election to be held for the election at the time of the referendum of 3 directors for the district. The names of all nominees on behalf of whom such nominating petitions have been filed within the time herein designated, shall be printed, arranged in the alphabetical order of the surnames, upon ballots, with a square before each name and a direction to insert an X mark in the square before any 3 names to indicate the voter's preference. All occupiers of lands lying within the district shall be eligible to vote in such election. The 3 candidates who shall receive the largest number, respectively, of the votes cast in such election, shall be the elected directors for such district. Directors will only assume office if there is a favorable vote for the creation of the district and the district is determined to be practicable and feasible by the state committee. The committee shall pay all the expenses of such election, shall supervise the conduct thereof, shall prescribe regulations governing the conduct of such election and the determination of the eligibility of voters therein, and shall publish the results thereof.

HISTORY: Am. 1945, p. 463, Act 280, Eff. Sept. 6;—CL 1948, 282.6.

282.7 Directors; appointment, qualifications, term; chairman; quorum; employees.

Sec. 7. Appointment, qualifications and tenure of directors. The first governing body of the district shall consist of 5 directors, elected or appointed as provided hereinbefore. The 2 directors appointed by the committee shall be persons who are by training and experience qualified to perform the specialized skilled services which will be required of them in the performance of their duties hereunder.

The directors shall designate a chairman annually. (a) The term of office of each director shall be 3 years, except that the director first appointed shall serve for 2 years, the second director appointed shall serve for 1 year, and the directors first elected at the time of the referendum shall serve as follows: the director receiving the highest number of votes shall serve for 3 years, the director receiving the next highest number

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of votes shall serve for 2 years, and the director receiving the next highest number of votes shall serve for 1 year.

(b) Thereafter, all directors shall be elected at an annual meeting of the land occupiers of the district. The annual meeting shall be held within 30 days following the close of the fiscal year of the district. The fiscal year of the district shall be determined by the board of directors of the district.

(c) A director shall hold office until his successor has been elected and qualified. Vacancies shall be filled by appointment by the board of directors until the next annual meeting at which time a director will be elected to fill the unexpired or full term.

(d) The state committee shall prescribe rules and regulations governing the conduct of elections at annual meetings.

A majority of the directors shall constitute a quorum and the concurrence of a majority in any matter within their duties shall be required for its determination. A director shall receive no compensation for his services, but he shall be entitled to expenses, including traveling expenses, necessarily incurred in the discharge of his duties.

The directors may employ a secretary, technical experts, and such other officers, agents, and employees, permanent and temporary, as they may require, and shall determine their qualifications, duties, and compensation. The directors may call upon the attorney general of the state for such legal services as they may require. The directors may delegate to their chairman, to 1 or more directors or to 1 or more agents, or employees such power and duties as they may deem proper. The directors shall furnish to the state soil conservation committee, upon request, copies of such ordinances, rules, regulations, orders, contracts, forms, and other documents as they shall adopt or employ, and such other information concerning their activities as it may require in the performance of its duties under this act.

The directors shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations, and orders issued or adopted; and shall provide for an annual audit of the accounts of receipts and disbursements. Any director may be removed by the state soil conservation committee upon notice and hearing, for neglect of duty or malfeasance in office, but for no other reason.

The directors may invite the legislative body of any municipality or county located near the territory comprised within the district to designate a representative to advise and consult with the directors of the district on all questions of program and policy which may affect the property, water supply, or other interests of such municipality or county.

Districts previously organized under Act No. 297 of the Public Acts of 1937 shall comply with the provisions of the act as amended, and shall proceed with the election of a new board of directors at an annual meeting of the land occupiers of the district, held within 30 days following the close of the fiscal year as determined by the board of directors of the district. The terms of the new board of directors shall be as follows: The 2 candidates receiving the highest number of votes cast shall hold office for 3 years, the 2 candidates receiving the next highest number of votes cast shall hold office for 2 years, and the candidate receiving the next highest number of votes cast shall hold office for 1 year. Thereafter, directors shall be elected as provided in section 6, paragraph (b).

HISTORY: Am. 1945, p. 464, Act 280, Eff. Sept. 6;—CL 1948, 282.7.

NOTE: Act 297, 1937, above referred to, is this act prior to its amendment.

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282.8 Powers of districts and directors.

Sec. 8. Powers of districts and directors.

A soil conservation district organized under the provisions of this act shall constitute a governmental subdivision of this state, and a public body corporate and politic, exercising public powers, and such district, and the directors thereof, shall have the following powers, in addition to others granted in other sections of this act:

(1) To conduct surveys, investigations, and research relating to the character of soil erosion and the preventive and control measures needed, to publish the results of such surveys, investigations, or research, and to disseminate information concerning such preventive and control measures: Provided, however, That in order to avoid duplication of research activities, no district shall initiate any research program except in cooperation with the government of this state or any of its agencies, or with the United States or any of its agencies;

(2) To conduct demonstrational projects within the district on lands owned or controlled by this state or any of its agencies, with the cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district upon obtaining the consent of the owner of such lands or the necessary rights or interest in such lands, in order to demonstrate by example the means, methods, and measures by which soil and soil resources may be conserved, and soil erosion in the form of soil blowing and soil washing may be prevented and controlled;

(3) To carry out preventive and control measures within the district including, but not limited to, engineering operations, methods of cultivation, the growing of vegetation, changes in use of land, and other measures to achieve purposes listed in declaration of policy, on lands owned or controlled by this state or any of its agencies, with the cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district upon obtaining the consent of the owner of such lands or the necessary rights or interests in such lands;

(4) To cooperate, or enter into agreements with, and within the limits of appropriations duly made available to it by law, to furnish financial or other aid to, any agency, governmental or otherwise, or any land owner, or his designated representative, of lands within the district, in the carrying on of erosion-control and prevention operations within the district, subject to such conditions as the directors may deem necessary to advance the purposes of this act;

(5) To obtain options upon and to acquire, by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, any property, real or personal, or rights or interests therein; to maintain, administer, and improve any properties acquired, to receive income from such properties and to expend such income in carrying out the purposes and provisions of this act; and to sell, lease, or otherwise dispose of any of its property or interests therein in furtherance of the purposes and the provisions of this act.

(6) To make available, on such terms as it shall prescribe, to land owners, or their designated representatives, within the district, agricultural and engineering machinery and equipment, fertilizer, seeds, and seedlings, and such other material or equipment, as will assist such land owners, or their designated representatives, to carry on operations upon their lands for the conservation of soil resources and for the prevention and control of soil erosion.

(7) To construct, improve, and maintain such structures as may be necessary or convenient for the performance of any of the operations authorized in this act;

(8) To develop comprehensive plans for the conservation of soil resources and for the control and prevention of soil erosion within the district, which plans shall specify in such detail as may be possible, the acts, procedures, performances, and avoidances which are necessary or desirable for the effectuation of such plans, including the speci-

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fication of engineering operations, methods of cultivation, the growing of vegetation, cropping programs, tillage practices, and changes in use of land; and to publish such plans and information and bring them to the attention of occupiers of lands within the district;

(9) To take over, by purchase, lease, or otherwise, and to administer, any soil-conservation, erosion-control, or erosion-prevention project located within its boundaries undertaken by the United States or any of its agencies, or by this state or any of its agencies; to manage, as agent of the United States or any of its agencies, or of this state or any of its agencies, any soil-conservation, erosion-control, or erosion-prevention project within its boundaries; to act as agent for the United States, or any of its agencies, or for this state or any of its agencies, in connection with the acquisition, construction, operation, or administration of any soil-conservation, erosion-control, or erosion-prevention project within its boundaries; to accept donations, gifts, and contributions in money, services, materials, or otherwise, from the United States or any of its agencies, or from this state or any of its agencies, and to use or expend such moneys, services, materials, or other contributions in carrying on its operations subject to such policies and procedures as adopted by the state committee, and to accept moneys, gifts, and donations not heretofore provided for;

(10) To sue and be sued in the name of the district; to have a seal, which seal shall be judicially noticed; to have perpetual succession unless terminated as hereinafter provided; to make and execute contracts and other instruments, necessary or convenient to the exercise of its powers; to make, and from time to time amend and repeal, rules and regulations not inconsistent with this act, to carry into effect its purposes and powers;

(11) As a condition to the extending of any benefits under this act to, or the performance of work upon, any lands not owned or controlled by this state or any of its agencies, the directors may require contributions in moneys, services, materials, or otherwise to any operations conferring such benefits, and may require land occupiers to enter into and perform such agreements or covenants as to the permanent use of such lands as will tend to prevent or control erosion thereon;

(12) No provisions with respect to the acquisition, operation, or disposition of property by other public bodies shall be applicable to a district organized hereunder unless the legislature shall specifically so state.

HISTORY: Am. 1945, p. 465, Act 280, Eff. Sept. 6;—CL 1948, 282.8.

Secs. 9-12.

HISTORY: Rep. 1945, p. 468, Act 280, Eff. Sept. 6.

NOTE: Secs. 9-11 provided for land-use regulations. Sec. 12 provided for a board of adjustments.

282.13 Cooperation between districts.

Sec. 13. Cooperation between districts. The directors of any 2 or more districts organized under the provisions of this act may cooperate with one another in the exercise of any or all powers conferred in this act.

HISTORY: CL 1948, 282.13.

282.14 State agencies to cooperate; agreements.

Sec. 14. (a) Agencies of this state which have jurisdiction over, or are charged with the administration of, any state owned lands, and of any county or other governmental subdivision of the state which have jurisdiction over, or are charged with the administration of, any county owned or other publicly owned lands, lying within the boundaries of any district, shall cooperate to the fullest extent with the directors of the districts in the effectuation of programs and operations undertaken by the directors under the provisions of this act. The directors of the districts shall be given free access to enter and perform work upon such publicly owned lands.

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(b) The board of directors of a soil conservation district may cooperate with and enter into agreement with a county, township, municipality or other subdivision of state government in carrying out soil, water and related land-use projects. A county, township, municipality or other subdivision of state government through its governing body may cooperate with and enter into agreement with soil conservation districts in carrying out the provisions of this act and may assist districts by providing them with such materials, equipment, moneys, personnel and other services as the governmental unit may deem advisable.

HISTORY: Am. 1945, p. 467, Act 280, Eff. Sept. 6;—CL 1948, 282.14;—Am. 1970, p. 617, Act 229, Imd. Eff. Nov. 25.

282.15 Discontinuance of districts; procedure; referendum.

Sec. 15. Discontinuance of districts. At any time after 5 years after the organization of a district under the provisions of this act, any 25 occupiers of land lying within the boundaries of such district may file a petition with the state soil conservation committee praying that the operations of the district be terminated and the existence of the district discontinued. The committee may conduct such public meetings and public hearings upon such petition as may be necessary to assist it in the consideration thereof. Within 60 days after such a petition has been received by the committee it shall give due notice of the holding of a referendum, and shall supervise such referendum, and issue appropriate regulations governing the conduct thereof, the question to be submitted by ballots upon which the words "For terminating the existence of the ..... (name of the soil conservation district to be here inserted)" and "Against terminating the existence of the ..... (name of the soil conservation district to be here inserted)" shall be printed, with a square before each proposition and a direction to insert an X mark in the square before one or the other of said propositions as the voter may favor or oppose discontinuance of such district. All occupiers of lands lying within the boundaries of the district shall be eligible to vote in such referendum. No informalities in the conduct of such referendum or in any matters relating thereto shall invalidate said referendum or the result thereof if notice thereof shall have been given substantially as herein provided and said referendum shall have been fairly conducted.

The committee shall publish the result of such referendum and shall thereafter consider and determine whether the continued operation of the district within the defined boundaries is administratively practicable and feasible. If the committee shall determine that the continued operation of such district is administratively practicable and feasible, it shall record such determination and deny the petition. If the committee shall determine that the continued operation of such district is not administratively practicable and feasible, it shall record such determination and shall certify such determination to the directors of the district. In making such determination the committee shall give due regard and weight to the attitudes of the occupiers of lands lying within the district, the number of land occupiers eligible to vote in such referendum who shall have voted, the proportion of the votes cast in such referendum in favor of the discontinuance of the district to the total number of votes cast, the approximate wealth and income of the land occupiers of the district, the probable expense of carrying on erosion-control operations within such district, and such other economic and social factors as may be relevant to such determination: Provided, however, That the committee shall not have authority to determine that the continued operation of the district is administratively practicable and feasible unless at least a majority of the votes cast in the referendum shall have been cast in favor of the continuance of such district.

Upon receipt from the state soil conservation committee of a certification that the committee has determined that the continued operation of the district is not adminis-

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tratively practicable and feasible, pursuant to the provisions of this section, the directors shall forthwith proceed to terminate the affairs of the district. The directors shall dispose of all property belonging to the district at public auction and shall pay over the proceeds of such sale to be covered into the state treasury unless the discontinuance be for the purpose of combining with another district, in which case the assets be turned over to the district with which it is to be combined. The directors shall thereupon file an application, duly verified, with the secretary of state for the discontinuance of such district, and shall transmit with such application the certificate of the state soil conservation committee setting forth the determination of the committee that the continued operation of such district is not administratively practicable and feasible. The application shall recite that the property of the district has been disposed of and the proceeds paid over as in this section provided, and shall set forth a full accounting of such properties and proceeds of the sale. The secretary of state shall issue to the directors a certificate of dissolution and shall record such certificate in an appropriate book of record in his office.

All contracts theretofore entered into, to which the district or directors are parties, shall remain in force and effect for the period provided in such contracts. The state soil conservation committee shall be substituted for the district or directors as party to such contracts. The committee shall be entitled to all benefits and subject to all liabilities under such contracts and shall have the same right and liability to perform, to require performance, to sue and be sued thereon, and to modify or terminate such contracts by mutual consent or otherwise, as the directors of the district would have had.

The state soil conservation committee shall not entertain petitions for the discontinuance of any district nor conduct referenda upon such petitions nor make determinations pursuant to such petitions in accordance with the provisions of this act, more often than once in 2 years.

HISTORY: Am. 1945, p. 467, Act 280, Eff. Sept. 6;—CL 1948, 282.15.

282.15a Soil conservation districts; consolidation, petition, notice of hearing.

Sec. 15a. Two or more soil conservation districts organized pursuant to the provisions of this act may petition the committee for consolidation of the districts into a single district. The committee shall take no action on the petition unless it is signed by a majority of the directors of each of the districts involved. Within 30 days after receipt of a proper petition, the committee shall cause notice of hearing thereon to be given to the occupiers of land in the area proposed to be included in the consolidated district.

Order of consolidation.

The committee shall determine if consolidation as petitioned for is desirable. If it finds in the affirmative the committee shall issue an order, to be signed by the members thereof, which shall state that the districts are to be consolidated at a date specified in the order, the name of the consolidated district and the boundaries thereof.

Certificate of due organization.

Upon transmission of the order to the secretary of state a certificate of due organization under seal of the state shall issue to the directors of the district as hereinbefore provided. The consolidated district shall have the same powers, duties and functions as other districts organized under the provisions of this act.

Board of directors, term.

The committee shall appoint the first board of directors of the consolidated district one of whom shall be appointed for a term of 1 year, 2 for a term of 2 years and 2 for a term of 3 years. Thereafter directors shall be elected as provided in section 7 of this act.

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Transfer of assets, liabilities, records, documents, writings, property.

All assets, liabilities, records, documents, writings or other property of whatever kind of the districts of which the consolidated district is composed shall become the property of the consolidated district and all agreements made by, and obligations of, them shall be binding upon and enforceable by the consolidated district. At the date specified in the committee's order the districts of which the consolidated district is composed shall cease to exist and their powers and duties shall cease thereafter. The consolidated district shall be governed by the provisions of this act.

HISTORY: Add. 1963, p. 152, Act 111, Eff. Sep. 6.

282.16 Appropriations.

Sec. 16. Appropriations. The necessary expenses of the state soil conservation committee and any soil conservation districts shall be made from appropriations hereafter made for such purposes.

HISTORY: CL 1948, 282.16.

Sec. 17. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 415, Act 267, Imd. Eff. May 25.

Sec. 18. (This was a construction clause section.)

HISTORY: Rep. 1947, p. 169, Act 129, Eff. Oct. 11.

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CHAPTER 285. AGRICULTURE—STATE DEPARTMENT

DEPARTMENT OF AGRICULTURE
Act 13 of 1921

285.1 Department of agriculture; commission; director; assistants and employees; term, compensation, offices.
285.2 Commissions and offices abolished; transfer of powers, duties, records; pending proceedings.
285.3 Transfer of powers and duties of board of agriculture, inspectors of orchards, nurseries and apiaries, and secretary of state.
285.4 Control of fair lands; grants; leases to organizations, term, reimbursement in case of sale; annual state fair, horse racing; board of managers; rules and regulations; revolving fund, surplus; per diem and expenses; report to governor.
285.5 Promotion of agricultural interests; supervisory control of administrative board; biennial report, distribution.
285.6 Effective date; repeal.
285.7 Declaration of necessity.

CROP AND STOCK REPORTS
Act 33 of 1881

285.21 Monthly crop and stock reports; publication, distribution; cooperation with United States.
285.22 Local correspondents; right to receive reports.

MARKET CONDITIONS
Act 91 of 1915

285.31 Investigation of market conditions; director and employes.
285.32 Director; duties, powers, assistance to cooperative associations.
285.33 Director; information to producers.
285.34 Director; cooperation with United States; auction markets.
285.35 Director; schedule of fees, basis, deposit to general fund.
285.36 Director; bulletins, contents, publication.
285.37 Director; transportation delays, report; violation of laws; food spoilage; prevention of waste.
285.38 Commissioner of agriculture; inspection, certificates; exception.
285.39 Violation of act; misdemeanor.

COUNTY FARM BUREAU; AGRICULTURAL AGENT
Act 315 of 1919

285.51 Agricultural interest, promotion; farm bureau, tax; county agent and assistants, approval, compensation.

FARM PRODUCE STORAGE ACT
Act 141 of 1939

285.61 Short title; farm produce storage act.
285.62 Farm produce storage act; definitions.
285.63 Commissioner of agriculture; enforcement, inspection, rules and regulations.
285.64 Warehouseman; unlawful acts.
285.65 Warehouseman; license; penalty.
285.66 Warehouseman; farm produce storage license; fees; acts authorized.
285.67 Warehouseman; license, form, contents; resubmission of application.
285.67a Warehouse license; application; bond. Blanket security bond.
285.68 Bailment of produce; exemption from execution against bailee.
285.69 Warehouse receipt; form, contents.
285.70 Warehouse receipt; failure to issue; revocation of license.
285.71 Warehouse receipt; noncompliance with act, required designation.
285.72 Insurance on produce; coverage, amount; value upon loss.
285.73 Commingling of produce; rights of owners.
285.74 Grade of produce; standard.
285.75 Maximum produce to be accepted; revocation of license.
285.76 Employes of warehouse; change of personnel; bonds.
285.77 Repealed.
285.78 Revocation of license; procedure, notice; rules.
285.79 Revocation of license; protection of warehouse receipts; seizure of assets.
285.80 Farm produce warehouse inspection service; fees deposit to general fund.
285.81 Repealed.
285.82 Unlawful acts; penalty.
285.82a Intentional violation of act; penalty.

FARM NAMES; REGISTRATION
Act 35 of 1941

285.101 Farm names; registration; use by others prohibited.
285.102 Farm names; registration, procedure; multiple applications for same name.
285.103 Farm names; registration; application, form, fee.
285.104 Transfer of registration upon conveyance of farm; notice; rights under name.
285.105 Cancellation of registration; fee.
285.106 Application; acknowledgment; witnesses.
285.107 Fees received under act; deposit to general fund.
285.108 Use of registered name by others; penalties; civil action.

AGRICULTURAL FAIR COMMISSION
Act 294 of 1915

285.122 Agricultural fair commission; organization, assistants, suits, treasurer's bond, quorum.
285.123 Agricultural fair commission; rules, meetings.
285.124 Agricultural fair commission; compensation, expenses.
285.125 Agricultural fairs; prizes; reports to commission; reciprocity for products of other states.
285.126 Agricultural fairs; notice of intention to hold; determination of aid.
285.127 Agricultural fairs commission; annual report to governor.

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285.128 Agricultural fairs commission; expenses paid by state treasury; accounts.

UPPER PENINSULA FAIR
Act 89 of 1927

285.141 Upper peninsula state fair; board of managers, members; organization.

285.142 Upper peninsula state fair; board of managers; grants and conveyances, conditions; lease or concede fair grounds and buildings; lease to private organizations, conditions; proceeds credited to general fund; report to governor, filing; offices.

DETROIT STATE FAIR GROUNDS. NATIONAL GUARD USE
Act 80 of 1941

285.151 State fair grounds; occupancy by national or home guard; authorization.

AGRICULTURAL INTERESTS OF TOWNSHIPS
Act 197 of 1956

285.201 Agricultural interests; promotion in townships; extension work agreements, areas, appropriations, special tax.

285.202 Agricultural interests; promotion in townships; referendum in township.

285.203 Agricultural interests; promotion in townships; discontinuance, referendum.

Act 13, 1921, p. 17; Imd. Eff. Mar. 22.

AN ACT to promote the agricultural interests of the state of Michigan; to create a state department of agriculture; to define the powers and duties thereof; to provide for the transfer to and vesting in said department of powers and duties now vested by law in certain other state boards, commissions and officers, and to abolish certain boards, commissions and officers the powers and duties of which are hereby transferred.

The People of the State of Michigan enact:

285.1 Department of agriculture; commission; director; assistants and employees; term, compensation, offices.

Sec. 1. There is hereby created a state department of agriculture which shall possess the powers and perform the duties hereinafter granted and conferred. The general administration of said powers and duties shall be vested in a bipartisan commission of agriculture which shall be composed of 5 members appointed by the governor, subject to confirmation by the senate: Provided, That 1 member of said commission shall be a resident of the Upper Peninsula. The members of said commission shall be selected with special reference to their training and experience along the line of 1 or more of the principal lines of activities vested in the department of agriculture and their ability and fitness to deal therewith. The term of office of each member of the commission shall be 6 years: Provided, That of those first appointed 2 shall be appointed for 2 years, 2 for 4 years and 1 for 6 years. The governor shall fill any vacancy occurring in the membership of the commission and may remove any member of the commission for cause after a hearing. Each member of this commission shall hold his office until the appointment and qualification of his successor. The commission, after having qualified, shall within 30 days and annually thereafter meet at its office in Lansing and organize by electing a chairman and a secretary. Three members of said commission shall constitute a quorum for the transaction of business. Meetings may be called by the chairman and shall be called on request of a majority of the members of the commission and may be held as often as necessary and at other places than the commissioners' offices at Lansing: Provided, That 1 meeting shall be held each month. The commission shall appoint and employ a director of agriculture who shall continue in office at the pleasure of the commission and who shall receive such annual salary as shall be appropriated by the legislature. He may appoint, with the approval of the commission, such assistants and employees as may be necessary to perform the duties hereby imposed, the number of such assistants and employees, and the compensation

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payable to all persons so appointed and employed, being within the appropriation made therefor by the legislature. The members of the commission shall receive compensation of $20.00 per day when in actual performance of duties: Provided, That no commissioner shall receive more than $400.00 in any fiscal year as compensation. The salaries of all officers and employees hereby authorized, and the necessary expenses thereof while traveling in performing any of their duties, shall be paid in the same manner as the salaries and expenses of other state officers and employees are paid. The board of auditors shall provide suitable offices at Lansing and proper office equipment for the use of said department. Each member of the commission and the director of agriculture shall qualify by taking and subscribing to the constitutional oath of office, and filing same in the office of the secretary of state.

Whenever, in any law of the state reference is made to the commissioner of agriculture, reference shall be deemed to be made to the director of agriculture.

HISTORY: CL 1929, 5001;—Am. 1933, p. 50, Act 51, Imd. Eff. Apr. 14;—Am. 1945, p. 602, Act 344, Eff. Sep. 6;—Am. 1947, p. 137, Act 104, Imd. Eff. May 20;—CL 1948, 285.1;—Am. 1952, p. 360, Act 217, Eff. Sep. 18;—Am. 1957, p. 130, Act 113, Imd. Eff. May 24.

CITED IN OTHER SECTIONS: Sections 285.1 to 285.7 are cited in §§ 16.277 and 436.17.

285.2 Commissions and offices abolished; transfer of powers, duties, records; pending proceedings.

Sec. 2. The state department of agriculture shall exercise the powers and perform the duties now vested by law in the department of animal industry, the state food and drug commissioner, the state veterinary board, the immigration commission, the commissioner of immigration, the market director, and shall also possess the powers and duties formerly vested by law in the Michigan agricultural fair commission. The departments, boards, commissions and officers whose powers and duties are hereby transferred to the state department of agriculture shall be abolished as of the thirtieth day of June, 1921. All records, files and papers of any nature whatsoever pertaining to the functions thereof shall be turned over to the department hereby created. Any hearing or other proceeding pending before any board or officer whose tenure is so terminated shall not be abated, but shall be deemed to be transferred to the state department of agriculture and shall be carried on and determined by the commissioner of agriculture in accordance with the provisions of the law governing such hearing or proceeding.

HISTORY: Am. 1923, p. 55, Act 34, Eff. Aug. 30;—CL 1929, 5002;—CL 1948, 285.2.

POWERS AND DUTIES: Department of animal industry, see Compilers' §§ 287.2 to 287.24; food and drug commissioner, see Compilers' §§ 289.2 to 289.12; market director, see Compilers' §§ 285.31 to 285.39.

285.3 Transfer of powers and duties of board of agriculture, inspectors of orchards, nurseries and apiaries, and secretary of state.

Sec. 3. In addition to the foregoing powers and duties there is transferred to the state department of agriculture, and vested therein, the powers and duties of the state board of agriculture with reference to the inspection and regulation of orchards, vineyards and nurseries, the inspection and regulation of apiaries, the testing of agricultural seeds, the analysis of commercial fertilizers, the testing and examination of insecticides, and the analysis and testing of commercial stock foods, and the investigation and improvement of marketing conditions as now provided by law, and the said board is hereby relieved of each and all said powers and duties. The offices of state inspector of orchards and nurseries, and inspector of apiaries are abolished, and the powers and duties pertaining thereto are likewise transferred to and vested in the state department of agriculture. All records and files pertaining to either of said offices, or to any other of the powers and duties hereby transferred, shall become a part of the records and files of the state department of agriculture and shall be preserved accordingly. All duties of the secretary of state now imposed by law with reference to the collection and publication of statistics relating to agriculture and agricultural interests within the state, shall likewise be transferred to and vested in the state department of agriculture,

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and all records and data on file shall be delivered thereto by the secretary of state, who is hereby relieved from further performance of said duties.

HISTORY: CL 1929, 5003;—CL 1948, 285.3.

POWERS AND DUTIES: For orchards, vineyards and nurseries, see Compilers' § 286.201 et seq.; apiaries, see Compilers' § 286.1 et seq.; commercial fertilizers, see Compilers' § 286.31 et seq.; marketing, see Compilers' § 285.31 et seq.; statistics, see Compilers' § 285.21 et seq.

285.4 Control of fair lands; grants; leases to organizations, term, reimbursement in case of sale; annual state fair, horse racing; board of managers; rules and regulations; revolving fund, surplus; per diem and expenses; report to governor.

Sec. 4. The control of all lands and other property that now is, or hereafter may be, vested in the state of Michigan, or in the people of said state, for the purpose of holding and conducting agricultural and industrial fairs, and for other agricultural purposes, is hereby placed in the state department of agriculture. The state department of agriculture is authorized to accept, on behalf of the state, grants and conveyances of property for such purposes or for any other purpose, and to consent to such conditions affecting the use thereof as may be agreed upon. All grants and conveyances shall be taken in the name of the people of the state of Michigan. The state department of agriculture is hereby authorized to lease or concede the state fair grounds or any portion or portions thereof and any building or buildings on said grounds for a period of not more than 1 year for such consideration as may be established by the commission of agriculture. The department of agriculture may also grant leases for any portion or portions of the state fair grounds to public corporations or private organizations, conditional upon construction and improvements to be financed by the lessees for terms not to exceed 20 years, subject to the approval of the board of managers of state fairs and the state administrative board: Provided, That any such lease shall terminate upon sale of the state fair grounds by the state of Michigan: And provided further, That in case of such sale said lessee will be reimbursed for that part of the original cost of such construction or improvement in the same ratio as the remaining years in the lease bears to the terms of the lease and that depreciation is first subtracted from original cost, and the remainder therefrom is prorated: Provided, however, That such use of the state fair grounds or any portion thereof or of any or all of the buildings on said grounds as granted by the state department of agriculture shall not interfere with the preparation for or holding of the Michigan state fair, and shall not include the conducting of harness or running races with pari-mutuel wagering. An annual state fair at the city of Detroit, which shall have for its main purpose the exploiting and encouragement of improved methods in agricultural pursuits, is hereby authorized. The arrangements for such fairs and the actual conducting thereof shall be under the immediate charge of a board of managers of state fairs which board shall consist of 20 members to be appointed by the governor and confirmed by the senate. Five members of said board shall be appointed for 1 year, 5 members for 2 years, 5 members for 3 years, 5 members for 4 years, and there shall be appointed each year thereafter 5 members of this board, each to serve 4 years. The commissioner of agriculture shall act as chairman of said board. Said board of managers may adopt rules and regulations governing its organization and procedure. The board of managers of state fairs shall have and succeed to all of the rights, powers and duties granted to agricultural and horticultural societies, by the provisions of Act No. 8 of the Public Acts of 1862, being sections 453.351 and 453.352 of the Compiled Laws of 1948, with respect to the property or properties acquired by virtue of this section, as a condition of any conveyance heretofore or hereafter made to the state under the provisions of this section, the exercise of which rights, powers and duties being subject, however, to the approval of the state administrative board. The proceeds of the state fair, and all other moneys which come into the possession of the state department of agriculture under the provisions of

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this section, shall be and remain a perpetual revolving fund out of which necessary and proper expenses for the conducting of said fair shall be paid. Each member of the board of managers, other than the commissioner of agriculture, shall be entitled to $10.00 per day for each day actually expended by him in attending meetings of the board of managers or for work actually performed in connection with said fair; and the members of the board shall also be entitled to their actual and necessary expenses incurred while carrying out the provisions hereof, such compensation and expenses to be paid from the revolving fund hereby created. Whenever in the opinion of the state administrative board the moneys in such fund exceed the amount reasonably required for the purposes hereof, the surplus shall, on order of said board, be transferred to the general fund of the state. Said board shall before the first of December of each year make full and detailed report to the governor of all its activities, receipts and disbursements.

HISTORY: Am. 1923, p. 55, Act 34, Eff. Aug. 30;—Am. 1929, p. 177, Act 70, Eff. Aug. 28;—CL 1929, 5004;—CL 1948, 285.4;—Am. 1949, p. 88, Act 79, Imd. Eff. May 10;—Am. 1950, Ex. Ses., p. 66, Act 31, Imd. Eff. Jun. 13;—Am. 1954, p. 43, Act 36, Imd. Eff. Apr. 2.

NOTE: Act 8 of 1862, above referred to, is Compilers' §§ 453.351 and 453.352.

STATE FAIRS: See Compilers' § 285.122 et seq.

CITED IN OTHER SECTIONS: The above section is cited in § 291.1.

285.5 Promotion of agricultural interests; supervisory control of administrative board; biennial report, distribution.

Sec. 5. It shall be the duty of the state department of agriculture to foster and promote in every possible way the agricultural interests of the state of Michigan; to cooperate with agricultural agencies in the different counties of the state and of the federal government; to foster direct trading between the producer and consumer; and to prevent, and assist in preventing, by all available means authorized by law, the sale of unimproved lands and lands not suitable for agricultural development within the state by fraud, misrepresentation or deceit and the publication of false or misleading statements or advertising matter designed to effect such sales. All of the powers and duties imposed by this act on the state department of agriculture shall be exercised and performed under the supervisory control of the state administrative board. Immediately prior to the opening of each regular session of the legislature the commissioner of agriculture shall prepare and submit to the governor and legislature his report covering all of the activities of his department for the preceding biennial period. Such report may be printed by the board of state auditors and be distributed to such persons, organizations and public officials as the board of state auditors may direct.

HISTORY: CL 1929, 5005;—CL 1948, 285.5.

AGRICULTURAL INTERESTS: Promotion, see Act 315 of 1919, being Compilers' § 285.31 et seq.

Promotion by state board of agriculture and state college, see Compilers' § 390.117.

285.6 Effective date; repeal.

Sec. 6. This act, other than sections 1 and 4, shall be in force and effect on and after the first day of July, 1921. All acts and parts of acts in any way contravening the provisions of this act shall be deemed to be superseded and repealed as of said date.

HISTORY: CL 1929, 5006;—CL 1948, 285.6.

285.7 Declaration of necessity.

Sec. 7. This act is hereby declared to be immediately necessary for the preservation of the public peace, health and safety.

HISTORY: CL 1929, 5007;—CL 1948, 285.7.

Act 33, 1881, p. 27; Eff. Sep. 10.

AN ACT to provide for the publication of monthly crop and stock reports.

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The People of the State of Michigan enact:

285.21 Monthly crop and stock reports; publication, distribution; cooperation with United States.

Sec. 1. The secretary of state shall each year obtain monthly statements as to the condition of live stock, condition and prospects of the growing crops, and as soon after the harvest as possible, statements as to the yield of wheat and other farm and fruit products; he shall also ascertain the quantity of wheat, wool, apples and other products marketed, and the quantity remaining in farmers' hands. And the said secretary of state shall prepare a monthly abstract of the information thus obtained and shall insert therein the number of townships from which reports have been received, and shall publish a sufficient number of copies of the same to furnish 1 copy to each newspaper published in this state, 1 copy to each member of the legislature, 1 copy to each correspondent furnishing information for said abstract, and 1,000 copies for general distribution. The secretary of state may enter into cooperative arrangements with the secretary of agriculture of the United States department of agriculture for the joint compilation and publication of crop and live stock reports, including those enumerated in this section.

HISTORY: How. 838;—CL 1897, 4626;—CL 1915, 5629;—Am. 1919, p. 76, Act 47, Eff. Aug. 14;—CL 1929, 5017;—CL 1948, 285.21.

REPORTS: These functions have been transferred to the department of agriculture, see Compilers' § 285.3.

CROP STATISTICS: Act 180 of 1917 provided for the collection of crop statistics by threshing machine operators. That act was repealed by Act 61 of 1921.

285.22 Local correspondents; right to receive reports.

Sec. 2. That it shall be the duty of the secretary of state, as soon as practicable, after the passage of this act, to select not less than 1 person in each township who shall be willing to act as correspondent of the department and furnish the information required by the first section of this act, and such further information as shall be deemed useful. And such person shall thereafter, as long as he shall faithfully perform the duties of a correspondent, be entitled to 1 copy of each of the reports published by the state department relating to agricultural subjects, also to 1 copy of each of the annual reports of the state board of agriculture and of the state horticultural society.

HISTORY: How. 838a;—CL 1897, 4627;—CL 1915, 5630;—CL 1929, 5018;—CL 1948, 285.22.

Act 91, 1915, p. 156; Eff. Aug. 24.

AN ACT to provide for the investigation and improvement of marketing conditions and establishing the office of market director and prescribing the duties and powers thereof; and to prescribe penalties for the violation of the provisions of this act. Am. 1937, p. 631, Act 322, Eff. Oct. 29.

The People of the State of Michigan enact:

285.31 Investigation of market conditions; director and employes.

Sec. 1. That the state board of agriculture is hereby authorized to undertake the investigation and improvement of market conditions for Michigan products and appoint a competent and experienced person as director of markets and such other competent and experienced persons as may be necessary to carry out the intent of this act. The state board of agriculture shall direct and control the purposes of this act and fix the compensation of directors and employes.

HISTORY: CL 1915, 7918;—CL 1929, 5033;—CL 1948, 285.31.

MARKET DIRECTOR: Office abolished; powers and duties transferred to department of agriculture, see Compilers' § 285.2.

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285.32 Director; duties, powers, assistance to cooperative associations.

Sec. 2. The director of markets shall investigate production and marketing farm products and for the exercise of such authority shall have the power to summon witnesses, issue subpoenas, compel attendance of witnesses and the production of evidence. The director of markets shall assist in organization of cooperative and other associations for improving the relations and services among producers, distributors and consumers and afford them such services under adequate rules and regulations as relate to standardizing, grading, packing, handling, storage and sale of products within the state of Michigan not contrary to law, and enforce such rules and regulations by actions or proceedings in any court of competent jurisdiction.

HISTORY: CL 1915, 7919;—CL 1929, 5034;—CL 1948, 285.32.

285.33 Director; information to producers.

Sec. 3. The director of markets shall give information to Michigan producers on the market conditions in the various states of the union.

HISTORY: CL 1915, 7920;—CL 1929, 5035;—CL 1948, 285.33.

285.34 Director; cooperation with United States; auction markets.

Sec. 4. The director of markets is hereby authorized to cooperate with the United States department of agriculture through any of its agents or employes, and also with any of the joint agents or agencies of the United States and those employed or controlled by the state board of agriculture in market and food investigations, organization, standardizing, grading, packing, handling, storage and sale of products, and to provide for auction markets and licensed auctioneers within the state of Michigan, or otherwise in such manner as may be deemed advisable under established rules of safeguarding the distribution of farm products and fix reasonable charges or fees for services rendered in the sale of products.

HISTORY: CL 1915, 7921;—CL 1929, 5036;—CL 1948, 285.34.

AUCTIONEERS: See Compilers' § 446.26 et seq.

285.35 Director; schedule of fees, basis, deposit to general fund.

Sec. 5. The director of markets shall adopt and may amend from time to time schedules of fees to be charged for standardizing and standard labels for inspection at receiving, shipping or distributing centers or such other services as may be rendered under this act. All such fees shall be made with a view to the minimum cost and to make this department self-sustaining. All fees shall be turned into the state treasury and any accumulated balance as of June 30, 1949, shall be credited to the general fund.

HISTORY: CL 1915, 7922;—CL 1929, 5037;—Am. 1937, p. 361, Act 322, Eff. Oct. 29;—CL 1948, 285.35;—Am. 1949, p. 139, Act 130, Imd. Eff. May 20.

285.36 Director; bulletins, contents, publication.

Sec. 6. The director of markets shall publish bulletins setting forth market conditions and prices as far as possible and advising as to the available supplies of products, the approved methods of standards and grades and best means of marketings. He may at his discretion publish the names of producers, distributors and consumers, and advices as to marketing.

HISTORY: CL 1915, 7923;—CL 1929, 5038;—CL 1948, 285.36.

285.37 Director; transportation delays, report; violation of laws; food spoilage; prevention of waste.

Sec. 7. The director of markets in addition to his other duties, shall investigate and report to the state railway commission delays and inadequacies of transportation of food supplies. He shall also report to the attorney general the violation of laws in restraint of trade or unlawful combinations to fix prices of food stuffs. When food stuffs are liable to spoil for lack of ready market, he may take such steps as are advisable to

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benefit the producer and consumer and in preventing waste: Provided, however, That this provision shall not apply to fruits and vegetables already marketed.

HISTORY: CL 1915, 7924;—CL 1929, 5039;—CL 1948, 285.37.

STATE RAILWAY COMMISSION: Abolished, powers and duties transferred to public service commission, see Compilers' §§ 460.1 and 460.53.

RESTRAINT OF TRADE: For laws relating to, see Compilers' §§ 445.701 et seq. and 750.553 et seq.

285.38 Commissioner of agriculture; inspection, certificates; exception.

Sec. 8. The commissioner of agriculture, in person or by some person authorized by him, shall have free access to any place or conveyance wherein farm products are being marketed, transported or held for commercial purposes. The commissioner of agriculture, in person or by some person authorized by him, shall have power to open any bag, crate or other container of such farm products and examine the contents thereof, and may, upon tendering the market price, take samples therefrom. The commissioner of agriculture may employ inspectors to inspect farm products in accordance with established official grades or standards for the purpose of determining and certifying the quality and condition thereof and other material facts relative thereto. Certificates issued in pursuance of such inspection and executed by the inspector shall state the date and place of inspection, the grade, condition and approximate quality of the farm products inspected and any other pertinent facts that the commissioner may require. Such a certificate and all federal certificates relative to the condition or quality of such farm products shall be prima facie evidence in all courts of the state of the facts required to be stated therein: Provided, however, That the provisions of this act shall not apply to the grower in the sale of farm products grown by himself when made direct to the consumer.

HISTORY: Add. 1937, p. 631, Act 322, Eff. Oct. 29;—CL 1948, 285.38.

The title of Act 322 did not contain addition and repeal of section 8. However, the addition of section 8 was contained in the enacting section 1. The repeal of the original section 8 was contained in the enacting section 2. The history of the original section 8, which provided for an annual report, is as follows: CL 1915, 7925;—CL 1929, 5040;—Rep. 1937, p. 632, Act 322, Eff. Oct. 29.

285.39 Violation of act; misdemeanor.

Sec. 9. Any person who shall violate any of the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided by the laws of this state.

HISTORY: Add. 1937, p. 632, Act 322, Eff. Oct. 29;—CL 1948, 285.39.

Act 315, 1919, p. 553; Eff. Aug. 14.

AN ACT to promote the agricultural interests of the various counties of this state and to repeal Act No. 3 of the Public Acts of 1912, second extra session, and Act No. 67 of the Public Acts of 1913.

The People of the State of Michigan enact:

285.51 Agricultural interest, promotion; farm bureau, tax; county agent and assistants, approval, compensation.

Sec. 1. In order to promote the agricultural interests of the various counties of this state and to provide for agricultural extension work, each county of the state through its board of supervisors is hereby authorized and empowered to cooperate to said end with the Michigan agricultural college and with any department or bureau of the United States government; and may enter into agreements with reference thereto. The board of supervisors in any county may appropriate money, or raise money by taxation, for the purpose hereof, and may establish a farm bureau to act as the representative of the board and of the county in all such cooperative work. Subject to the approval of the state board of agriculture or of the proper representatives thereof, the board may appoint a county agricultural agent and necessary assistants, whose duty it

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shall be to aid in carrying out the purpose of this act. The compensation and expenses of any person so employed, or such portion thereof as shall under the terms of any agreement between the county and the Michigan agricultural college or any department or bureau of the federal government, be payable by the county, shall be fixed and provided for by the board.

HISTORY: CL 1929, 5041;—CL 1948, 285.51.
COUNTY AGRICULTURAL AGENT: To act as official county cream tester, see Compilers' § 288.181.
EXTENSION WORK: By college, see Compilers' § 390.117 and notes thereto.

Sec. 2. (This was a repeal section.)

HISTORY: CL 1929, 5042;—Rep. 1945, p. 405, Act 267, Imd. Eff. May 25.
ACTS REPEALED: Act 3, 1912; 2nd Ex. Ses., and Act 67, 1913.

Act 141, 1939, p. 262; Eff. Sep. 29.

AN ACT empowering the commissioner of agriculture to regulate the storage and warehousing of farm produce within this state; providing for the licensing and bonding of warehousemen of farm produce; providing for warehouse receipts; providing for the establishment of an inspection service and personnel for licensed warehousemen; and providing penalties for the violation of this act. Am. 1962, p. 161, Act 159, Eff. Mar. 28, 1963.

The People of the State of Michigan enact:

285.61 Short title; farm produce storage act.

Sec. 1. This act shall be known as the "farm produce storage act."

HISTORY: CL 1948, 285.61.

285.62 Farm produce storage act; definitions.

Sec. 2. As used in this act:

(a) "Farm produce" means individually and collectively, all beans, small grains, cereal grains, corn, potatoes, grass and legume seeds, offered or accepted in its raw or natural state for storage by any person.

(b) "Person" means any person, persons, partnership, firm, or corporation operating within the state of Michigan.

(c) "Warehouseman" means any person receiving or offering to receive farm produce for storage.

(d) "Commissioner" or "director" means the director of the state department of agriculture and his authorized agents and representatives.

HISTORY: CL 1948, 285.62;—Am. 1963, p. 267, Act 180, Eff. Sep. 6.

285.63 Commissioner of agriculture; enforcement, inspection, rules and regulations.

Sec. 3. The commissioner shall enforce the provisions of this act by the use of such personnel, rules and regulations, and procedures as are necessary to carry out the intent of this act, including the inspection of farm produce records, taking of inventories and measurements. If after such inspection a shortage is indicated, the books, records and accounts of a warehouseman may be examined. The rules and regulations shall be promulgated in accordance with Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

HISTORY: CL 1948, 285.63;—Am. 1962, p. 161, Act 159, Eff. Mar. 28, 1963.

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285.64 Warehouseman; unlawful acts.

Sec. 4. It shall be unlawful for any warehouseman to offer storage facilities for farm produce or accept farm produce for storage; or issue warehouse receipts thereon; or charge or collect storage charges therefor; or issue acknowledgments of receipts of delivery of farm produce contrary to the provisions of this act.

HISTORY: CL 1948, 285.64.

285.65 Warehouseman; license; penalty.

Sec. 5. Every warehouseman of farm produce shall secure annually from the commissioner a license to engage in the business of storage of farm produce, and any warehouseman who shall engage in said business without said license, after the effective date of this act, shall be guilty of a misdemeanor, and each day of operation as a warehouseman without said license shall be a separate and distinct misdemeanor.

HISTORY: CL 1948, 285.65.

285.66 Warehouseman; farm produce storage license; fees; acts authorized.

Sec. 6. The commissioner shall prepare and, upon acceptance by him of an applicant's application, issue thereto a warehouseman's license to be known as a "farm produce storage license." Said license shall be of 1 year's duration, renewable annually, shall carry a license fee of $10.00 for each license, be suspendable or revocable for cause by the commissioner, carry a serial identification number, be non-transferable, be prominently displayed on the storage facility of the holder thereof, and a separate license shall be required for each storage facility at each location of each warehouseman. Said license shall grant authority to the holder thereof to receive farm produce for storage; assess and collect storage charges thereon; issue warehouse receipts thereon; issue acknowledgments of receipts of farm produce, under the rules and regulations and supervision established by the commissioner in accordance with the terms of this act.

HISTORY: CL 1948, 285.66;—Am. 1955, p. 270, Act 179, Eff. Oct. 14.

285.67 Warehouseman; license, form, contents; resubmission of application.

Sec. 7. Applications for farm produce storage licenses provided for in section 6 of this act shall be made by the applicant to the commissioner on forms supplied by the commissioner, and shall be accompanied by the payment of the required license fee which shall be returned to the applicant if the application is rejected. The applicant shall disclose, under oath, pertinent information relating to the location and storage capacity of each storage facility for each specific farm produce on which storage is to be offered; the ownership or control agreement covering each storage facility of the applicant; the form of warehouse receipt and the form of acknowledgment of delivery the applicant desires to use, and such other pertinent information as the commissioner may require; and agreement by the applicant to comply with the provisions of the act and the rules and regulations issued in accordance therewith. The application for license of the applicant shall be approved or rejected within 15 days after the receipt thereof by the commissioner: Provided, That such applications are of proper form and detail. A rejection of application shall be accompanied by a statement from the commissioner of the additional requirements necessary to license, and applicant may resubmit application.

HISTORY: CL 1948, 285.67.

285.67a Warehouse license; application; bond.

Sec. 7a. An application for a license required by section 5 shall be made on a form provided by the director, shall be filed 30 days in advance of a license expiration date, and shall be accompanied by a sufficient bond on a form provided by the director. The

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bond shall run to the department of agriculture with sufficient surety conditioned for the faithful performance of the duties of a warehouseman and compliance with all laws of this state relating thereto. The amount of the bonds shall be based on the following warehouse capacities used for the storage of farm produce:

Warehouse Capacity	Amount of Bond
For each warehouse with a capacity of:	
Up to 10,000 bushels	$ 5,000.00
Over 10,000 and up to 20,000 bushels	8,000.00
Over 20,000 and up to 30,000 bushels	11,000.00
Over 30,000 and up to 40,000 bushels	14,000.00
Over 40,000 and up to 50,000 bushels	17,000.00
Over 50,000 and up to 60,000 bushels	20,000.00
Over 60,000 and up to 70,000 bushels	23,000.00
Over 70,000 and up to 80,000 bushels	26,000.00
Over 80,000 and up to 90,000 bushels	29,000.00
Over 90,000 and up to 100,000 bushels	32,000.00
Over 100,000 and up to 110,000 bushels	35,000.00
Over 110,000 bushels	38,000.00

Blanket surety bond.

In lieu of the bonding requirements set forth herein for each warehouse, any person, partnership, firm, association or corporation owning 2 or more warehouses may furnish a blanket surety bond equal to the sum of the requirements for the individual locations: However, when such requirements are equal to or greater than $200,000.00 a blanket bond in the amount of $200,000.00 shall be considered sufficient to meet the requirements of this act. Such bond shall show the address and capacity of each warehouse.

HISTORY: Add. 1962, p. 161, Act 159, Eff. Mar. 28, 1963;—Am. 1963, p. 267, Act 180, Eff. Sep. 6.

285.68 Bailment of produce; exemption from execution against bailee.

Sec. 8. Acceptance of farm produce for storage by any warehouseman for which a warehouse receipt is issued shall be a bailment and not a sale, and in no case shall the farm produce so stored be liable to seizure upon any process of any court in any action against such bailee, except upon action by owners of such warehouse receipts to enforce the terms thereof, but such farm produce shall at all times, in the event of the failure or insolvency of such bailee, be first applied exclusively to the redemption of outstanding storage receipts for farm produce so stored with such bailee, and in such event, farm produce on hand in any particular warehouse of the bailee shall be first applied to the redemption and satisfaction of the warehouse receipts issued by said warehouseman as the bailee.

HISTORY: CL 1948, 285.68.

285.69 Warehouse receipt; form, contents.

Sec. 9. Upon delivery of any farm produce for storage by any person to any warehouseman licensed under this act, the warehouseman within 30 days thereafter shall deliver to the owner of the farm produce so stored a warehouse receipt of a form approved by the director which shall embody within its written or printed terms:

(a) The location of the warehouse wherein the farm produce is stored;

(b) The statement whether the farm produce will be delivered to the bearer, to a specified person, or to a specified person or his order;

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(c) The date of issuance of the receipt;

(d) The rate of storage charges or the basis for such charges;

(e) The net weight and percentage of dockage together with the grade established;

(f) The words "not negotiable", "non-negotiable", or "negotiable", according to the nature of the receipt, clearly and conspicuously printed or stamped thereon;

(g) The signature of the warehouseman, which may be made by his authorized agent;

(h) A declaration of the ownership of the farm produce, whether wholly or jointly or in common with others;

(i) A statement of the amounts of advances made or liability incurred for which the warehouseman claims a lien, or in lieu thereof a statement that advances have been made or liabilities incurred and the purpose thereof is sufficient;

(j) A statement as to whether the farm produce stored is to be stored separately or commingled as fungible goods. A warehouseman shall be liable under the provisions of the uniform warehouse receipts act of Michigan, to any person injured thereby for all damages caused by omission from any warehouse receipt of any of the terms herein required for the negotiable or non-negotiable receipt as issued.

HISTORY: CL 1948, 285.69;—Am. 1963, p. 267, Act 180, Eff. Sep. 6.

285.70 Warehouse receipt; failure to issue; revocation of license.

Sec. 10. Failure of any warehouseman to issue a warehouse certificate of a form approved by the commissioner to any person storing any farm produce with him or the use of any subterfuge by any warehouseman to avoid the issuance of said warehouse certificate for any farm produce which is in fact stored with him shall be sufficient cause for revocation of license of said warehouseman.

HISTORY: CL 1948, 285.70.

285.71 Warehouse receipt; noncompliance with act, required designation.

Sec. 11. Any form of acknowledgment of receipt of farm produce, issued by any warehouseman for farm produce delivered to him, that does not contain the essential terms of a warehouse receipt as required by section 9 of this act as approved by the commissioner shall have prominently printed or stamped on the face thereof the words "Not a storage warehouse receipt."

HISTORY: CL 1948, 285.71.

285.72 Insurance on produce; coverage, amount; value upon loss.

Sec. 12. Every warehouseman shall at all times keep all farm produce stored by him insured in some reliable insurance company authorized to do business in Michigan, against loss by fire, inherent explosion, and tornado, to the extent of its full market value, and failure to so do shall be sufficient cause for revocation of license. The average market value of any farm produce so stored as evidenced by the warehouse receipt as held by any owner on the date of destruction by any of the insurable causes shall be the basis of settlement in case of loss.

HISTORY: CL 1948, 285.72.

285.73 Commingling of produce; rights of owners.

Sec. 13. If authorized by agreement or custom, warehousemen may commingle fungible farm produce with other farm produce of like kind and grade. In such case, the various depositors of the mingled goods shall own the entire mass in common, and each depositor shall be entitled to such portion thereof as the amount deposited by him bears to the whole, and the warehouseman shall be liable, severally, to each depositor for the care and redelivery of his share of such mass to the same extent and under the same circumstances as if the goods had been kept separate, and a warehouseman may dispose of only that quantity of any part of any fungible mass of farm

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produce that shall be in excess of the amount covered by any outstanding warehouse receipts issued by him.

HISTORY: CL 1948, 285.73.

285.74 Grade of produce; standard.

Sec. 14. The grades of farm produce as stated upon any warehouse receipt issued by any warehouseman shall conform to the official grade standards as established by the state department of agriculture, if such grades have been or are so established, and in the absence of official state grades, shall conform to the official United States grade standards as established by the bureau of agricultural economics of the United States department of agriculture, for the specific farm produce specified in the warehouse receipt as issued.

HISTORY: CL 1948, 285.74.

285.75 Maximum produce to be accepted; revocation of license.

Sec. 15. A warehouseman may not accept for storage farm produce in excess of his licensed storage capacity under penalty of revocation of his license, except to the extent such warehouseman has and maintains in effect unencumbered bona fide contracts with other licensed warehousemen for storage facilities sufficient to maintain, and does so maintain in storage sufficient quantities of each farm produce of the proper grade to at all times satisfy all outstanding warehouse receipts issued by him, and failure to do so shall be sufficient cause for revocation of license; and further, it shall be mandatory upon the commissioner to revoke the license of any warehouseman upon evidence of his failure to comply with this section of this act.

HISTORY: CL 1948, 285.75.

285.76 Employes of warehouse; change of personnel; bonds.

Sec. 16. Each warehouseman under license shall designate to the commissioner the personnel authorized by the warehouseman at any time to accept farm produce for storage and issue warehouse receipts therefor, or who shall be responsible in any manner for the warehouseman's compliance with the provisions of this act. Each warehouseman shall promptly notify the commissioner of any changes made in the personnel as designated. The commissioner shall have authority, in his discretion, to require fidelity bonds of the warehouseman for the personnel so designated by the warehouseman, and to stipulate the form and amount of such bonds.

HISTORY: CL 1948, 285.76.

285.77 Repealed. 1955, p. 271, Act 179, Eff. Oct. 14.

Section provided for furnishing of monthly statement to commissioner of agriculture.

285.78 Revocation of license; procedure, notice; rules.

Sec. 18. The procedure for revocation of license of any warehouseman by the commissioner shall consist of, first, notification of violations and orders for public hearing thereon to the said warehouseman; second, within 15 days of the conclusion of said hearing, the commissioner shall render a decision as to suspension, revocation or renewal of said license of the warehouseman, all of which shall be conducted in accordance with the rules and regulations that provide equity for all that shall have been promulgated and published previous to the actual suspension or revocation of any license.

HISTORY: CL 1948, 285.78.

285.79 Revocation of license; protection of warehouse receipts; seizure of assets.

Sec. 19. For the protection of holders of warehouse receipts of any warehouseman during any proceeding of suspension or revocation of license, the commissioner is hereby authorized to act as their agent, and required to seize and protect in the name of the state of Michigan by any legal, civil or criminal procedure necessary, the assets

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of the licensee involved for the account of the holders of his outstanding warehouse receipts; and further, upon revocation of any warehouseman's license, to liquidate, for the account of the holders of his warehouse receipts, said warehouseman's assets and provide for an equitable distribution thereof among the holders of said warehouse receipts to the extent of their value, if possible, and provide for the return to the warehouseman of any remaining assets.

HISTORY: CL 1948, 285.79.

285.80 Farm produce warehouse inspection service; fees deposit to general fund.

Sec. 20. The commissioner shall establish and maintain a warehouse inspection service and personnel adequate for the enforcement of the provisions of this act. Such fees as shall be collected under the provisions of this act shall be turned over to the state treasury and shall be credited to the general fund.

HISTORY: CL 1948, 285.80;—Am. 1949, p. 141, Act 133, Imd. Eff. May 20;—Am. 1955, p. 271, Act 179, Eff. Oct. 14.

285.81 Repealed. 1955, p. 271, Act 179, Eff. Oct. 14.

Section provided exemptions for warehouseman operating under certain other acts.

285.82 Unlawful acts; penalty.

Sec. 22. Any person who shall wilfully alter or destroy any warehouse receipt, or record of warehouse receipts required by this act, or issue a warehouse receipt without preserving a record thereof; or issue a warehouse receipt when the commodity or commodities enumerated therein are not in fact in the building or buildings it is certified they are in, or shall, with intent to defraud, issue a second or other receipt for any commodity for which, or for any part of which, a former valid receipt is outstanding and in force; or shall while any valid receipt is outstanding and in force, sell, pledge, mortgage, or encumber, or transfer contrary to the provisions of this act or permit the same to be done without the written consent of the holder of such receipt, or, if any person receives any such property or helps to dispose of the same, he shall, upon conviction, be punished by a fine not exceeding $10,000.00 or by imprisonment in the state prison not exceeding 5 years, or both.

HISTORY: CL 1948, 285.82.

285.82a Intentional violation of act; penalty.

Sec. 22a. In addition to any other penalty provided elsewhere in this act, any person who knowingly does an act prohibited, or wilfully neglects or refuses to do an act required by this act, or in any way violates the provisions of this act shall be guilty of a circuit court misdemeanor.

HISTORY: Add. 1963, p. 268, Act 180, Eff. Sep. 6.

Sec. 23. (This was a severing clause section.)

HISTORY: Rep. 1945, p. 415, Act 267, Imd. Eff. May 25.

Sec. 24. (This was a repeal section.)

HISTORY: Rep. 1945, p. 409, Act 267, Imd. Eff. May 25.

Act 35, 1941, p. 32; Eff. Jan. 10, 1942.

AN ACT to provide for the registration of the names of farms, and to declare the effect thereof; to provide for the transfer of title thereto; to prescribe the powers and duties of the commissioner of agriculture; and to prescribe penalties for the violation of the provisions of this act.

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The People of the State of Michigan enact:

285.101 Farm names; registration; use by others prohibited.

Sec. 1. Any owner of a farm in this state may have the name of his farm, together with the legal description of the lands to which such name applies, recorded in a register kept for that purpose in the office of the commissioner of agriculture of this state, and the commissioner of agriculture shall furnish such land owner with a proper certificate setting forth such name and the legal description of such lands: Provided, however, That after a farm name has been so recorded and remains uncanceled, the same name or one so nearly like it as to produce confusion shall not be accepted and recorded by the commissioner of agriculture for any other farm in the same county as the land for which the name was first so recorded, nor for land situate in any other county in the state unless the name of such other county shall be added as a part of the name of such farm, and even when used in connection with the name of the county, such name may be used but once in each such other county.

HISTORY: CL 1948, 285.101.

NOTE: The commissioner of agriculture is superseded by the department of agriculture, see Compilers' § 285.1.

285.102 Farm names; registration, procedure; multiple applications for same name.

Sec. 2. In the event that 2 or more farm owners shall apply for registration of their farms under the same name, on or prior to the effective day of this act or upon the same day at any time thereafter, the commissioner shall require of such applicants proof as to which began the use of such farm name first and if satisfactory proof thereof is obtained by the commissioner he shall grant registration to the one first using such name. If such satisfactory proof is not furnished, he shall deny registration to all such applicants until the names are sufficiently changed so as to be distinguishable from each other without confusion.

HISTORY: CL 1948, 285.102.

285.103 Farm names; registration; application, form, fee.

Sec. 3. Any person desiring to have the name of his farm so recorded shall apply for such record upon a form to be adopted and supplied by the commissioner of agriculture and shall pay the commissioner of agriculture a recording fee of $1.00.

HISTORY: CL 1948, 255.103.

285.104 Transfer of registration upon conveyance of farm; notice; rights under name.

Sec. 4. When the owner of any farm, the name of which has been recorded as provided in this act, transfers title, whether by deed, inheritance or otherwise, of the whole of such farm, such transfer shall include the registration name thereof, but if such transfer be of a portion of said farm only, the registered name thereof shall not be transferred to the purchaser, or the heir, unless so stated in the conveyance. Notice of such transfer may be recorded by application to the commissioner of agriculture and the payment of a fee of 50 cents. When the owner of any farm, who has registered a name for his farm as provided in this act, shall use such name as the proprietary name in the transaction of business relating to said farm, he shall have all the rights and privileges under the registered name as said owner would have had he used his own personal name, and shall have the same standing in any court of this state.

HISTORY: CL 1948, 285.104.

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285.105 Cancellation of registration; fee.

Sec. 5. The owner of any farm, the name of which is so registered, may cancel such registration upon notice in writing to the commissioner of agriculture accompanied by a fee of 50 cents.

HISTORY: CL 1948, 285.105.

285.106 Application; acknowledgment; witnesses.

Sec. 6. All applications for registration, notices of transfer and notices of cancellation shall be acknowledged under oath and shall be executed before 2 witnesses.

HISTORY: CL 1948, 285.106.

285.107 Fees received under act; deposit to general fund.

Sec. 7. All fees received by the commissioner of agriculture hereunder shall be transmitted to the state treasurer who shall credit the same to the general fund of the state.

HISTORY: CL 1948, 285.107.

285.108 Use of registered name by others; penalties; civil action.

Sec. 8. After any farm name has been duly registered as herein provided and while the same remains uncanceled, no one shall advertise, whether in trade journals, newspapers, or otherwise, any livestock, whether for sale, trade or service, nor any farm crops or produce under said farm name except the owner of the farm the name of which is so recorded, his tenant, agent or employe, nor shall any livestock or farm crops or produce be entered in any fair or show under said farm name except by the owner of such farm, his tenant, agent or employe, nor shall any animal be submitted for registration in any breed registry or to any breed association or society, under such farm name, except by the owner of such farm, his tenant, agent or employe. Any person knowingly violating the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not to exceed $100.00 or to a term in the county jail for not to exceed 30 days, or to both such fine and imprisonment in the discretion of the court. In addition thereto, any person violating the provisions of this section shall be liable to the owner of the farm name so recorded.

HISTORY: CL 1948, 285.108.

Act 294, 1915, p. 517; Imd. Eff. May 19.

AN ACT to promote the public welfare; to create a commission to be known as the agricultural fair commission; to provide for the appointment of such a commission and to fix their terms of office; to prescribe their powers and duties; and to make an appropriation to carry out the provisions of this act.

The People of the State of Michigan enact:

Sec. 1.

HISTORY: CL 1915, 7869;—Am. 1917, p. 673, Act 257, Eff. Aug. 10.

This section provided for the Michigan agricultural fair commission and its organization.

Michigan Agricultural Fair Commission: Abolished; powers and duties transferred to the department of agriculture, see Compilers' § 285.2

285.122 Agricultural fair commission; organization, assistants, suits, treasurer's bond, quorum.

Sec. 2. Within 30 days after this act shall take effect said commission shall meet in the office of the governor in the capitol of the state when said commission shall organize by taking and filing their respective constitutional oaths of office, in the office of the secretary of state and the election from their own members of a president, a vice president, a secretary and a treasurer. Said commission is hereby empowered to employ such agents and employes as it may from time to time deem necessary to carry

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into effect the provisions of this act. Said treasurer may, when so directed by said commissioners bring suit in his official name in any court of competent jurisdiction for the protection of the interests of the state of Michigan or the rights of said commission. Said treasurer, before he enters upon the duties of said office, shall file with the auditor general a bond to the people of the state of Michigan in the sum of 50,000 dollars, to be approved by the governor and the attorney general, conditioned for the faithful performance of all his duties as such treasurer, and that he will use all necessary and reasonable diligence and care in the safekeeping and lawful disposal of all sums of money and all other things appertaining to said office which come to his hands, or to the hands of any person or persons employed by him, and that said treasurer shall upon reasonable notice render a true account in the premises whenever he shall be thereunto required by any provisions of law and shall deliver over to his successor in said office or to any other person authorized by law to receive the same, all moneys, books, notes, papers, and all other things belonging to said office. Four members of said commission shall constitute a quorum for the transaction of business after it shall be duly organized.

HISTORY: CL 1915, 7870;—CL 1929, 5632;—CL 1948, 285.122.

285.123 Agricultural fair commission; rules, meetings.

Sec. 3. The commission shall have the power to make rules and regulations for the transaction of its business and for its own government not in conflict with prescribed law. The commission may be convened on the call of the president and shall hold its meetings at such time and place as said call may direct.

HISTORY: CL 1915, 7871;—CL 1929, 5633;—CL 1948, 285.123.

285.124 Agricultural fair commission; compensation, expenses.

Sec. 4. The members of said commission shall receive no compensation for their services, but shall be paid their actual and necessary expenses incurred in the performance of their duties. Said commission is hereby empowered to fix the compensation of all its agents and employes. The expenses of said commission, shall be paid out of the moneys appropriated by this act and in such manner as in this act provided, and not otherwise.

HISTORY: CL 1915, 7872;—CL 1929, 5634;—CL 1948, 285.124.

285.125 Agricultural fairs; prizes; reports to commission; reciprocity for products of other states.

Sec. 5. The commission shall receive and distribute the moneys appropriated under this act for the payment of premiums awarded at the annual agricultural fairs held in this state in the year 1915 and annually thereafter in such manner and amount as the commission shall determine: Provided, That the premiums paid must be awarded on agricultural, horticultural, manufactured and domestic products and live stock grown or produced in this state, said premiums to be awarded by and under the direction and rules prescribed by said commission: And provided further, That any agricultural fair receiving benefits under this act, shall make a complete report, under oath, of their receipts and expenditures each year to the agricultural fair commission. The rules of the commission may provide that premiums may be awarded on agricultural, horticultural, manufactured and domestic products of other states and on live stock grown or produced in other states if such other states provide for awarding of like premiums for Michigan products or live stock.

HISTORY: CL 1915, 7873;—CL 1929, 5635;—CL 1948, 285.125;—Am. 1957, p. 125, Act 106, Eff. Sep. 27.

285.126 Agricultural fairs; notice of intention to hold; determination of aid.

Sec. 6. In order for any agriculture fair to avail itself of the benefits and moneys appropriated by this act, the president and secretary of such an association must notify said commission in writing of its intention to hold an agricultural fair at least 3 months

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prior to the holding thereof and shall also forward to said commission a list of the articles, products, livestock and other property upon which premiums are to be paid and the amount upon each item, together with such other information as said commission shall require. Said commission shall examine said premium lists, and all other information in order to carry out the intent and purposes of this act. Said commission shall determine what agricultural fair or fairs, are entitled to receive moneys under this act and the amount thereof and after said determination said commission shall notify in writing the secretary of each agricultural fair of its determination regarding such fair.

HISTORY: CL 1915, 7874;—CL 1929, 5636;—CL 1948, 285.126.

285.127 Agricultural fairs commission; annual report to governor.

Sec. 7. The said commission shall make a report of its proceedings and expenditures yearly to the governor and at any time upon his written request.

HISTORY: CL 1915, 7875;—CL 1929, 5637;—CL 1948, 285.127.

285.128 Agricultural fairs commission; expenses paid by state treasury; accounts.

Sec. 8. All moneys drawn from the state treasury of the sum appropriated by this act shall be upon the requisition of the president and treasurer of said commission, approved by the governor, on the warrant of the auditor general of the treasury, and accompanied by estimates or statements of the premiums and expenses to the payment of which the money so drawn is to be applied. All vouchers for expenses shall be made in duplicate on the order of the president, countersigned by the secretary of said commission, containing an itemized statement of account and for what purpose the same is paid. One of each of all vouchers shall be kept by the treasurer in his office and the duplicate together with the abstract of accounts current, shall be by him filed with the auditor general, as provided by law.

HISTORY: CL 1915, 7876;—CL 1929, 5638;—CL 1948, 285.128.

Sec. 9. (This was an appropriation section.)

HISTORY: CL 1915, 7877;—Rep. 1945, p. 411, Act 267, Imd. Eff. May 25.

Act 89, 1927, p. 124; Imd. Eff. Apr. 30.

AN ACT to promote the agricultural and industrial interests in the upper peninsula of Michigan; to create a board of managers for a state fair in the upper peninsula; to define the powers and duties thereof; to provide for the transferring to and vesting in the state of Michigan or the people thereof, the title and control of all lands and other property that now is or hereafter may be owned or acquired in said upper peninsula for the purpose of holding and conducting an agricultural and industrial state fair; and to provide for an appropriation therefor.

The People of the State of Michigan enact:

285.141 Upper peninsula state fair; board of managers, members; organization.

Sec. 1. There is hereby created a board of managers of the upper peninsula state fair, which board shall consist of 5 members to be appointed by the governor by and with the advice and consent of the senate. Immediately upon the taking effect of this act the tenure of office of the present board of managers of said upper peninsula state fair shall be terminated thereby, and the governor shall appoint 5 members with the advice and consent of the senate, for terms of 5 years each: Provided, That of the members first appointed 1 shall be appointed for a term of 1 year, 1 for a term of 2 years, 1 for a term of 3 years, 1 for a term of 4 years, and 1 for a term of 5 years. Upon the expiration of said terms, successors shall be appointed in like manner for terms of 5

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years each and until their successors are appointed and qualified. Vacancies shall be filled in the same manner as is provided for appointment in the first instance. Said members shall serve without compensation, except they shall be paid $10.00 per diem, together with their actual and necessary expenses incurred in attending meetings of said board. The compensation and expenses shall be paid out of the general fund of the upper peninsula state fair. Said board of managers shall at their first meeting select from 1 of their number a chairman who shall serve for 2 years and shall also appoint a secretary and treasurer who may or who may not be members of said board of managers, and may adopt rules and regulations governing its organization and procedure and fix the salaries of its secretary and treasurer.

HISTORY: CL 1929, 5644;—Am. 1939, p. 478, Act 260, Imd. Eff. Jun. 15;—CL 1948, 285.141;—Am. 1951, p. 85, Act 67, Imd. Eff. May 25.
CITED IN OTHER SECTIONS: The above section is cited in §§ 16.286, 291.10, and 291.24.

285.142 Upper peninsula state fair; board of managers; grants and conveyances, conditions; lease or concede fair grounds and buildings; lease to private organizations, conditions; proceeds credited to general fund; report to governor, filing; offices.

Sec. 2. The control of all lands or other property that now is, or hereafter may be vested in the state of Michigan or in the people of said state for the purpose of holding and conducting an agricultural and industrial state fair in the upper peninsula is hereby placed in the board of managers. The board of managers is authorized to accept on behalf of the state grants and conveyances of property for such purposes or for any other purposes within the scope of this act and to consent to such conditions for the use thereof as may be agreed upon. All grants and conveyances shall be taken in the name of the people of the state of Michigan. The board of managers is hereby authorized to lease or concede the upper peninsula state fair grounds or any portions thereof and any building or buildings on said grounds for a period of not more than 1 year for such consideration as may be established by the board of managers. The board of managers may also grant leases for any portion or portions of the state fair grounds to private organizations, conditional upon construction and improvements to be financed by the lessees for terms not to exceed 20 years, subject to the approval of the state administrative board: Provided, That any such leases shall terminate upon sale of the upper peninsula state fair grounds by the state of Michigan: Provided further, however, That such use of the upper peninsula state fair grounds or any portion thereof or of any or all of the buildings on said grounds shall not interfere with the preparation for or holding of the annual upper peninsula state fair. An annual state fair at the city of Escanaba which shall have for its main purpose the exploiting and encouragement of improved methods in agricultural and industrial pursuits is hereby authorized. The arrangement of such fairs and the actual conducting thereof shall be under the immediate charge of said board of managers: Provided, however, That said board may employ any suitable and proper person, firm, corporation or organized bureau to advise and assist in the arrangement and conducting of any such fair, but under the management and control of said board of managers. The proceeds of the upper peninsula state fair and all other moneys which come into the possession of the said board of managers under the provisions of this act shall be credited to the general fund of the state. It shall be the duty of the secretary of the said board of managers on or before the 1st day of January each year hereafter to file with the governor, the president of the senate and the speaker of the house, a detailed report of the receipts and expenditures of said board. The secretary of said board of managers shall maintain an office in the city of Escanaba.

HISTORY: CL 1929, 5645;—Am. 1939, p. 478, Act 260, Imd. Eff. Jun. 15;—CL 1948, 285.142;—Am. 1953, p. 70, Act 73, Imd. Eff. May 15.
CITED IN OTHER SECTIONS: The above section is cited in §§ 16.286, 291.10, and 291.24.

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Sec. 3. (This was an appropriation section.)
HISTORY: CL 1929, 5646;—Rep. 1945, p. 412, Act 267, Imd. Eff. May 25.

Act 80, 1941, p. 99; Imd. Eff. May 16.

AN ACT to authorize the use of buildings on the state fairground property in the city of Detroit by the national guard and the home guard.

The People of the State of Michigan enact:

285.151 State fair grounds; occupancy by national or home guard; authorization.

Sec. 1. The state administrative board is hereby authorized to permit the national guard and/or home guard to use any of the buildings of the state situated on the state fairground property in the city of Detroit: Provided, That such use shall not interfere with the holding of the annual state fair.
HISTORY: CL 1948, 285.151.

Act 197, 1956, p. 384; Eff. Aug. 11.

AN ACT to promote the agricultural interests of the various townships of this state; to provide referenda.

The People of the State of Michigan enact:

285.201 Agricultural interests; promotion in townships; extension work agreements, areas, appropriations, special tax.

Sec. 1. In order to promote agricultural interests of the various townships of this state and to provide for agricultural extension work for such townships, each township of this state through its township board is hereby authorized and empowered to cooperate to said end with the Michigan state university of agriculture and applied science; and may enter into agreements with reference thereto. The township board in any county may appropriate money, or raise money by taxation, for the purpose hereof. Two or more township boards may act jointly; and a township board may describe an extension area within any township and may levy a special tax from said area to carry out the provisions of this act.
HISTORY: New 1956, p. 384, Act 197, Eff. Aug. 11.

285.202 Agricultural interests; promotion in townships; referendum in township.

Sec. 2. The provisions of this act shall not become operative in any township of this state to which it may apply unless and until it is submitted to a vote of the qualified electors thereof and ratified by a majority of said electors voting thereon. The question of the adoption of the provisions of this act may be submitted to the voters of the township at any general or special election, after the passage of the act, by resolution of the township board; and like notice of the submission of the same shall be given as is required by law in the case of elections to elect township officers, and shall be submitted in substantially the following form:

"Shall the provisions of Act No. .... (here insert number of this act) of the Public Acts of 1956 (here state question to be submitted to electors) be adopted by this township?

Yes ( )
No ( )."

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If a majority of the electors voting on such proposition in any township, as determined by the canvass of votes cast, shall vote in favor thereof, from and after such determination, the provisions of this act shall be in force.

The township board shall submit such proposition to the electors at the next general or special election whenever petitions for such submission, signed by 10% of the registered electors of the township as shown by the registration rolls, shall be filed with the township clerk.

HISTORY: New 1956, p. 384, Act 197, Eff. Aug. 11.

285.203 Agricultural interests; promotion in townships; discontinuance, referendum.

Sec. 3. Any township, which has elected to come under the provisions of this act, may terminate the effect thereof, whenever a majority of the qualified electors of the township, voting upon the question, shall vote in favor of the following proposition:

"Shall the provisions of Act No. ..... of the Public Acts of 1956, now effective within this township, be no longer operative herein?

Yes ( )

No ( )."

Said question shall be submitted at any general township election, or at a special election called therefor, whenever petitions therefor, signed by a number of qualified electors, equal to 10% of the total number of registered electors, shown by the registration rolls of the township, shall be filed with the township clerk.

HISTORY: New 1956, p. 385, Act 197, Eff. Aug. 11.

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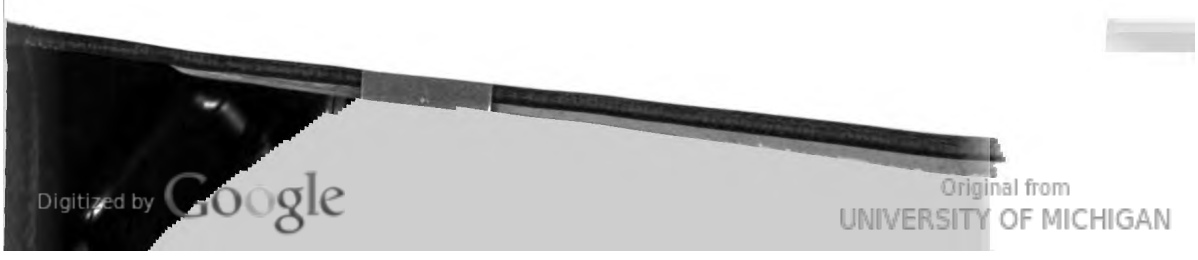
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